By Mr. STUCKEY:

H.R. 19722. A bill to encourage improvement in pollution control standards and conditions, to provide a system of mutual loan insurance, and for other purposes; to the Committee on Banking and Currency.

By Mr. HARRINGTON:

H.R. 19723. A bill to authorize the importation without regard to existing quotas of fuel oil to be used for residential heating purposes in the New England States; to the Committee on Ways and Means.

By Mr. MESKILL:

H.R. 19724. A bill to establish a system for the sharing of certain Federal tax revenues with the States; to the Committee on Ways and Means.

By Mr. MICHEL:

H.R. 19725. A bill to breakdown 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; to the Committee on Veterans' Affairs.

By Mr. PRICE of Texas:

H.R. 19726. A bill to prohibit assaults and other crimes on State law enforcement officers, firemen and judicial officers; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON:

H.R. 19727. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. DANIEL of Virginia (for himself and Mr. ABBITT):

H.J. Res. 1399. Joint resolution proposing an amendment to the Constitution of the United States relative to the assignment of students in the public schools by a freedom of choice system; to the Committee on the Judiciary.

By Mr. GUBSER:

H.J. Res. 1400. Joint resolution urging the U.S. Arms Control and Disarmament Agency to prepare and present to Congress a preliminary plan for alleviating unemployment caused by reduced defense spending; to the Committee on Education and Labor.

By Mr. HUNGATE (for himself, Mr. ANDERSON of Illinois, Mr. FARBSTEIN, Mr. PRICE of Illinois, Mr. RODINO, and Mr. SYMINGTON):

H. Con. Res. 780. Concurrent resolution urging review of the United Nations Charter; to the Commtitee on Foreign Affairs.

By Mr. PODELL:

H. Con. Res. 781. Concurrent resolution that November 24, 1970, be declared World Law Day; to the Committee on the Judiciary.

By Mr. FULTON of Pennsylvania:

H. Res. 1253. Resolution creating a select committee to conduct an investigation and study of the care of the aged in the United States and the effects of Federal laws and programs on the availability and quality of care; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 19728. A bill for the relief of Mayo Goff; to the Committee on the Judiciary.

By Mr. EDWARDS of Alabama:

H.R. 19729. A bill for the relief of Ruhollah Sayyah; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 19730. A bill for the relief of the estate of Sampson Godfrey Dalkowitz and of the trusts created under his will; to the Committee on the Judiciary.

By Mr. HELSTOSKI:

H.R. 19731. A bill for the relief of Mrs. Rosaria A. Cappadona and daughter, Graziella Cappadona; 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:

620. By Mr. RYAN: Petition of Parents Lead Poisoning Action Group—Mrs. Ethel Jamison, president, containing 356 signatures in support of H.R. 9191, H.R. 9192, and H.R. 11699, concerning lead-based paint poisoning; to the Committee on Interstate and Foreign Commerce.

621. By the SPEAKER: Petition of the Philadelphia Historical Commission, Philadelphia, Pa., relative to the preservation and restoration of the Thaddeus Kosciuszko home; to the Committee on Interior and Insular Affairs.

HOUSE OF REPRESENTATIVES—*Wednesday, October 14, 1970*

The House met at 11 o'clock a.m.

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

Colossians 3: 14: *Above all put on love which binds everything together in perfect harmony.*

Eternal God, our Father, ere our recess begins we pause to pray for the coming of Thy kingdom of righteousness, peace, and good will. In the midst of a swiftly changing order may our faith in Thee and our obedience to Thy laws continue to move us as we seek to usher in a new day of human brotherhood.

Direct our people as they elect our leaders. Grant that their choices may promote Thy glory and the welfare of our Nation. To those elected give courage, wisdom, and good will that they may lead our citizens in the ways of life and liberty for all, and may those not elected continue to labor faithfully for the good of our Republic.

Bless all those in the service of our country, particularly our prisoners of war. Strengthen them to meet each day with the realization that Thou art their refuge and underneath are the everlasting arms.

May Thy peace and Thy love abide in our hearts now and always. Amen.

THE JOURNAL

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

MESSAGE FROM THE SENATE

The SPEAKER. The Chair understands there is a message from the Senate, which the Chair, acting for the House, will receive.

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. 10335. An act to revise certain provisions of the criminal laws of the District of Columbia relating to offenses against hotels, motels, and other commercial lodgings, and for other purposes; and

H.R. 14982. An act to provide for the immunity from taxation in the District of Columbia in the case of the International Telecommunications Satellite Consortium, and any successor organization thereto.

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. 10336. An act to revise certain laws relating to the liability of hotels, motels, and similar establishments in the District of Columbia to their guests; and

H.R. 13565. An act to validate certain deeds improperly acknowledged or executed (or both) that are recorded in the land records of the Recorder of Deeds of the District of Columbia.

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

S. 1142. An act to authorize and direct the Secretary of Agriculture to classify as a wilderness area the national forest lands adjacent to the Eagle Cap Wilderness Area, known as the Minam River Canyon and adjoining area, in Oregon, and for other purposes;

S. 3747. An act to amend the District of Columbia Code to increase the jurisdictional amount for the administration of small estates, to increase the family allowance, to provide simplified procedures for the settlement of estates, and to eliminate provisions which discriminate against women in administering estates;

S. 3748. An act to provide for the removal of snow and ice from the paved sidewalks of the District of Columbia; and

S. 3749. An act relating to crime in the District of Columbia.

CONGRESSIONAL RECORD—PRINTING DURING ADJOURNMENT

Mr. FRIEDEL. Mr. Speaker, I understand that unanimous consent will be requested today so that Members may be permitted to make insertions in the Extensions of Remarks of the RECORD following the adjournment of Congress; their request will also be in accordance with the notice of the Joint Committee on Printing, and the statement by the Senator from North Carolina, Mr. JORDAN, which were published on the first page of the RECORD dated October 13, 1970.

GENERAL LEAVE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until November 16, 1970, all Members of the House shall have the privilege to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and also to include therein such short quotations as may be necessary to explain or complete

such Extensions of Remarks, but this order shall not apply to any subject matter which may have occurred or to any speech delivered subsequent to the adjournment of the House.

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

There was no objection.

ASSURANCES MADE DURING DEBATE ON APPROPRIATIONS FOR DEFENSE DEPARTMENT HAVE BEEN DISPROVED

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

Mr. JACOBS. Mr. Speaker, with the announcement from the State Department yesterday, it has become apparent that all the assurances made during the debate on appropriations for the Department of Defense a few days ago, concerning a Russian submarine base in Cuba, have been disproved by events.

Mr. Speaker, there is no Member of this House I know of—and certainly not the Member in the well—who is not prepared to vote for every penny of defense appropriations required to defend this country we love. On the other hand, in the name of national defense, or in the name of education or of health or any other subject, unnecessary spending is just plain wrong. The Congress should be given accurate facts before it votes on important appropriations in order that it can make accurate judgments.

I believe that this situation points up again the crying need for the House of Representatives to obtain accurate information on its own behalf in determining how it will spend the people's money to protect the people's interests.

THE MOST SACRED OBLIGATION OF AMERICAN CITIZENSHIP

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

Mr. KEE. Mr. Speaker, on this coming November 3, just less than 3 weeks from today, the American people throughout our Nation will have their privilege—the most sacred obligation of American citizenship—to cast their ballots during the 1970 elections.

America has been blessed with the finest form of government ever conceived by the mind of men with the help of divine guidance. It is up to our citizens who have the privilege to express their decision in the ballot box for the election of their public servants.

We should never forget that U.S. citizenship is a privilege. We all have a sacred obligation to live up to the high standards of achievement established by our fathers and forefathers, the high standards of being responsible U.S. citizens.

There has never been a period in our Nation's history when the principles of liberty under our Constitution have been more seriously threatened. We need only to look to the nations being attacked by the Communists, or to the millions of people living under Communist domination, who have no rights of self-determination where the state controls every aspect of their lives, to realize the truly great privilege that is ours. This privilege guarantees to each of us, native born and naturalized, all of the rights protected by our Constitution. Surely the duty of responsible citizenship imposed by our Constitution is a very small price to pay in return for those guarantees.

President Grover Cleveland summed it up when he said:

> As we rejoice in the patriotism and devotion of those who lived a hundred years ago, so may others who follow us rejoice in our jealous love of constitutional liberty.

We should never forget that our obligations as U.S. citizens are to safeguard our constitutional liberties in order that our children and grandchildren may also enjoy these privileges in the years to come.

Therefore, Mr. Speaker, I cannot too strongly urge American citizens—regardless of their political faith—to exercise this sacred privilege which is theirs on November 3.

THE EXAGGERATION WITH RESPECT TO THE RUSSIAN SUBMARINE BASE IN CUBA

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

Mr. MIKVA. Mr. Speaker, I should like to commend the gentleman from Indiana (Mr. JACOBS) for calling the attention of the House to the discrepancy between what we heard in debate on the military appropriation bills and what now turns out to be the fact.

We were asked to make judgments involving billions of dollars; it is indeed unfortunate that we were misled into thinking that a submarine base was totally equipped and practically in operating order down in Cuba: Now it turns out that this was a gross exaggeration: there is no such base, and our State Department and the Russians have agreed in fact that the agreement made in 1962 under President Kennedy's administration is being respected.

I believe it would well behoove the Members of the House to find some means of obtaining better sources of information than we now have, so that when we make these multibillion-dollar judgments we can make them on something more accurate and better grounded than what we have been doing in the past.

STANDARD OF CONDUCT IN CAMPAIGNS

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

Mr. KYL. Mr. Speaker, I have never known a Member of this body who does not revere Congress as an institution or who has not wanted to conduct the business of this body in such fashion that it deserves the faith of the American people. From now until November 3 every Member who is seeking reelection has an opportunity to build a greater faith in this institution through waging a responsible campaign for reelection.

Unfortunately, there are many candidates in this Nation for various offices who think that anything is fair in politics; who think that winning justifies any kind of misrepresentation, smear, or mudslinging.

The people of this country expect public officials with public trust to operate with complete integrity, honesty, and responsibility. They have the same right to expect the same high standards of people who campaign for those offices.

Mr. Speaker, I believe the people of the United States are well aware that the individual who is an irresponsible person in a campaign on November 2 will be the same kind of public official, if elected, on November 3.

CONFERENCE REPORT ON H.R. 18583, COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 13, 1970.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

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

There was no objection.

Mr. STAGGERS. Mr. Speaker, the conference report before the House today was signed by all the conferees, and we think it involves a reasonable compromise between the House and Senate provisions on this bill.

In broad summary, Mr. Speaker, last year the Senate passed a drug bill dealing with the drug abuse problem in the United States from the law enforcement approach, making a number of improvements in the existing structure of our criminal laws relating to the drug problem.

Our Subcommittee on Public Health and Welfare considered this problem at great length, holding 11 days of hearings, both morning and afternoon, and 37 executive sessions, both morning, af-

ternoon, and night. They reported to our full committee a bill which combined law enforcement provisions and rehabilitation provisions which the House later passed in substantially the same form as the subcommittee had recommended.

When the House bill was considered by the Senate, the rehabilitation, prevention, and research provisions of the House bill were substantially revised by the Hughes amendment which would have substituted a very broad-scale program in this area. In addition, amendments were added on the Senate floor relating to the scheduling of amphetamines and Librium and Valium, and relating to the treatment of distribution of small amounts of marihuana for no remuneration. An additional amendment providing for a report on advisory councils was also agreed to.

With respect to the amendment on amphetamines, the conference agreement is the same as the House bill, except that injectable methamphetamine in liquid form is placed in schedule II. On Librium and Valium, the conference agreement is the same as the House bill, and we accepted the Senate amendments relating to advisory councils and the distribution of small amounts of marihuana for no remuneration.

The remainder of the conference adjusts the House passed title I to the Hughes amendment. This amendment was 53 pages long, and although full hearings had been held before the Senate Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare, no hearings had been held on the House side with respect to this far-reaching proposal. The House conferees were in agreement that we would hold hearings on this proposal next year.

Overall, the Senate amendment would have established a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence, to administer planning, coordination, statistics, research, training, educational, and reporting functions with respect to drug abuse and drug dependence. The amendment would have established programs relating to drug abuse and drug dependence among Federal employees, would have established a program of formula grants and project grants for the States on dug abuse and drug dependence problems; would have established a National Advisory Council, and an Intergovernment Coordinating Council, on drug abuse and drug dependence, and proposed continuation of the programs set forth in the House-passed title I.

The conference agreement would expand the programs contained in the House-passed title I in several respects, provides specifically for formula grants to the States for drug abuse and drug dependence problems within the overall public health formula grants, and would expand the program of special projects for drug dependent persons contained in the House bill both as to financing, and as to the projects authorized.

The conference agreement would amend section 314(d) of the Public Health Service Act to provide specifically for inclusion in state public health plans of services for the prevention and treatment of drug abuse and drug dependence. This will make formula grants provided under the general authorization of section 314(d) available for these programs, and, since section 314(e) of the act provides that project grants for public health services within a State shall be made only if the services are provided in accordance with State plans, project grants may be made for such services.

In addition, the House bill contained an amendment by the gentleman from New York (Mr. HASTINGS), adding a new section 256 to the Public Health Service Act providing for special projects for the treatment and rehabilitation of narcotic addicts or drug dependent persons. As passed by the House, this amendment required that the programs aided must include detoxification services, institutional services, and community-based after-care services. Twenty million dollars a year was authorized for 3 years.

The conference agreement increases the authorization under the Hastings amendment to $20 million for fiscal 1971, $30 million for fiscal year 1972, and $35 million for fiscal 1973, and permits grants for programs which include one or more of the services referred to above, instead of requiring that all these services be provided in the same program.

It is necessary to make compromises in conference in order to reach agreement. The House managers felt that programs such as those called for by the Hastings amendment should be as complete as possible in the services which they provide; however, in order to reach agreement, it was necessary to agree to the modification of the amendment to permit one or more of these services in special projects rather than the full range. However, the revised amendment provides that where limited services are provided hereafter under one of these special projects, and thereafter new construction is established for a program serving drug dependent persons in the same area, the projects covered by the new construction are, to the extent feasible, to include the more limited projects established earlier.

Mr. Speaker, to summarize, the Senate passed a bill (S. 3246) which was limited to law enforcement aspects of the drug abuse problem. The House revised this bill to include more input from the scientific and medical community into the law enforcement decisions, and provide for increased emphasis on prevention and rehabilitation. The conference agreement in general is the same as the House-passed bill, except it provides somewhat more emphasis on rehabilitation, treatment, education, and prevention.

We think the conference agreement will establish a greatly improved program on the Federal level to deal with drug abuse and drug dependence and we urge its adoption by the House.

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

Mr. STAGGERS. I yield to the gentleman from Washington.

Mr. MEEDS. As the gentleman is well aware, we passed in the House in October, the Drug Abuse Education Act, H.R. 14252, which is presently in the Senate and on the calendar. I have just been to the Senate, and the chances of passage of that legislation even today are very good. There may appear to be some overlapping in these two bills. There may be in the bill which we are discussing today, the conference report, some overlapping in the fields of elementary, secondary, and higher education, which was brought before the Committee on Education and Labor. There may be in H.R. 14252 some overlapping into what constitutes the jurisdiction of the gentleman's committee.

Does the gentleman indicate to us that he feels that all fields of education have been covered in the conference report before us?

Mr. STAGGERS. I would say to the gentleman that our bill carries exactly the same dollar amount of authorizations for education as the bill the gentleman is talking about. We feel that we have covered every phase of education on drug addiction and the dangers of it that can be covered with any amount of money.

Mr. MEEDS. The gentleman is not trying to get into the field of elementary and secondary education, is he? Or into the field of higher education?

Mr. STAGGERS. No, we are not trying to get into that. We are trying to bring to the attention of the American people our great concern in educating people to the dangers of drugs—people of all ages, and in every stage of life—and we think this can be done by those in the health department who have the know-how.

Mr. MEEDS. So that later, perhaps even today, when the Drug Abuse Education Act which we passed unanimously in this House comes back to us with perhaps some of these overlaps cut out; in dealing with elementary, secondary, and higher education the field should be pretty well covered since both of them are under the control of the Secretary of Health, Education, and Welfare. Is that correct?

Mr. STAGGERS. Yes, I would say so. But I would say it would be very difficult to cut out the overlap because our legislation takes into consideration all ages in the health field and covers the complete field.

Mr. MEEDS. It is not the intent of your committee and this conference report to deal with the field of elementary, secondary, and higher education; is it?

Mr. STAGGERS. I might say it deals with all fields wherever action is needed in health matters. We are just saying we do not eliminate anybody—either a 2-year-old—if we can teach him—or a person 90 years old, if we can teach him—because this is in the field of health.

I would say to the gentleman, I would not object if his bill comes back with the overlap in it. But I do emphasize that our bill does cover the complete field where health is concerned.

Mr. MEEDS. That is clearly the jurisdiction of the gentleman's committee.

Mr. STAGGERS. That is right.

Mr. MEEDS. Education is the jurisdiction of the Committee on Education and Labor, and the Drug Abuse Education Act directs itself to that.

Mr. STAGGERS. We did not object to the bill when the bill was on the House

floor before, and I certainly would not object now. But I do emphasize to the gentleman that our legislation does go to every field. Education is not eliminated—we just say our bill covers health education for all Americans. We claim that anyone, every individual in America who even is tempted to use drugs ought to be educated to the dangers of it and on getting over the use of drugs and being cured and so forth.

Mr. MEEDS. Mr. Speaker, I would like to comend the gentleman and his committee for the excellent work, particularly in the field of rehabilitation where they have done a very fine job. The only problem is with the education section, as the gentleman is well aware, and I appreciate the fact that the gentleman does not object.

Mr. STAGGERS. In response to that, I would say that we could not write a complete drug bill unless we did say to the American people that we have to educate them and try to the best of our ability to educate them about the dangers of drugs and we are trying to do that in every field.

Mr. MEEDS. I thank the gentleman.

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Illinois (Mr. SPRINGER), the ranking minority member of the committee, whatever time he requires.

Mr. SPRINGER. Mr. Speaker, I think there was a serious difference here between the Senate and House versions which chiefly had to do with what is commonly known as the Hughes amendment.

The Hughes amendment would have changed the major thrust of the bill, in my opinion, into an education and rehabilitation program. The Hughes amendment was not successful. It would have established a new institute, an advisory council, formula grants, project grants, and programs for Federal employees.

All of these went far beyond the bill which the House went to conference with. In essence, the House version was retained and the thrust of the House version remains in the conference report.

There were some minor difference on which we receded, but nothing of any great importance. Essentially this is the House bill.

I wish to congratulate the members of the subcommittee on both sides of the aisle for the time that they spent in consideration of the report. May I say they were beset by almost everyone in this country of any influence with reference to this bill. Every segment of interest was heard, and I think we have come up with a bill that is in the public interest, and that is the kind of conference report that we brought back to you to vote on here today.

This was, I believe, one of the most difficult conferences I have ever been through because we were up hill and down dale on the whole question of the abuse amendment which would have changed the bill entirely. We have retained the House bill and the thrust of the House bill, and that was the important point that I have to report to the House. That is why I believe it is a good conference report, and I certainly approve it.

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

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

Mr. WIGGINS. I understand the conference report includes a provision with reference to the use of amphetamines. Will the gentleman explain that provision?

Mr. SPRINGER. The conference report singles out the worst of these substances, which are the liquid, injectible methamphetamines, and puts them into schedule II. This at least does a part of what the gentleman wanted done when he was here on the floor of the House when we were discussing the bill originally. This is in essence a compromise between what you wanted and what we finally arrived at in putting these methamphetamines over in schedule II. That is what you wanted.

Mr. WIGGINS. Yes. If I may ask a further question, was it the intent to include in schedule II liquid amphetamines, methamphetamines, or those amphetamines which may be reduced to a liquid?

Mr. SPRINGER. I understand what you mean. There was a great deal of discussion in the conference as to what should be done with that provision, and there was some argument over it. We felt the best thing to do was to take the liquid injectibe methamphetamines now, and put them in schedule II, but to leave the question to HEW to determine whether or not others ought to be moved from schedule III and put in schedule II.

Mr. WIGGINS. I wish to compliment the gentleman and the other members of the conference for at least commencing a study of this problem. It is a most serious problem that besets our country. Your conferees are to be congratulated for the steps they have taken in this regard.

Mr. Speaker, because of time limitations at the time the conference report was brought up on H.R. 18583, the comprehensive Drug Abuse, Prevention, and Control Act of 1970, I was not able to discuss several additional facts that I feel should be a part of the legislative history and congressional intent with respect to this bill.

My colloquy with the able gentleman from Illinois was helpful to some extent in that respect. As my colleagues know, there are almost no "street sales" of vials of liquid methamphetamines. The sales of "meth" to the kids on the streets are either in tablet or crystal form. The tablets are, in almost every case, originally legally manufactured and then through devious means are obtained by the illegal peddler. Crystals, on the other hand, are the product of clandestine laboratories. Both the tablets and crystals are soluble in water, and both can be injected into the veins. It is, therefore, heartening to know that at least with respect to methamphetamines, all of those drugs that are capable of being injected into a person's bloodstream will be subject to schedule II treatment.

Lest Congress be lulled into feeling that they have dealt in a comprehensive manner with the problem of "speed," I feel that I must state that we have applied a band-aid where we need a tourniquet. As the Surgeon General of the United States has stated, dextroamphetamines are just as harmful as methamphetamines. Dextroamphetamines are a part of the amphetamine family. The Surgeon General has also pointed out that other central nervous system stimulants are subject to abuse.

As my colleagues know, phenmetrazine and methylphenidate have caused serious addiction problems not only in the United States, but in other countries around the world. For instance, phenmetrazine—preludin—became so widely abused in Sweden that that country was forced to completely ban the production and sale of not only that drug, but amphetamines, methamphetamines, and methylphenidate. It would be my hope that we would not have to await an increased epidemic with respect to those substances before vigorous action is taken.

In that regard, I am heartened by a letter from John Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, dated September 15, 1970, addressed to Claude Pepper, in which he stated:

> It is the Bureau's position that the rampant abuse of amphetamines, particularly methamphetamines, is creating a serious public health and law enforcement problem in the United States. You can be assured that the Bureau does anticipate utilizing the new provisions of H.R. 18583 to insure that the proper regulatory controls are imposed over those amphetamines found to require the imposition of quotas.

Mr. Speaker, you can be assured that we will watch the actions of the Attorney General with interest when H.R. 18583 finally becomes law.

Mr. SPRINGER. May I say to the distinguished gentleman from California that you and other Members, including the distinguished gentleman from Florida (Mr. PEPPER), have done a great job in going into this particular problem. I want you to know that we gave the most careful consideration to all the findings you had with reference to your crime investigation and what you felt the effect of drugs were in this field. You have rendered a great public service in not only what you did in traveling from city to city to find out what the problems were, but also advising our committee as to how we could make a better bill.

Mr. ROGERS of Florida. Mr. Speaker, I rise in support of the conference report on H.R. 18583, the Drug Abuse Control Act of 1970.

We have attempted to stem the rising use of drugs in this Nation for the most part of this century. And this struggle has intensified in the past 5 years as records have shown a greater involvement in the drug culture.

It has become evident, however, that we cannot properly deal with the drug abuse problem by simply producing an enforcement bill. If we are to halt drug abuse, we must find out why people turn to drugs, how we can halt this and how we can help those who are captive to drugs, and what is the best possible way

to find and prosecute those who deal in other people's misery for profit.

I think we have reached a legislative plateau which will yield us these goals in H.R. 18583. When the Senate passed its bill it went mostly to the problem of enforcement. In the House version, which I had the honor to sponsor, we tried to cover the areas of rehabilitation, and treatment research, prevention, education, and enforcement. In fact, we have increased the penalties for the pusher.

I think that we have an effective bill and certainly the most comprehensive ever proposed. The Senate has, in conference, agreed to rescind on its major disagreements and in general, we will be voting on a conference report which embodies the House version. I think the committee has done a great service in its extensive work on this bill. And I commend the Senate for its contribution. I know the American public will reap the benefits of this work.

Mr. PEPPER. Mr. Speaker, as you know, my colleagues and I in the House Select Committee on Crime have had considerable interest in H.R. 18583. Generally speaking, it is a good bill. However, it is woefully inadequate in certain critical areas.

As the Members will recall, several weeks ago our committee attempted to amend that bill on the House floor when we were sitting in the Committee of the Whole House on the State of the Union by moving amphetamines, methamphetamines, phenmetrazine, and methylphenidates from schedule III to schedule II.

The net effect of that amendment, if we had been successful, would have been to place stronger control over all of these admittedly dangerous drugs.

For a brief time, that desirable end was achieved when the other body by record vote of 40 to 16 adopted such an amendment. Unfortunately, for all intents and purposes, the conference report is so watered down on this issue as to be virtually meaningless.

I have before me a copy of the conference report on H.R. 18583, and wish to read that portion of the report that deals with the area of disagreement. It reads as follows:

> The conference substitute limits this transfer to schedule II to injectible methamphetamine, widely referred to as "speed." The legislation contains authority for the Attorney General to transfer drugs between schedules, upon making the appropriate findings and following the procedures prescribed in the legislation. It is the understanding of the managers that proceedings will be initiated involving a number of drugs containing amphetamines after the legislation has become law, but exceptions will be made for a number of amphetamine-containing drugs.

The specific language in amendment No. 4 to H.R. 18583 is as follows:

> (c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

Originally based on the colloquy between Mr. SPRINGER and Mr. WIGGINS, I was hopeful when I first saw the conference report that the intent of the conferees was to include under quota control of the Attorney General all methamphetamine and amphetamines which are manufactured in liquid form or that could be put in solution and then injected into the bloodstream. These substances are commonly known as "speed."

But now looking at the language of the substitute and hearing the statement of the able members of the conference, and hearing from the gentleman from Illinois (Mr. SPRINGER), it is clear that the conferees provided that only liquid injectable methamphetamines will be put in schedule II and subjected to quota control by the Attorney General.

That means that only an insignificant percent of the total methamphetamines are subject to any quota control by this bill, according to the Director of the Bureau of Narcotics and Dangerous Drugs.

At this point, I would like to insert a letter that I received last night from the Bureau of Narcotics and Dangerous Drugs on precisely this issue. The letter is as follows:

> U.S. DEPARTMENT OF JUSTICE, BUREAU OF NARCOTICS AND DANGEROUS DRUGS,
> *Washington, D.C., October 13, 1970.*
>
> Hon. CLAUDE PEPPER,
> *Chairman, Select Committee on Crime, House of Representatives, Washington, D.C.*
>
> DEAR CHAIRMAN PEPPER: Pursuant to the telephone request of October 13, 1970, from Miss Hastings of your staff the following information is supplied.
>
> We are aware of a total of 72 products domestically marketed which contain the drug methamphetamine (desoxyephedrine). Of this total 31 are essentially identical having methamphetamine as the sole ingredient. Five out of the 72 products are liquid injectables. The remaining 41 are also essentially identical to each other, i.e., methamphetamine in combination with amphetamines, barbiturates or both. A very few of these 41 also contain vitamins and/or one or more other ingredients which do not limit abuse potential.
>
> We estimate that there are approximately 1000 to 1500 products essentially identical in that each contains some generic isomer or salt of amphetamine as the sole ingredient.
>
> We also estimate there are marketed and available approximately 2500 combination amphetamine products which are again essentially identical to each other, i.e., containing some isomer of amphetamine in combination with one or more barbiturates or other ingredient.
>
> In general the four classes mentioned above carry the same medical indications and contra-indications.
>
> Our most recent annual survey disclosed that basic methamphetamine production in the United States for 1969, totaled 11,716 kilograms. This is equivalent to 1,171,600,000 dosage units (average dosage unit, 10 milligrams). We are unable to state with certainty at this time what percent of this basic production was converted into injectable liquid forms (parenteral). Only 5 of the 72 methamphetamine products available are of the injectable type. It therefore can be safely concluded that injectables represent an insignificant percent of the total methamphetamine dosage forms.
>
> Sincerely,
>
> JOHN E. INGERSOLL,
> *Director.*

This morning I talked with Dr. Dorothy Dobbs, who is a specialist in the Food and Drug Administration on amphetamines. She advised me that liquid methamphetamines are sold only to hospitals, and there are no uses for thoses products as far as over-the-counter sales go. Obviously there is almost no diversion into illegal channels of this form of the drug.

It should be noted that amphetamines and methamphetamines are bulk produced domestically by four companies. They are also imported in limited amounts. These bulk products are shipped to dosage form manufacturers who produce the pills either under their own labels or under a number of wholesale distributor labels. The pills are then sent to wholesale distributors who in turn send them to pharmacists. To attempt to control any of the dosage form producers would require the control of over 2,700 companies. Selective control of amphetamine and methamphetamine drugs would, therefore, require a great expenditure of man-hours and effort on the part of the BNDD; but control of the bulk producers would require a fraction of such time and effort. It is estimated that there are between 1,000 and 1,500 drugs on the market that are entirely made up of amphetamines and methamphetamines. The reason for the vast number is that that figure incorporates different brand names of identical drugs and different strengths of those identical drugs.

In addition, there are approximately 2,500 drugs being marketed that include either amphetamines or methamphetamines as a part of the compound.

Liquid injectable methamphetamine drugs are produced by five companies, and there are only five such drugs on the market. Using these BNDD figures, one can calculate that liquid injectable methamphetamines amount to twelve one-hundredths of 1 percent of the total amphetamine and methamphetamine drugs being produced.

Since the bill does not take into account the fact that most all amphetamines and methamphetamines are sold in solid form and are soluble and therefore injectable, any statement claiming that "speed" has now been slowed down is blatantly misleading. I am sorry to say that this bill contributes almost nothing into stopping the flow of "speed" into the veins of the young people of this country. As those who have examined the problem in depth know, "speed" is the street term applied to intravenous injection of amphetamines and amphetamine-like compounds. Therefore, the "speed" problem is barely touched by this amendment.

For instance, in a letter of March of this year, the Surgeon General of the United States, Dr. Jesse L. Steinfeld, stated:

> Considerable research on the effects of amphetamines has been accomplished at the NIMH Addiction Research Center at Lexington, Kentucky. The Center has found the methamphetamine and dextroamphetamine have approximately the same order of abuse potential. Other amphetamines and related stimulants have a somewhat lesser abuse potential but of a degree serious enough to warrant the same degree of regulation under law.

Therefore, I am sorry to say having failed to do so, unless the Attorney General moves expeditiously against amphetamines, phenmetrazines, and methylphenidates—the "speed drugs"—we still will not have significantly reduced

the problem of abuse of central nervous system stimulants with all their attendant injuries and dangers.

As my colleagues know, these three drugs can also be shot into a person's veins and produce the same euphoria, bizarre behavior, et cetera, and with many of the same detrimental side effects.

It would be my hope that as soon as this bill is signed into law by the President, the Attorney General, consistent with the representations he has made to the Congress, would immediately move against all of these drugs that are seriously undermining the health of this country. Suffice it to say that the passage of this bill will not end our committee's interest in this matter.

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

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE A REPORT ON H.R. 15041 UNTIL MIDNIGHT FRIDAY

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries have until midnight Friday night to file a report on H.R. 15041, to provide for a coordinated national boating safety program.

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

There was no objection.

PASSENGER TRAIN SERVICE

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 17849) to provide financial assistance and establishment of improved rail passenger service in the United States, to provide for the upgrading of rail roadbed and the modernization of rail passenger equipment, to encourage the development of new modes of high speed ground transportation, to authorize the prescribing of minimum standards for railroad passenger service, to amend section 13(a) of the Interstate Commerce Act, and for other purposes.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 17849, with Mr. BURLESON of Texas in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read through line 11 on page 28, which is the first section of the committee amendment.

Mr. CRANE. Mr. Chairman, while I do not want to be a "doomsayer" about the pending bill, I insert an article from the Wall Street Journal of October 12 in the CONGRESSIONAL RECORD.

In this very astute article, the author, Albert H. Karr. rightly points out some of the complications which are the inevitable result of well-intentioned legislation.

The article follows:

SUBSIDY, REGULATION AND UNCLE SUGAR

(By Albert R. Karr)

WASHINGTON.—In their views on the proper relationship of government to industry, some business leaders seem to know what they want: To make money.

That, at least, seems to be the best explanation for the contradictions in the positions some very big businessmen are taking here. Quick to insist that bureaucratic interference with their activities is not in the national interest, they have been equally quick to seek government help when those activities have run into trouble.

This contradictory stance, which is by no means new, was the subject of a recent caveat by Arthur Okun, chairman of the Council of Economic Advisers under President Johnson. "Those who advocate and practice private enterprise should be especially cautious in soliciting aid from the Government. . . .," Mr. Okun said. "People who keep asking the Government to do things for them may find it impossible later to prevent the Government's doing things to them."

Mr. Okun was talking specifically about the contention of the aircraft industry, seconded by the Nixon Administration, that the Government must pay most of the estimated $1.5 billion development cost of the civilian supersonic transport because the plane-makers and airlines can't afford to. Government acceptance of such arguments, it seems, will only increase the Government's problems.

In the first place, Government financing of the SST prototype may force development of a product that might not succeed, at least not for several years, if left to a decision of the marketplace. The very fact that aircraft manufacturers and their airline customers beg off from paying the bill suggests as much.

SST backers argue that the Government's projected $1.34 billion outlay is a loan, not an outright subsidy. Sale of 300 SST planes will repay the loan, and additional sales will furnish royalties, they argue. But while they now say 800 to 1,000 planes will probably be sold in the 1978–1990 period, against their earlier estimate of 500 planes, other studies have forecast sales of only 350 planes or less. The taxpayer is still taking the risk, not the planemaker. And SST critics insist that the $1.34 billion figure, itself much higher than the Government's originally expected tab, may escalate a lot more by the time production starts.

Government subsidization of SST development could encourage the airlines to seek major Government aid of other kinds in the future. Already airline executives are worried that the SST will hurt earnings because of its high initial cost and the difficulty of filling its seats without diverting passengers from older, conventional jets. Some Senate sources say, in fact, that some major airlines have indicated they wouldn't be unhappy if the Senate rejected continued SST funding when that issue comes to a vote soon.

OTHER AID SOUGHT

Meanwhile, airlines officials are seeking Government aid in other areas—including backing for a competition-curbing reduction in the number of routes and flights they now offer. Local-service airlines want increased subsidies to pay for continued service to small towns, and the Civil Aeronautics Board and key members of Congress seem sympathetic.

The airline requests are part of a broader picture. Declares one Washington transportation expert: "We seem to be moving inevitably toward Government takeover of all transportation, and subsidy is a major step in that direction."

Historically, railroads got an early Government-aid start in land grants for right-of-way but have lagged behind most other forms of transportation in winning aid since then. Now they are back in the act. The Penn Central seeks Government loan guarantees, and the entire industry has requested a yearly $1.5 billion package of Government subsidies and loan backing.

The railroads insist they would be better off if the Government's heavy regulatory hand were lifted. Interstate Commerce Commission regulation in particular, they say, prevents them from competing with truckers. "I'd say the No. 1 trouble is Government messing in our business . . . telling us how to run our affairs," declares Thomas M. Goodfellow, president of the Association of American Railroads.

But when it comes to the billions that the railroad industry feels it needs for lagging capital improvements and maintenance, Mr. Goodfellow takes a different tack. "The Federal Government must get involved financially and otherwise," he says; the industry's package is "a statement of reasonable rights and expectations" for an industry the nation needs.

What critics of the railroads find especially ironic is that the roads want Government assistance for lagging railroad operations, yet they have been unenthusiastic about buttressing those operations themselves. The Penn Central, for one, directed most of its efforts into real estate and other non-transportation activities, allowing its railroad to slide into bankruptcy court.

Similarly, railroad executives oppose any suggestion of nationalization. Yet they are quite willing to allow the Government to set up a semipublic corporation to take over the money-losing passenger business that they have generally neglected.

TRUCKING INDUSTRY POSITION

The trucking industry isn't pleased with the railroads' bid for Government subsidy. It especially opposes recommendations to set up a general transportation trust fund that would enable rails to use some of the auto gasoline taxes that now go into the Highway Trust Fund, and the alternate proposal to use 10% of the highway fund to pay for improving or eliminating railroad-highway grade crossings. Frank L. Grimm, president of American Trucking Associations, labels the railroad package "a letter to Santa Claus." Truckers, for their part, benefit from use of highways built by the Government, though they claim they pay such heavy taxes that there's no net subsidy involved.

The truckers aren't the only ones enjoying or wanting Government subsidization, of course. Airlines benefit from subsidies for airport construction. Shipping companies have long enjoyed Federal capital and operating subsidies. Other industries, including oil, steel and textiles, have tried to fend off Government intervention in their affairs but haven't been adverse to asking it to help fight foreign competition.

A number of industries get Federal subsidy through various tax breaks, the most notable being the depreciation allowance for oil companies. Many tax watchers feel that personal income tax deductions for, say, medical expenses constitute a subsidy to the medical profession, which can boost charges with the realization that the patient will pass a good chunk of the bill along to Uncle Sam.

Publishers of newspapers, magazines and books enjoy low postal rates, though the original intent was to facilitate the exchange of information.

HOUSING AND BANKS

The Federal Government subsidizes the housing industry in a variety of ways. Among them: Offering below-market interest rates

on loans to apartment operators and others, and buying up mortgages to keep interest rates down. The U.S. Treasury also provides a form of subsidy to most banks, by maintaining Federal bank accounts; the banks use these accounts as part of their reserves, against which they lend money.

Industry has long been subsidized in even less-obvious ways. Alan Greenspan, a New York economist consultant who served President Nixon as a 1968 election-campaign adviser, contends, "For years many companies have been using our rivers, our waterways, and our atmosphere as cost-free depositories for their industrial wastes. This has amounted to an implicit subsidy offset on the companies' income statements by the failure to register an appropriate cost item for disposal."

Within all these industries, decisions to seek Government aid haven't always been unanimous. Some steel producers rebelled for years at asking the Government to set quotas on steel imports, for fear that Uncle Sam would thereby become too involved in their business. But the more protection-minded finally won, and in 1967 the industry closed ranks and made its bid (unsuccessfully) for import quotas. Similarly, many railroads long opposed a subsidy bid; two years ago the roads joined ranks, and they have been on the subsidy trail ever since.

The aircraft industry in the past has received a subsidy through Government funding of military plane research and development, with commercial plane makers then drawing on that technology. Aircraft makers have sought Federal support for civilian research and development too, but with less success—until the SST.

The Senate will soon decide on the SST, ending a long and bitter debate. But regardless of the decision in this case, the larger question of the proper relationship of government and industry won't be settled. And indications are that this question will increasingly occupy the Government in the future.

Warns Richard R. Nelson, Yale economics professor who was formerly a Read Corp., economist: "After the particular (SST) program in question is completed, there will be a next generation of programs posing virtually the identical policy issues. More important, there will be projects in other technological fields presented as candidates for this kind of subsidy."

At this point, I place in the RECORD the text of an advertisement which appeared in the Chicago Tribune of October 13:

IT'S TIME TO TELL YOU THE SAD NEWS ABOUT A FAMOUS IC TRAIN

Starting November 23, with ICC approval, our Panama Limited will be only a memory. No longer will this well-known train make its daily run between Chicago and the cities of the South.

When this day comes, no one will be sadder than IC.

We made this choice because our only alternative was to lose a lot of money. And that's no way to run a railroad. No sensible person would expect us to keep on spending $1.30 for every dollar we earn from passenger operations. But this is exactly what happened in 1969.

In spite of promotion, advertising, and restructuring our service to attract more riders, the Panama Limited alone racked up an out-of-pocket loss last year of more than one million dollars.

Beside losing money, this train is losing the battle with wear-and-tear. Although we've kept it in good repair, it soon must be replaced. But to spend millions to lose more millions just doesn't make sense.

We'd like to make improvements in the trains that people ride often, such as those that run between Chicago and Carbondale, Illinois. But our ability to do so is seriously affected by the crushing financial burden of the Panama Limited.

What are the causes of this dilemma?

Operating costs keep going up. A few trains are well-filled, but far too many are almost empty. Fewer people take long trips on our trains. More people prefer the speed of subsidized carriers or the flexibility and convenience of their private cars. For these same reasons, we expect even larger financial losses in the future.

Annual losses like this can lead to serious troubles. For example, in the two years before Penn Central failed to clear its financial hurdles, that railroad's passenger service suffered a huge loss each year. What happened to Penn Central must not happen to IC.

And so, with great reluctance, and after careful consideration of our obligation to communities served by this famous train, we plan to bring its service to an end.

Some day, perhaps the public policies that brought us superhighways and jumbo jets will change to help bring back intercity passenger trains. That will be a great day, indeed.

ILLINOIS CENTRAL RAILROAD.

The final item which I would like to insert in the CONGRESSIONAL RECORD are excerpts of a speech by W. Graham Claytor, Jr., president of the Southern Railway System. These excerpts appeared in the October 9, 1970, issue of the Wall Street Journal:

To point up some of the pitfalls of nationalization, let me draw a few brief parallels between the government-owned British Railways and an American rail system with which I am fairly familiar—Southern Railway. We will have to deal with this in terms of the operating results for the year 1968—the latest for which we have information from our British counterparts—and translate British pounds into comparable dollar figures.

British Railways and Southern Railway are roughly comparable in route mileage—12,447 miles for the British and 10,163 for Southern. But there the resemblance ends. One of the more striking differences is in pay scales. The salary for full-time clerical employes on British Railways in 1968, for example, was $2,745 a year on the average. On Southern Railway the pay averaged nearly $7,900 a year for comparable jobs—almost three times as much. Another startling contrast is in the number of people needed to operate the railway. Southern in 1968 had just under 20,000 employes while British Railways had over 296,000 people, or nearly 15 times as many. Incidentally, as a footnote, Penn Central with twice our route miles has nearly five times as many employes—but still only one third as many as the much smaller British Railways.

Equally striking comparisons can be found in freight statistics. Southern Railway System produced more than 37.3 billion ton-miles of freight service in 1968 and the British Railways approximately 14.6 billion, less than 40% as much. On the other hand, looking at revenues, Southern took in less than $488 million in freight revenues, in that year, while the nationalized British Railways received more than $490 million. To put it another way, the average charge for handling a ton of freight one mile on British Railways was nearly three times as much as the average charge by Southern.

Now, what kind of financial results did the total operations of each system produce? Despite higher average and gross freight revenue, British Railways ended 1968 with a deficit of more than $217 million, not including, of course, any taxes. Southern, on the other hand, earned a net income in 1968 of nearly $43 million and in addition paid more than this—some $50 million—in Federal, state and local taxes. Enormous British passenger losses were partly responsible, but even without these the comparison is startling.

If I were simply a taxpayer and had no connection with railroads at all, such results would make me glad that America's railroads are in private hands and inspire me to do all I could to keep them there.

Mr. ROTH. Mr. Chairman, I intend to vote for H.R. 17849, the passenger train service proposal. We have allowed this important public transportation service to reach almost the vanishing point here in 1970. Once there were many thousands of railroad passenger trains in daily operation, now we are down to a little over 400. Between 100 and 150 are involved in discontinuance proceedings right now before the Interstate Commerce Commission.

And if the pattern established by the Commission during the last 15 or so years is followed, we will lose most, if not all, of those being considered for discontinuance.

My point here is not to pass judgment on the Commission as being right or wrong in the disposition of discontinuance cases. Rather, it is to emphasize that if Congress is to preserve the remaining elements of railroad passenger transportation it will have to be through legislation.

The proposal before us today, H.R. 17849, is designed to accomplish this. The bill will create a National Railroad Passenger Corp., which will be responsible for providing intercity rail passenger service to the Nation. All railroads will be eligible to join the corporation, and those who join thereby are relieved of further responsibility in providing such service. Note that this participation in the program is voluntary on the part of the railroads.

It will be the responsibility of the corporation to revitalize train service including the introduction of new equipment. Above all, this program should settle the controversy as to whether the railroads have deliberately downgraded passenger service to make it unpopular and decrease patronage. I am certain the corporation managers will keep this point in mind in administering the Federal program.

The new program is a departure from past procedure. However, ground has been broken in this direction in the implementation of the high-speed ground transportation program. The high-speed corridor program has been valuable as experience, and very useful as a guide. During its operation of well over a year, we have seen it receive favorable response by the public in the form of gratifying patronage. I can attest that this service is popular in Wilmington and throughout Delaware. The lesson we have learned is that people will travel on passenger trains if the service is convenient, comfortable, reliable, and fast. It is entirely possible that an alert, imaginative program, thoroughly promoted and publicized, can recreate an acceptable image for railroad passenger travel, and bring this mode of transportation back into profitable use.

Mr. Chairman, I urge the House to approve this important bill which may be our last chance to save railroad passenger service.

Mr. BOLAND. Mr. Chairman, I rise to express my personal interest and enthusiasm for the Railroad Passenger Corp.

legislation before us. It is an extremely important bill. Intercity passenger trains have dwindled from 1,500 to fewer than 400 over the past 10 years. Many of the remaining trains are also up for discontinuance. And just as important, the total demand for intercity transportation service already is putting tremendous strains on our airway and highway systems. It is absolutely clear, therefore, without positive action now we will lose intercity trains—an essential transportation alternative.

We really have only two choices in the matter. First, establish a public subsidy program to assure continuation of rail service. Second, restructure the existing rail passenger system into a truly national system responsive to the public need.

Obviously, doing nothing more than covering up a problem with money will not solve the problem. We must strike out on the bold approach—create new structure, staff it with bold people, capitalize it sufficiently, establish a sensible national rail system and let the corporation go to work. This is the thrust of the rail passenger service bill.

Obviously, the establishment of the corporation will not result in dramatic overnight changes in rail passenger service. It will have to contract with the railroads for operating crews, trackage and equipment maintenance. But as a result of consolidating service, it is expected that there will be a general upgrading of the equipment to be used. There will also be immediate improvements in a number of areas including ticketing and reservation. For the long term, we can expect new equipment, improved roadbeds, modernized terminals and other public service improvements. All in all, I think it is a good bill, and urge all of my colleagues to support it.

Mr. REID of New York. Mr. Chairman, I rise in strong support of the Rail Passenger Service Act of 1970.

Railroads have historically been the backbone of our Nation's transportation system. Yet over the past several years, as improved highway and air transportation services have made deep inroads into the rail passenger traffic, rail passenger service has gone down while costs have gone up. Clearly, positive action and a completely new direction is required now. The legislation before us today, if passed, can restore the railroads to a new high position of efficiency, comfort, and safety.

This bill would authorize the establishment of a National Railroad Passenger Corporation—a private, for-profit corporation, which would be authorized to operate or contract for the operation of intercity rail passenger trains and to conduct related research and development. In addition, the bill provides needed Federal financial assistance to the Corporation: $40 million in direct grants, $100 million in Federal loan guarantees, and $200 million in Federal loans to railroads to buy stock.

The vital importance of trains must not be underestimated. For instance, a stretch of track can carry 10 to 20 times as many people as one lane of highway. In addition, trains do far less harm to the environment around them than either air or highway travel—a consideration of not a little importance in light of the threat of a fully paved eastern seaboard and banks of jet smoke resting overhead.

For far too long, the railroads have shown shocking disregard for their public responsibility, and for too long the public interest has gone unheard. What is also shocking, however, is that where other modes of public transportation are Government-subsidized, the railroads have traditionally been neglected and have been totally responsible for their own operations and maintenance. It is little wonder that recently they have faltered.

For the future, we must consider the need to change the whole structure of our transportation system so that railroads can be made competitive and can combine their duties with various other modes of transportation—trucks, planes, and ships—as they have done in Canada. This would promote the efficiency which we so clearly lack today.

Today, however, let us accept this strong and needed step toward improved rail service. By establishing an independent corporation and by maintaining a basic minimum network of intercity service, it will lay the groundwork for truly modern rail service for the future.

Mr. MOORHEAD. Mr. Chairman, I rise in support of H.R. 17849. I am a cosponsor of this legislation, and I am a very strong supporter of the bill because I believe that a fully operational and functioning railway system is necessary to a thriving economy, and also rail travel offers advantages that cannot be matched either by air travel or highway driving.

Let me note for my colleagues the congressional findings on the rail dilemma:

The Congress finds that modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system; that the public convenience and necessity require the continuance and improvement of such service to provide fast and comfortable transportation between crowded urban areas and in other areas of the country, that rail passenger service can help to end the congestion on our highways and the overcrowding of airways and airports; that the traveler in America should to the maximum extent feasible have freedom to choose the mode of travel most convenient to his needs; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation for the purpose of providing modern, efficient, intercity rail passenger service; that Federal financial assistance as well as investment capital from the private sector of the economy is needed for this purpose; and that interim emergency Federal financial assistance to certain railroads may be necessary to permit the orderly transfer of railroad passenger service to a railroad passenger corporation.

Bearing in mind our colleagues' diligent effort and hard work in reaching these findings, let me run over very briefly the four primary objectives of the legislation.

First, it authorizes the establishment of a national rail passenger system in accordance with certain congressionally prescribed criteria as set forth in this bill. Second, it provides for appropriate Federal financial assistance to the Nation's railroads for the performance of essential passenger service. This assistance takes two distinct forms: Reimbursement for direct operating losses incurred by those passenger trains and services designated by the Secretary of Transportation as part of the national rail passenger system; and provision of new and rehabilitated rail passenger equipment for lease to railroads and regional transportation agencies whenever needed. Third, the bill explicitly authorizes the Secretary of Transportation and the Interstate Commerce Commission to require railroads to provide adequate standards of service on passenger trains. Fourth, the bill provides for stronger controls by the Interstate Commerce Commission over the discontinuance of passenger trains included within the national rail passenger system, and at the same time facilitates discontinuance, by the railroads, of those trains which are not included in the system, in the absence of State, regional, and/or local financial support.

In particular, I call your attention to section 802 of the bill which provides as follows:

Upon enactment of this Act, no railroad may discontinue any passenger service whatsoever other than in accordance with the provisions of this Act, notwithstanding the provisions of any other Act, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any Federal or State court, agency, or authority.

As a representative of the Pittsburgh area in the Congress, I know I am speaking for my constituents when I say this legislation is vital, necessary and the House should join the Senate in giving our Nation and its citizens a railway system that works and works well.

Mr. OTTINGER. Mr. Chairman, I wish to express my support for the comprehensive bill under consideration that will provide the organization and the financial means to upgrade our disappearing railroad passenger service. I have been sponsoring legislation to this end for years, particularly the Intercity Rail Passenger Service Act of 1969, which was designed to authorize the Department of Transportation to purchase and lease passenger equipment to railroads or regional transportation authorities, and other bills to establish Federal minimum standards for passenger service.

The Railpac bill we will vote on today appears to me to be a feasible and effective means to revitalize an important part of our national transportation system. The recent declaration of bankruptcy by Penn Central served to underscore a problem that has been intensifying for years, every since the railroads have been downgrading and eliminating passenger trains for the more profitable freight business. It is timely for Congress to move into this gap now, since neither roalroad management nor the Interstate Commerce Commission appears to understand the importance of maintaining a viable rail passenger service.

In the past 40 years almost 20,000 passenger trains have been discontinued, and the ICC is allowing further elimination at such a rate that the remaining 500 trains may well dwindle away to none. H.R. 17849 will hopefully reverse this alarming trend by directing the Department of Transportation to designate

a basic intercity rail network for regular operation of passenger routes and by creating a private corporation to take over and run those trains. Rail companies will be allowed to relinquish their responsibility for providing passenger service by joining the corporation and paying for the right to do so. Any railroad not joining the corporation will be required to operate existing passenger trains for at least 5 years. The public will be able to purchase stock in the new corporation, which will be run by a 15-member board of directors and which will hopefully make a profit through its operations.

Nevertheless, the corporation will be required to run passenger trains over some unprofitable routes when necessary in the public interest, so it is possible that this new program will have to be funded by the Congress on an annual basis. Initially, $40 million will be authorized to get the corporation into operation, in addition to another $100 million in loan guarantees for new and improved equipment and roadbeds and $200 million in loan guarantees for contracts to operate passenger trains. Hopefully new developments in high speed rail technology will enable the National Railroad Passenger Corporation to eventually become solvent, and the initial seed money from the Federal Government is a worthwhile investment to enable us to find out if railroad pasenger service can be self-sustaining. Almost 100 million passengers use intercity trains each year and the congestion on our highways and at our airports give us compelling reasons to look to the future by providing for continuing railroad passenger service. I urge speedy approvel of H.R. 17849 and the earliest possible implementation of its provisions so that the public may have available the quality and number of trains it deserves.

Mrs. HECKLER of Massachusetts. Mr. Chairman, the rail passenger for many years now has suffered the worst kind of discomfort and indignities. Rail passenger services have degenerated rapidly since the halcyon days of American railroads in the post-World War II period. The United States may not quite have achieved the world's worst railroad system; however, it has been moving quickly toward the day of having no rail services at all. It is possible for Congress to reverse that trend, as the Rail Passenger Service Act of 1970 will do, by insuring the survival of essential rail passenger services.

I consider it urgent that we save essential rail passenger services, particularly for the commuter for whom intercity rail service is not a luxury but often a necessity. I consider it vital to develop alternate modes of transportation, as a means of escape from the speed-slowing congestion which is steadily increasing on our highways and airways.

Consequently, I have supported the efforts to achieve these goals. Last year I cosponsored legislation to upgrade and improve conditions on passenger trains. I have been active with the New England delegation in seeking to preserve rail services for our constituents. In fact, the New England delegation has been most influential in bringing about action on the present bill. Because I considered it inexcusable—at precisely the time when Congress was ready to act on the present bill—for the Penn Central to propose the discontinuance of urgently-needed Boston-Providence commuter services, I personally testified against the proposal at recent Interstate Commerce Commission hearings. I felt this was still another indignity being imposed without rhyme or reason on my constituents in the 10th Congressional District of Massachusetts.

The bill creates a new quasi-private National Railroad Passenger Corporation charged with the assignment of maintaining a minimum of rail passenger service on intercity routes in certain population corridors.

Railroad management by corporation is not unusual. The French railroad system is run by a commercial corporation in which the government holds 51 percent of the stock. Italy and West Germany have government owned and operated railroads. Japan's system is managed by a public corporation under supervision of the Minister of Transport. The general efficiency of the Japanese and West European railroads is well-known, and they have pioneered in developing new forms of high speed ground transportation.

The U.S. railroad industry's annual net profit is less than 2.3 percent, and largely derived from nontransportation investments. Thus, the railroads have neglected low revenue-producing passenger services in favor of more lucrative freight services. They have hardly assumed with great relish the challenge of experimental high-speed rail systems, such as the East Coast's Metroliners and New England's Turbo-Trains.

The bill invites the railroads to join the National Railroad Passenger Corporation, which assumes the responsibility with the help of Government loans and grants for operating the unprofitable intercity rail passenger services. This approach seems workable.

I believe that the proposed moratorium on rail service discontinuancies regardless of their status is especially important. In the case of trains within the corporation's system, no service could be discontinued until after July 1, 1973. Trains operated by nonjoining carriers could not be discontinued until after January 1, 1975. First, of course, the survival of essential rail services must be assured.

The bill, in addition to authorizing research and development to design, construct, and operate future high-speed rail systems, would permit the publicizing of rail passenger services. I have no doubt that passengers can be attracted back to railroads which offer clean and efficient services.

Our Nation, Mr. Chairman, has long endorsed the concept of balanced transportation. This involves more than air and highway mobility. High-speed ground mobility, which utilizes the existing rail network, is an integral part of a balanced system.

I believe that the public will be well served by the revival of railroads, and the national effort to upgrade and improve existing services. I strongly urge the passage of this vital bill.

Mr. MESKILL. Mr. Chairman, I fully support passage of the Rail Passenger Service Act of 1970. In an age when we send men to the moon we move people on our railroads in antiquated and poorly scheduled equipment. Present railroad service is shamefully inadequate to meet even current needs. It is a pity that it took the bankruptcy of the Penn Central to awaken Americans to our rail transportation crisis.

The country needs all modes of transportation, operating at maximum efficiency, if in the 1970's Americans are to be able to travel from city to city safely, comfortably, and in reasonable time.

In 1929 we had some 20,000 passenger trains in operation. Today we have less than 500 regularly scheduled intercity passenger trains.

In its 1968 report the Interstate Commerce Commission pointed out the following facts:

In the last 10 years—

The number of regular intercity trains has declined more than 60 percent from the 1,448 trains operated in 1958.

Fourteen railroads have abandoned all intercity service, and six have only one pair of trains left.

Intercity service over 36 percent of the 1958 routes has been completely eliminated.

Noncommutation passengers have decreased 40 percent, and first-class passengers have dropped nearly 70 percent.

Rail investment in new equipment for intercity service has nearly ground to a halt and the quality of service has deteriorated in a number of instances.

Despite these adverse developments, I firmly believe that a new market for rail passenger service exists. I believe the American public is ready to take a second look at the trains they abandoned for the airplane and the automobile. For trains are the cheapest, safest, most dependable way to transport people. Moreover, trains offer the best solution to the pollution problem associated with the transportation of individuals throughout our Nation.

Facts simply do not support those who suggest that other means of transportation can replace the intercity rail passenger transportation. Our air and highway systems have reached the saturation point. Traffic congestions and tieups on expressways, and takeoff and landing delays at airports have become commonplace, especially in the densely populated urban corridors. While significant improvements will be and must be made in our highway and airway systems, it is apparent that we cannot rely upon the automobile and the plane exclusively for future travel needs.

I believe that the creation of a quasi-public corporation to assume the operation of trains within a national rail passenger system is a most feasible plan to revitalize our entire national rail passenger service. This corporation to be created will not be inhibited by traditional attitudes about rail passenger service. Rather, the new managerial approach will be totally dedicated to passenger travel and will supply the needed innovation and leadership.

Mr. Chairman, unless positive Government action is taken soon, railroad passenger service in many parts of the country will be a thing of the past. The Rail

Passenger Act of 1970 is of great importance to the Nation in terms of meeting the transportation needs of a growing and mobile population. I urge House passage of this legislation, establishing the importance of rail lines as the basis of future intercity transit systems.

Mr. BINGHAM. Mr. Chairman, I have long been concerned about the decline of intercity rail passenger service, and I want to congratulate my colleagues on the Interstate and Foreign Commerce Committee for bringing this very bold and comprehensive legislation before the House. In my judgment, it provides a much-needed foundation upon which to revive and restore rail passenger service in this country to the important role it certainly should have in our total transportation mix.

In every Congress since 1965, I have introduced legislation (H.R. 133) designed specifically to protect and improve rail passenger service for commuters. That legislation sought to stop the alarming trend of commuter service terminations in New York and elsewhere, and to increase available Federal assistance for such service by prohibiting the Interstate Commerce Commission from approving service terminations until the possibility of Federal assistance had been exhaustively explored. The legislation also authorized funds for Federal loans and grants to preserve commuter rail service.

I am pleased to note, Mr. Chairman, that the purpose of my legislation will, in effect, be accomplished by the legislation currently before the House. I am particularly gratified to see that provision is made that will prevent any further discontinuance of rail passenger train service, and that the bill as a whole provides a framework for increased Federal and private investment through the proposed National Railroad Passenger Corporation in improved passenger rail service.

In my judgment, this legislation provides a real opportunity for this Nation to upgrade and hopefully to expand the role of the railroads in the passenger transportation field. That will constitute a considerable service to commuters and long-distance travelers alike, and on that basis I am delighted to vote for the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

SEC. 101. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

The Congress finds that modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system; that the public convenience and necessity require the continuance and improvement of such service to provide fast and comfortable transportation between crowded urban areas and in other areas of the country; that rail passenger service can help to end the congestion on our highways and the overcrowding of airways and airports; that the traveler in America should to the maximum extent feasible have freedom to choose the mode of travel most convenient to his needs; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation for the purpose of providing modern, efficient, intercity rail passenger service; that Federal financial assistance as well as investment capital from the private sector of the economy is needed for this purpose; and that interim emergency Federal financial assistance to certain railroads may be necessary to permit the orderly transfer of railroad passenger service to a railroad passenger corporation.

SEC. 102. DEFINITIONS

For the purposes of this Act—

(1) "Railroad" means a common carrier by railroad, as defined in section 1(3) of part I of the Interstate Commerce Act, as amended (49 U.S.C. 1(3)) other than the corporation created by title III of this Act.

(2) "Secretary" means the Secretary of Transportation or his delegate unless the context indicates otherwise.

(3) "Commission" means the Interstate Commerce Commission.

(4) "Basic system" means the system of intercity rail passenger service designated by the Secretary under title II and section 403(a) of this Act.

(5) "Intercity rail passenger service" means all rail passenger service other than (A) commuter and other short-haul service in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride and commutation tickets, and by morning and evening peak period operations, and (B) auto-ferry service characterized by transportation of automobiles and their occupants where contracts for such service have been consummated prior to enactment of this Act.

(6) "Avoidable loss" means the avoidable costs of providing passenger service, less revenues attributable thereto, as determined by the Interstate Commerce Commission pursuant to the provisions of section 553 of title 5, United States Code.

(7) "Corporation" means the National Railroad Passenger Corporation created under title III of this Act.

(8) "Regional transportation agency" means an authority, corporation, or other entity established for the purpose of providing passenger service within a region.

TITLE II—BASIC NATIONAL RAIL PASSENGER SYSTEM

SEC. 201. DESIGNATION OF SYSTEM.

In carrying out the congressional findings and declaration of purpose set forth in title I of this Act, the Secretary, acting in cooperation with other interested Federal agencies and departments, is authorized and directed to submit to the Commission and to the Congress within thirty days after the date of enactment of this Act his preliminary report and recommendations for the basic system. Such recommendations shall specify those points between which intercity passenger trains shall be operated, identify all routes over which service may be provided, and the trains presently operated over such routes, together with basic service characteristics of operations to be provided within the basic system, taking into account schedules, number of trains, connections, through car service, and sleeping, parlor, dining, and lounge facilities. In recommending the basic system the Secretary shall take into account the need for expeditious intercity rail passenger service within and between all regions of the continental United States, and the Secretary shall consider the need for such service within the States of Alaska and Hawaii and the Commonwealth of Puerto Rico. In formulating such recommendations the Secretary shall consider opportunities for provision of faster service, more convenient service, service to more centers of population, and service at lower cost, by the joint operation, for passenger service, of facilities of two or more railroad companies; the importance of a given service to overall viability of the basic system; adequacy of other transportation facilities serving the same points; unique characteristics and advantages of rail service as compared to other modes of transportation; the relationship of public benefits of given services to the costs of providing such services; and potential profitability of the service. The exclusion of a particular route, train, or service from the basic system shall not be deemed to create a presumption that the route, train, or service is not required by public convenience and necessity in any proceeding under section 13a of the Interstate Commerce Act (49 U.S.C. 13a).

SEC. 202. REVIEW OF THE BASIC SYSTEM.

The Commission, the State Commissions, the representatives of the railroads, and labor organizations duly authorized under the Railway Labor Act to represent railroad employees shall, within thirty days after receipt of the preliminary report of the Secretary designating the basic system, review such report consistent with the purposes of this Act and provide the Secretary with their comments and recommendations in writing The Secretary shall give due consideration to such comments and recommendations. The Secretary shall, within ninety days after the date of enactment of this Act, submit his final report designating the basic system to the Congress. Such final report shall include a summary of their recommendations together with his reasons for failing to adopt any such recommendation. The basic system as designated by the Secretary shall become effective for the purposes of this Act upon the date that the final report of the Secretary is submitted to Congress and shall not be reviewable in any court.

TITLE III—CREATION OF A RAIL PASSENGER CORPORATION

SEC. 301. CREATION OF THE CORPORATION.

There is authorized to be created a National Railroad Passenger Corporation. The Corporation shall be a for-profit corporation, the purpose of which shall be to provide intercity rail passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements. The Corporation will not be an agency or establishment of the United States Government. It shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.

SEC. 302. PROCESS OF ORGANIZATION.

The President of the United States shall appoint not fewer than three incorporators, by and with the advice and consent of the Senate, who shall also serve as the board of directors for one hundred and eighty days following the date of enactment of this Act. The incorporators shall take whatever actions are necessary to establish the Corporation, including the filing of articles of incorporation, as approved by the President.

SEC. 303. DIRECTORS AND OFFICERS.

(a) The Corporation shall have a board of fifteen directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Eight members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, for terms of four years or until their successors have been appointed and qualified, except that the first three members of the board so appointed shall continue in office for terms of two years, and the next three members for terms of three years. Any member appointed to fill a vacancy may be appointed only for the unexpired term of the director whom he succeeds. At all times the Secretary shall be one of the members of the board of directors appointed by the President and at all times at least one such member shall be

a consumer representative. Three members of the board shall be elected annually by common stockholders, and four shall be elected annually by preferred stockholders of the Corporation. The members of the board appointed by the President and those elected by common stockholders shall take office on the one hundred and eighty-first day after the date of enactment of this Act. Election of the remaining four members of the board shall take place as soon as practicable after the first issuance of preferred stock by the Corporation. Pending election of the remaining four members, seven members shall constitute a quorum for the purpose of conducting the business of the board. No director appointed by the President may have any direct or indirect financial or employment relationship with any railroad during the time that he serves on the board. Each of the directors not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the board he attends. In addition, each director shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the board. No director elected by railroads shall vote on any action of the board of directors relating to any contract or operating relationship between the Corporation and a railroad, but he may be present at meetings of the board at which such matters are voted upon, and he may be included for purposes of determining a quorum and may participate in discussions at any such meeting.

(b) The board of directors is empowered to adopt and amend bylaws governing the operation of the Corporation. Such bylaws shall not be inconsistent with the provisions of this Act or of the articles of incorporation.

(c) The articles of incorporation of the Corporation shall provide for cumulative voting for all stockholders and shall provide that, upon conversion of one-fourth of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect four directors and the preferred stockholders shall be entitled to elect three directors; upon the conversion of one-half of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect five directors and the preferred stockholders shall be entitled to elect two directors; upon the conversion of three-fourths of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect six directors and the preferred stockholders shall be entitled to elect one director; and upon conversion of all outstanding shares of preferred stock, the common stockholders shall be entitled to elect seven directors. Any change of directors resulting from such stock conversion shall take effect at the next annual meeting of the Corporation following such stock conversion.

(d) The Corporation shall have a president and such other officers as may be named and appointed by the board. The rates of compensation of all officers shall be fixed by the board. Officers shall serve at the pleasure of the board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation may have any direct or indirect employment or financial relationship with any railroad during the time of his employment by the Corporation.

SEC. 304. FINANCING OF THE CORPORATION.

(a) The Corporation is authorized to issue and have outstanding, in such amounts as it shall determine, two issues of capital stock, a common and a preferred, each of which shall carry voting rights and be eligible for dividends. Common stock may be initially issued only to a railroad. Preferred stock may be issued to and held only by any person other than (1) a railroad or (2) any person controlling one or more railroads, as defined in section 1(3)(b) of the Interstate Commerce Act. The articles of incorporation of the Corporation shall provide for the following respective rights of each issue of stock:

(A) COMMON STOCK.—Common stock shall have a par value of $10 per share and shall be designated fully paid and nonassessable. No dividends shall be paid on the common stock whenever dividends on the preferred stock are in arrears.

(B)(1) PREFERRED STOCK.—Preferred stock shall have a par value of $100 per share and shall be designated fully paid and nonassessable. Dividends shall be fixed at a rate not less than 6 per centum per annum, and shall be cummulative so that, if for any dividend period dividends at the rate fixed in the articles of incorporation shall not have been declared and paid or set aside for payment on the preferred shares, the deficiency shall be declared and paid or set apart for payment prior to the making of any dividend or other distribution on the common shares.

(ii) Preferred stock shall be entitled to a liquidation preference over common stock, which shall entitle preferred stockholders to a liquidating payment not less than par value plus all accrued unpaid dividends prior to any payment on liquidation to common stockholders.

(iii) Preferred stock shall be convertible into shares of common stock at such time and upon such terms as the articles of incorporation shall provide.

(b) At no time after the initial issue is completed shall the aggregate of the shares of common stock of the Corporation owned by a single railroad or by any person controlling one or more railroads, as defined in section 1(3)(b) of the Interstate Commerce Act, directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control, exceed 33⅓ per centum of such shares issued and outstanding.

(c) At no time may any stockholder, or any syndicate or affiliated group of such stockholders, own more than 10 per centum of the shares of preferred stock of the Corporation issued and outstanding.

(d) The articles of incorporation shall provide that no shares of any issue of stock may be redeemed or repurchased for five years, following the date of enactment of this Act.

(e) The Corporation is authorized to issue, in addition to the stock authorized by subsection (a) of this section, non-voting securities, bonds, debentures, and other certificates of indebtedness as it may determine.

(f) The requirement of section 45(b) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–920(b)) as to the percentage of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of the stock of the Corporation, and they may exercise such rights without regard to the percentage of stock they hold.

SEC. 305. GENERAL POWERS OF THE CORPORATION.

The Corporation is authorized to own, manage, operate, or contract for the operation of intercity trains operated for the purpose of providing modern, efficient, intercity transportation of passengers and to carry mail and express on such trains; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to rail passenger operations. The Corporation shall, consistent with prudent management of the affairs of the Corporation, rely upon railroads to provide the employees necessary to the operation and maintenance of its passenger trains and to the performance of all services and work incidental thereto, to the extent the railroads are able to provide such employees and services in an economic and efficient manner. To carry out its functions and purposes, the Corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

SEC. 306. APPLICABILITY OF THE INTERSTATE COMMERCE ACT AND OTHER LAWS.

(a) The Corporation shall be deemed a common carrier by railroad within the meaning of section 1(3) of the Interstate Commerce Act and shall be subject to all provisions of the Interstate Commerce Act other than those pertaining to—

(1) regulation of rates, fares, and charges;

(2) abandonment or extension of lines of railroads utilized solely for passenger service, and the abandonment or extension of operations over such lines of railroads, whether by trackage rights or otherwise;

(3) regulation of routes and services and, except as otherwise provided in this Act, the discontinuance or change of passenger train service operations.

(b) The Corporation shall be subject to the same laws and regulations with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity and unemployment systems, and other dealings with its employees as any other common carrier subject to part I of the Interstate Commerce Act.

(c) The Corporation shall be subject to any State or other law pertaining to the transportation of passengers by railroad as it relates to rates, routes, or service.

(d) Leases and contracts entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

(e) Persons contracting with the Corporation for the joint use or operation of such facilities and equipment as may be necessary for the provision of efficient and expeditious passenger service shall be and are hereby relieved from all prohibitions of existing law, including the antitrust laws of the United States, with respect to such contracts, agreements, or leases insofar as may be necessary to enable them to enter into such contracts and to perform their obligations thereunder.

SEC. 307. SANCTIONS.

(a) If the Corporation or any railroad engages in or adheres to any action, practice, or policy inconsistent with the policies and purposes of this Act, obstructs or interferes with any activities authorized by this Act, refuses, fails, or neglects to discharge its duties and responsibilities under this Act, or threatens any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which the Corporation or other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States or, in a case involving a labor agreement, upon petition of any employee affected thereby, including duly authorized employee representatives, to grant such equitable relief as may be necessary or appropriate to prevent or terminate any violation, conduct, or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this Act.

SEC. 308. REPORTS TO THE CONGRESS.

(a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this Act, including a statement of receipts and expenditures for the previous year. At the time of its

annual report, the Corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived.

(b) The Secretary and the Commission shall transmit to the President and the Congress, one year following the date of enactment of this Act and biennially thereafter, reports on the state of rail passenger service and the effectiveness of this Act in meeting the requirement for a balanced national transportation system, together with any legislative recommendations.

TITLE IV—PROVISION OF RAIL PASSENGER SERVICES

SEC. 401. ASSUMPTION OF PASSENGER SERVICE BY THE CORPORATION; COMMENCEMENT OF OPERATIONS.

(a) (1) On or before March 1, 1971, the Corporation is authorized to contract and, upon written request therefor from a railroad, shall tender a contract to relieve the railroad, from and after March 1, 1971, of its entire responsibility for the provision of intercity rail passenger service. On or after March 1, 1973, but before January 1, 1975, the Corporation is authorized to contract, and upon written request therefor, shall tender a contract to relieve the railroad of its entire responsibility for the provision of intercity rail passenger service and such relief shall become effective upon the date on which such contract is entered into. Contracts may be entered into on or before March 1, 1971, notwithstanding the fact that the decision of the Commission under section 102(f) of this Act with respect to avoidable loss has not become final. Any contract entered into before such decision of the Commission has become final shall be subject to adjustment to assure that the contract is consistent with such final decision of the Commission. The contract may be made upon such terms and conditions as necessary to permit the Corporation to undertake passenger service on a timely basis. Upon its entering into a valid contract (including protective arrangements for employees), the railroad shall be relieved of all its responsibilities as a common carrier of passengers by rail in intercity rail passenger service under part I of the Interstate Commerce Act or any State or other law relating to the provision of intercity passenger service: *Provided*, That any railroad discontinuing a train hereunder must give notice in accordance with the notice procedures contained in section 13a(1) of the Interstate Commerce Act.

(2) In consideration of being relieved of this responsibility by the Corporation, the railroad shall agree to pay to the Corporation each year for three years an amount equal to one-third of 50 per centum of the fully distributed passenger service deficit of the railroad as reported to the Commission for the year ending December 31, 1969. The payment to the Corporation may be made in cash or, at the option of the Corporation, by the transfer of rail passenger equipment or the provision of future service as requested by the Corporation. Unless the railroad waives all rights to receive stock in exchange for its payments, the railroad shall receive common stock from the Corporation in an amount equivalent in par value to each payment.

(3) In agreeing to pay the amount specified in paragraph (2) of this subsection, a railroad may reserve the right to pay a lesser sum to be determined by calculating either of the following:

(A) 100 per centum of the avoidable loss of all intercity rail passenger service operated by the railroad during the period January 1, 1969, through December 31, 1969; or

(B) 200 per centum of the avoidable loss of the intercity rail passenger service operated by the railroad during the period January 1, 1969, through December 31, 1969, covering all intercity service over the routes between those points between which the Secretary, under sections 201 and 202 of title II of this Act, has specified that intercity passenger trains shall be operated within the basic system.

If the amount owed the Corporation under either of these alternatives is agreed by the parties to be less than the amount paid pursuant to paragraph (2), the Corporation shall pay the difference to the railroad and the railroad shall surrender to the Corporation an amount of stock, at par value, equivalent to such payment. If the railroad and the Corporation are unable to agree as to the amount owed, the matter shall be referred to the Interstate Commerce Commission for decision. The Commission, upon investigation, shall decide the issue within ninety days following the date of referral, or within such additional time as the Commission may order not to exceed an aggregate of one hundred and eighty days following such date of referral, and its decision shall be binding on both parties.

(4) The payments to the Corporation shall be made in accordance with a schedule to be agreed upon between the parties. Unless the parties otherwise agree, the payments for each of the first twelve months following the date on which the Corporation assumes any of the operational responsibilities of the railroad shall be in cash and not less than one thirty-sixth of the amount owed.

(b) On March 1, 1971, the Corporation shall begin the provision of intercity rail passenger service between points within the basic system unless such service is being provided (i) either by a railroad with which it has not entered into a contract under subsection (a) of this section or (ii) by a regional transportation agency, provided such agency gives satisfactory assurance to the Corporation of the agency's financial and operating capability to provide such service, and of its willingness to cooperate with the Corporation and with other regional transportation agencies on matters of through train service, through car service, and connecting train service. The Corporation may at any time subsequent to March 1, 1971, contract with a regional transportation agency to provide intercity rail passenger service between points within the basic system included within the service of such agency.

(c) No railroad or any other person may, without the consent of the Corporation, conduct intercity rail passenger service over any route over which the Corporation is performing scheduled intercity rail passenger service pursuant to a contract under this section.

SEC. 402. FACILITY AND SERVICE AGREEMENTS.

(a) The Corporation may contract with railroads or with regional transportation agencies for the use of tracks and other facilities and the provision of services on such terms and conditions as the parties may agree. In the event of a failure to agree, the Interstate Commerce Commission shall, if it finds that doing so is necessary to carry out the purposes of this Act, order the provision of services or the use of tracks or facilities of the railroad by the Corporation, on such terms and for such compensation as the Commission may fix as just and reasonable, and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order or under an order issued under subsection (b) of this section shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission. If the amount of compensation fixed is not duly and promptly paid, the railroad or agency entitled thereto may bring an action against the Corporation to recover the amount properly owed.

(b) To facilitate the initiation of operations by the Corporation within the basic system, the Commission shall, upon application by the Corporation, require a railroad to make immediately available tracks and other facilities. The Commission shall thereafter promptly proceed to fix such terms and conditions as are just and reasonable.

SEC. 403. NEW SERVICE.

(a) The Corporation may provide intercity rail passenger service in excess of that prescribed for the basic system, either within or outside the basic system, including the operation of special and extra passenger trains, if consistent with prudent management. Any intercity rail passenger service provided under this subsection for a continuous period of two years shall be designated by the Secretary as a part of the basic system.

(b) Any State, regional, or local agency may request of the Corporation rail passenger service beyond that included within the basic system. The Corporation shall institute such service if the State, regional, or local agency agrees to reimburse the Corporation for a reasonable portion of any losses associated with such services.

(c) For purposes of this section the reasonable portion of such losses to be assumed by the State, regional, or local agency, shall be no less than 66⅔ per centum of, nor more than, the solely related costs and associated capital costs, including interest on passenger equipment, less revenues attributable to, such service. If the Corporation and the State, regional, or local agency are unable to agree upon a reasonable apportionment of such losses, the matter shall be referred to the Secretary for decision. In deciding this issue the Secretary shall take into account the intent of this Act, and the impact of requiring the Corporation to bear such losses upon its ability to provide improved service within the basic system.

SEC. 404. DISCONTINUANCE OF SERVICE.

(a) Unless it has entered into a contract with the Corporation pursuant to section 401(a)(1) of this Act, no railroad may discontinue any intercity passenger train whatsoever prior to January 1, 1975, the provisions of any other Act, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, a Federal or State court, agency, or authority to the contrary notwithstanding. On and after January 1, 1975, passenger train service operated by such railroad may be discontinued under the provisions of section 13a of the Interstate Commerce Act. Upon filing of a notice of discontinuance by such railroad, the Corporation may undertake to initiate passenger train operations between the points served.

(b)(1) The Corporation must provide the service included within the basic system until July 1, 1973, to the extent it has assumed responsibility for such service by contract with a railroad pursuant to section 401 of this Act.

(2) Except as provided in section 403(a) of this Act, service beyond that prescribed for the basic system undertaken by the Corporation upon its own initiative may be discontinued at any time.

(3) If at any time after July 1, 1973, the Corporation determines that any train or trains in the basic system in whole or in part are not required by public convenience and necessity, or will impair the ability of the Corporation to adequately provide other services, such train or trains may be discontinued under the procedures of section 13a of the Interstate Commerce Act (49 U.S.C. 13a): *Provided, however*, That at least thirty days prior to any change or discontinuance, in whole or in part, of any service under this subsection, the Corporation shall mail to the Governor of each State in which the train in question is operated, and post in

every station, depot, or other facility served thereby notice of the proposed change or discontinuance. The Corporation may not change or discontinue this service if prior to the end of the thirty-day notice period, State, regional, or local agencies request continuation of the service and within ninety days agree to reimburse the Corporation for a reasonable portion of any losses associated with the continuation of service beyond the notice period.

(4) For the purposes of paragraph (3) of this subsection, the reasonable portion of such losses to be assumed by the State, regional, or local agency shall be no less than 66⅔ per centum of, nor more than, the solely related costs and associated capital costs, including interest on passenger equipment, less revenues attributable to, such service. If the Corporation and the State, regional, or local agencies are unable to agree upon a reasonable apportionment of such losses, the matter shall be referred to the Secretary for decision. In deciding this issue the Secretary shall take into account the purposes of this Act and the impact of requiring the Corporation to bear such losses upon its ability to provide improved service within the basic system.

SEC. 405. PROTECTIVE ARRANGEMENTS FOR EMPLOYEES.

(a) A railroad shall provide fair and equitable arrangements to protect the interests of employees affected by discontinuances of intercity rail passenger service whether occurring before, on, or after January 1, 1975.

(b) Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) to such employees under existing collective-bargaining agreements or otherwise; (2) the continuation of collective-bargaining rights; (3) the protection of such individual employees against a worsening of their positions with respect to their employment; (4) assurances of priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of the Interstate Commerce Act. Any contract entered into pursuant to the provisions of this title shall specify the terms and conditions of such protective arrangements. No contract under section 401(a)(1) of this Act between a railroad and the Corporation may be made unless the Secretary of Labor has certified to the Corporation that the labor protective provisions of such contract afford affected employees fair and equitable protection by the railroad.

(c) After commencement of operations in the basic system, the substantive requirements of subsection (b) of this section shall apply to the Corporation. The certification by the Secretary of Labor that employees affected have been provided fair and equitable protection as required by this section shall be a condition to the completion of any transaction requiring such protection.

(d) The Corporation shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Corporation shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by a railroad employee. Wage rates provided for in collective bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act.

(e) The Corporation shall not contract out any work normally performed by employees in any bargaining unit covered by a contract between the Corporation or any railroad providing intercity rail passenger service upon the date of enactment of this Act and any labor organization, if such contracting out shall result in the layoff of any employee or employees in such bargaining unit.

TITLE V—ESTABLISHMENT OF A FINANCIAL INVESTMENT ADVISORY PANEL

SEC. 501. APPOINTMENT OF ADVISORY PANEL.

Within thirty days after enactment of this Act, the President shall appoint a fifteen-man financial advisory panel. Six members of the panel shall represent the business of investment banking, commercial banking, and rail transportation. Two members shall be representatives of the Secretary of the Treasury and seven members shall represent the public in the various regions of the Nation.

SEC. 502. PURPOSE OF ADVISORY PANEL.

The advisory panel appointed by the President shall advise the directors of the Corporation on ways and means of increasing capitalization of the Corporation.

SEC. 503. REPORT TO CONGRESS.

On or before January 1, 1971, the panel shall submit a report to Congress evaluating the initial capitalization of the Corporation and the prospects for increasing its capitalization.

TITLE VI—FEDERAL FINANCIAL ASSISTANCE

SEC. 601. FEDERAL GRANTS.

There is authorized to be appropriated to the Secretary in fiscal year 1971, $40,000,000 to remain available until expended, for payment to the Corporation for the purpose of assisting in—

(1) the initial organization and operation of the Corporation;

(2) the establishment of improved reservations systems and advertising;

(3) servicing, maintenance, and repair of railroad passenger equipment;

(4) the conduct of research and development and demonstration programs respecting new rail passenger services;

(5) the development and demonstration of improved rolling stock; and

(6) essential fixed facilities for the operation of passenger trains on lines and routes included in the basic system over which no through passenger trains are being operated at the time of enactment of this Act, including necessary track connections between lines of the same or different railroads.

SEC. 602. GUARANTY OF LOANS.

The Secretary is authorized, on such terms and conditions as he may prescribe, to guarantee any lender against loss of principal or interest on securities, obligations, or loans issued to finance the upgrading of roadbeds and the purchase by the Corporation or agency of new rolling stock, rehabilitation of existing rolling stock and for other corporate purposes. The maturity date of such securities, obligations, or loans, including all extensions and renewals thereof, shall not be later than twenty years from their date of issuance, and the amount of guaranteed loans outstanding at any time may not exceed $100,000,000. The Secretary shall prescribe and collect from the lending institution a reasonable annual guaranty fee. There are authorized to be appropriated such amounts as necessary to carry out this section not to exceed $100,000,000.

TITLE VII—INTERIM EMERGENCY FEDERAL FINANCIAL ASSISTANCE

SEC. 701. INTERIM AUTHORITY TO PROVIDE EMERGENCY FINANCIAL ASSISTANCE FOR RAILROADS OPERATING PASSENGER SERVICE.

(a) For the purpose of permitting a railroad to enter into or carry out a contract entered into under this Act, the Secretary is authorized, on such terms and conditions as he may prescribe, to (1) make loans to such railroad, or (2) guarantee any lender against loss of principal or interest on any loan to such railroad.

(b) Before making a loan or a guarantee under this section, the Secretary must find, in writing, that—

(1) the loan or guarantee is necessary to carry out the provisions of this Act;

(2) the proceeds of any loan made or guaranteed under this Act will be used solely to carry out contracts entered into under this Act;

(3) the loan or guarantee is not otherwise available on reasonable terms and conditions; and

(4) there is reasonable assurance that the business affairs of the railroad will be conducted in a prudent manner.

(c)(1) In any case in which there is a liquidation of the assets of any railroad which is the recipient of a loan made or guaranteed under this Act, the United States shall have the first right to redeem that portion of such assets consisting of those of rights-of-way, tracks, and other facilities designated by the Secretary to be necessary for the purpose of providing intercity rail passenger service, including services employing innovative technology, within the basic system.

(2) It is the intent of the Congress that, in the case of a loan guarantee under this Act, the United States shall stand in the same position with respect to other creditors as in the case of a direct loan by the United States giving the United States priority over secured and unsecured creditors.

(d) Interest on loans made under this section shall be at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of such loans adjusted to the nearest one-eighth of one per centum.

(e) The maturity date on any loan made or guaranteed under this section, including renewals and extensions thereof, shall not be later than five years from the date of issuance.

(f) The aggregate amount of loans and loan guarantees made under this section shall not exceed $200,000,000.

SEC. 702. AUTHORIZATION FOR APPROPRIATIONS.

There are hereby authorized to be appropriated such amounts not to exceed $200,000,000 as may be necessary to carry out the purposes of this title. Any sums appropriated shall be available until expended.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. ADEQUACY OF SERVICE.

The Commission is authorized to prescribe such regulations as it considers necessary to provide safe and adequate service, equipment, and facilities for intercity rail passenger service. Any person who violates a regulation issued under this section shall be subject to a civil penalty of not to exceed $500 for each violation. Each day a violation continues shall constitute a separate offense.

SEC. 802. EFFECT ON PENDING PROCEEDINGS

Upon enactment of this Act, no railroad may discontinue any intercity rail passenger service whatsoever other than in accordance with the provisions of this Act, notwithstanding the provisions of any other Act, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any Federal or State court, agency, or authority.

SEC. 803. SEPARABILITY

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 804. ACCOUNTABILITY

Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by striking out "and" immediately preceding "(5)" and by inserting immediately before the period at the end thereof the following: "and (6) the National Railroad Passenger Corporation".

SEC. 805. RECORDS AND AUDIT OF THE CORPORATION

(1)(A) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person.

(B) The report of each such independent audit shall be included in the annual report required by section 308(a) of this Act. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(2)(A) The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transaction and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation.

(B) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and conditions of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

Mr. Chairman, of course this would be excluding title IX, which the Ways and Means Committee will handle.

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

There was no objection.

AMENDMENT OFFERED BY MR. STAGGERS

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

The Clerk read as follows:

Amendment offered by Mr. Staggers:

Page 43, line 17, strike out "March 1" and insert in lieu thereof "May 1".

Page 43, line 20, strike out "March 1" and insert in lieu thereof "May 1".

Page 44, line 3, strike out "March 1" and insert in lieu thereof "May 1".

Page 46, line 21, strike out "March 1" and insert in lieu thereof "May 1".

Page 47, line 8, strike out "March 1" and insert in lieu thereof "May 1".

Mr. STAGGERS. Mr. Chairman, the amendment was requested by the Department of Transportation. It is merely a change in the date for the offering of contracts by the railroads for rail passenger service. In view of the present date and the fact that we have not yet completed this legislation, it now seems appropriate to advance the starting date for the Corporation from March 1, 1971 to May 1, 1971. The reason for this is to give the Corporation time to get the whole Corporation prepared and get ready for the contracts. I think it is a reasonable request, and it is only 2 months' extension.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

The CHAIRMAN. Under the rule, title IX of the committee substitute amendment shall be considered as having been read for amendment.

Title IX is as follows:

TITLE IX—TAX DEDUCTION FOR CERTAIN PAYMENTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

SEC. 901. (a) Part VIII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to special deductions for corporations) is amended by adding at the end thereof the following new section:

"SEC. 250. CERTAIN PAYMENTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION.

"(a) GENERAL RULE.—If—

"(1) any corporation which is a common carrier by railroad (as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3))) makes a payment in cash, rail passenger equipment, or services to the National Railroad Passenger Corporation (hereinafter in this section referred to as the 'Passenger Corporation') pursuant to a contract entered into under section 401(a) of the Rail Passenger Service Act of 1970, and

"(2) no stock in the Passenger Corporation is issued at any time to such corporation in connection with any contract entered into under such section 401(a), then the amount of such payment shall (subject to subsection (c)) be allowed as a deduction for the taxable year in which it is made.

"(b) WHEN PAYMENT IS MADE.—Under regulations prescribed by the Secretary or his delegate, a payment in rail passenger equipment shall be treated as made when title to the equipment is transferred, and a payment in services shall be treated as made when the services are rendered.

"(c) EFFECT OF CERTAIN SUBSEQUENT ACQUISITIONS OF STOCK.—

"(1) DISALLOWANCE OF DEDUCTIONS.—If any deduction has been allowed under subsection (a) to a corporation and such corporation (or a successor corporation) acquires any stock in the Passenger Corporation (other than in a transaction described in section 374 or 381) before the close of the 36-month period which begins with the day on which the last payment is made to the Passenger Corporation pursuant to the contract entered into under such section 401(a), then such deduction shall be disallowed (as of the close of the taxable year for which it was allowed under subsection (a)).

"(2) COLLECTION OF DEFICIENCY.—If any deduction is disallowed by reason of paragraph (1), then the periods of limitation provided in sections 6501 and 6502 on the making of an assessment and the collection by levy or a proceeding in court shall, with respect to any deficiency (including interest and additions to the tax) resulting from such a disallowance, include one year following the date on which the person acquiring the stock which results in the disallowance (in accordance with regulations prescribed by the Secretary or his delegate) notifies the Secretary or his delegate of such acquisition; and such assessment and collection may be made notwithstanding any provision of law or rule of law which otherwise would prevent such assessment and collection.

"(d) MEMBERS OF CONTROLLED GROUP.—Under regulations prescribed by the Secretary or his delegate, if a corporation is a member of a controlled group of corporations (within the meaning of section 1563), subsections (a)(2) and (c) shall be applied by treating all members of such controlled group as one corporation."

(b) The table of sections for such part VIII is amended by adding at the end thereof the following:

"Sec. 250. Certain payments to the National Railroad Passenger Corporation."

(c) The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

The CHAIRMAN. Under the rule, no amendments are in order to title IX of said substitute except amendments offered by direction of the Committee on Ways and Means. Are there any committee amendments to title IX to be offered by direction of the Committee on Ways and Means?

Mr. BURKE of Massachusetts. Mr. Chairman, there are no committee amendments from the Committee on Ways and Means.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BURLESON of Texas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 17849), to provide financial assistance for and establishment of improved rail passenger service in the United States, to provide for the upgrading of rail roadbed and the modernization of rail passenger equipment, to encourage the development of new modes of high speed ground transportation, to authorize the prescribing of minimum standards for railroad passenger service, to amend section 13(a) of the Interstate Commerce Act, and for other purposes, pursuant to House Resolution 1251, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

The title was amended so as to read: "A bill to provide financial assistance for and establishment of a national rail passenger system, to provide for the modernization of railroad passenger equipment, to authorize the prescribing of minimum standards for railroad passenger service, to amend section 13a of the Interstate Commerce Act, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the bill and conference report just passed.

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

LEGISLATIVE ACTIVITY OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

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

Mr. STAGGERS. Mr. Speaker, I should like to tell the House something of what our committee has done so far. I believe the cooperation of the 37 Members has been the greatest I have ever known in Congress, since I have been here for my 22 years, and this is true on both sides of the aisle.

I should especially like to compliment the minority leader on the opposite side of the committee, the gentleman from Illinois (Mr. SPRINGER) and all who serve with him; and also especially all subcommittee chairmen.

I should like to review briefly some of the measures which have been considered by our committee.

There have been referred to our committee 1,875 bills and resolutions.

There have been 82 public hearings held covering 429 bills.

Thirty-two bills have become public law, including one passed over the President's veto.

Two bills are in conference committee.

Three conference reports covering five bills have been agreed to by the House and returned to the Senate.

Four bills are now pending in the Rules Committee.

Nine bills are before the Senate for consideration.

Five bills are at the White House for signing.

Two more bills have been approved by the committee and reports are being prepared on them.

This is one of the greatest records our committee has ever had in its history, and I want to say "Thanks, thanks a million," to each member of the committee.

In addition, I especially would like to commend again members of the Interstate Committee staff for the outstanding manner in which they carried out their duties. My sincere gratitude to Ed Williamson, the extremely capable and conscientious clerk, and members of the professional staff, James Menger, Kurt Borchardt, William Dixon, Robert Guthrie, and Theodore Focht. My sincere appreciation as well to each of the other men and women of the staff who served so well with the subcommittees and the main committee.

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

Mr. STAGGERS. I am happy to yield to the gentleman from Illinois.

Mr. SPRINGER. I wanted to say to my distinguished chairman that in all of our hearings, both open and executive, he has been extremely fair to the minority. He has tried to work with them, as I am sure our side has tried to work with him, in getting out legislation in the public interest.

I have served on this committee for 18 years, and I have never seen a year like this one. Regardless of what my colleagues may think, it is my understanding that our committee has had out on this floor more than three times as many bills as any other committee, and I include in that statement the Committee on Appropriations, which I understand generally has the most legislation on the floor.

Much of this legislation has been landmark legislation. It has not been just ordinary legislation. It has involved not hundreds of millions of dollars but billions of dollars of our Nation's money. We have tried to make that money stretch as far as possible and tried to do the best we could for everyone. I may say I have seen about as little selfish interest this year as at any time since I have been on the committee. This committee has been public minded. The diligence with which the subcommittees have worked has been remarkable. There have been weeks when we have had four subcommittees going at one time, and I do not know of any other committee that has had a schedule like that.

Mr. Speaker, I want to thank my distinguished chairman for the fine treatment he has given me during all of this session. It has been a hard and most difficult one, and I am appreciative of it and glad to pay tribute to him for it.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman from Illinois very kindly, because, as I said, we have done so much and the whole committee has worked hard to get these bills before the House.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 342]

Abbitt	Edwards, La.	May
Adair	Evans, Colo.	Michel
Anderson, Tenn.	Fallon	Miller, Calif.
	Farbstein	Mills
Aspinall	Feighan	Mizell
Ayres	Fish	Murphy, N.Y.
Baring	Fisher	Nichols
Beall, Md.	Flowers	O'Konski
Bell, Calif.	Ford, Gerald R.	Olsen
Berry	Ford, William D.	O'Neal, Ga.
Biaggi	Fulton, Tenn.	Ottinger
Blackburn	Gallagher	Patman
Blanton	Gilbert	Pelly
Bow	Goldwater	Philbin
Brock	Griffiths	Pollock
Brooks	Gross	Powell
Broyhill, N.C.	Gubser	Price, Tex.
Burke, Fla.	Gude	Purcell
Burlison, Mo.	Haley	Reid, N.Y.
Burton, Utah	Hanna	Reifel
Bush	Hansen, Wash.	Roberts
Button	Hébert	Rooney, Pa.
Cabell	Hicks	Roudebush
Casey	Holifield	Rousselot
Celler	Howard	Ruppe
Chappell	Jacobs	Ruth
Chisholm	Jones, N.C.	Satterfield
Clancy	Kastenmeier	Scheuer
Clay	Keith	Sikes
Collier	King	Smith, N.Y.
Collins	Kleppe	Snyder
Corman	Landrum	Steiger, Ariz.
Coughlin	Langen	Stratton
Cowger	Leggett	Taft
Cramer	Lloyd	Talcott
Cunningham	Long, La.	Taylor
Daddario	Lowenstein	Teague, Tex.
Davis, Ga.	Lujan	Thompson, N.J.
Dawson	Lukens	Thomson, Wis.
Devine	McCarthy	Tunney
Diggs	McCulloch	Whitehurst
Dowdy	McFall	Winn
Dwyer	MacGregor	Wold
Edmondson	Maillliard	
Edwards, Ala.		

The SPEAKER. On this rollcall 298 Members have answered to their names, a quorum.

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

PERMISSION TO FILE REPORT ON H.R. 19333, SECURITIES INVESTOR PROTECTION ACT, UNTIL 5 P.M. OCTOBER 21

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce

have until 5 p.m. October 21 to file a report on H.R. 19333, the Securities Investor Protection Act.

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

There was no objection.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 343]

Abbitt	Edmondson	Martin
Adair	Edwards, Ala.	May
Addabbo	Edwards, La.	Meskill
Anderson, Calif.	Erlenborn	Michel
	Evans, Colo.	Mikva
Anderson, Tenn.	Fallon	Miller, Calif.
	Farbstein	Mills
Aspinall	Feighan	Mizell
Ayres	Fish	Montgomery
Baring	Fisher	Murphy, N.Y.
Beall, Md.	Flowers	Nichols
Berry	Ford, Gerald R.	O'Konski
Biaggi	Ford, William D.	Olsen
Blackburn		O'Neal, Ga.
Blanton	Fulton, Tenn.	Ottinger
Bow	Fuqua	Passman
Brock	Galifianakis	Patman
Brooks	Gallagher	Pelly
Brown, Calif.	Gaydos	Philbin
Broyhill, N.C.	Gilbert	Pollock
Burke, Fla.	Goldwater	Powell
Burlison, Mo.	Griffiths	Price, Tex.
Burton, Utah	Gross	Purcell
Bush	Grover	Rees
Button	Gubser	Reifel
Cabell	Haley	Roberts
Casey	Hanna	Roudebush
Celler	Hansen, Wash.	Rousselot
Chappell	Harrington	Ruppe
Chisholm	Hébert	Ruth
Clancy	Hicks	Sikes
Clark	Ichord	Smith, N.Y.
Clay	Jacobs	Snyder
Collier	Jones, N.C.	Stanton
Collins	King	Stratton
Corman	Kleppe	Taft
Cowger	Landrum	Talcott
Cramer	Langen	Teague, Calif.
Culver	Lloyd	Teague, Tex.
Cunningham	Long, La.	Thompson, N.J.
Daddario	Lowenstein	Thomson, Wis.
Davis, Ga.	Lujan	Tiernan
Dawson	Lukens	Tunney
Delaney	McCarthy	Widnall
Devine	McFall	Wilson, Charles H.
Dowdy	MacGregor	
Dwyer	Mailliard	Wold

The SPEAKER. On this rollcall 292 Members have answered to their names, a quorum.

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

PROVIDING FOR CONSIDERATION OF H.R. 19519, THE COMPREHENSIVE MANPOWER ACT

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1252 and ask for its immediate consideration.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 344]

Abbitt	Edwards, Ala.	Michel
Adair	Erlenborn	Mikva
Addabbo	Evans, Colo.	Miller, Calif.
Anderson, Tenn.	Fallon	Mills
	Farbstein	Mizell
Ashley	Fish	Moorhead
Aspinall	Fisher	Morse
Ayres	Flowers	Murphy, N.Y.
Baring	Ford, Gerald R.	Nichols
Beall, Md.	Ford, William D.	O'Konski
Berry		Olsen
Biaggi	Frey	O'Neal, Ga.
Blackburn	Fulton, Tenn.	Ottinger
Blanton	Fuqua	Passman
Bow	Gallagher	Patman
Brock	Gilbert	Pelly
Brooks	Goldwater	Pepper
Brown, Calif.	Griffiths	Philbin
Buchanan	Gross	Pollock
Burke, Fla.	Grover	Powell
Burlison, Mo.	Haley	Price, Tex.
Burton, Utah	Halpern	Purcell
Bush	Hanley	Railsback
Button	Hanna	Rees
Byrnes, Wis.	Hansen, Wash.	Reifel
Cabell	Hébert	Roberts
Carey	Heckler, Mass.	Rooney, N.Y.
Casey	Helstoski	Roudebush
Celler	Hicks	Rousselot
Chappell	Horton	Ruppe
Clancy	Howard	Ruth
Clark	Jones, N.C.	Sandman
Clay	King	Sikes
Collier	Kleppe	Smith, Iowa
Collins	Landrum	Snyder
Colmer	Langen	Stafford
Corman	Leggett	Stanton
Cowger	Lloyd	Stratton
Cramer	Long, La.	Taft
Daddario	Lowenstein	Talcott
Davis, Ga.	Lujan	Teague, Calif.
Davis, Wis.	Lukens	Teague, Tex.
Dawson	McCarthy	Thompson, N.J.
Dent	McFall	Thomson, Wis.
Devine	MacGregor	Tiernan
Dickinson	Mailliard	Tunney
Diggs	Martin	Weicker
Dowdy	May	Widnall
Downing	Mayne	Wilson, Charles H.
Dwyer	Melcher	
Edmondson	Meskill	Wold

The SPEAKER. On this rollcall 279 Members have answered to their names, a quorum.

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

PROVIDING FOR CONSIDERATION OF H.R. 19519, THE COMPREHENSIVE MANPOWER ACT

The SPEAKER. The Clerk will read the resolution.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 345]

Abbitt	Baring	Brock
Adair	Beall, Md.	Brooks
Addabbo	Berry	Broyhill, N.C.
Alexander	Biaggi	Burke, Fla.
Ashbrook	Blackburn	Burlison, Mo.
Ashley	Blanton	Burton, Utah
Aspinall	Blatnik	Bush
Ayres	Bow	Button
Cabell	Hanna	Pelly
Casey	Hansen, Wash.	Pepper
Celler	Hays	Philbin
Chappell	Hébert	Pollock
Clancy	Heckler, Mass.	Powell
Clark	Hicks	Price, Tex.
Clay	Horton	Pucinski
Collier	Howard	Purcell
Collins	Jarman	Railsback
Conte	Jones, N.C.	Rees
Corman	King	Reid, Ill.
Cowger	Kleppe	Reid, N.Y.
Cramer	Kuykendall	Reifel
Daddario	Landrum	Roberts
Davis, Ga.	Langen	Roudebush
Dawson	Lloyd	Rousselot
Denney	Long, La.	Ruppe
Devine	Lowenstein	Ruth
Diggs	Lujan	Sikes
Dingell	Lukens	Skubitz
Dowdy	McCarthy	Snyder
Downing	McFall	Springer
Dwyer	McMillan	Staggers
Edmondson	MacGregor	Stanton
Edwards, Ala.	Mailliard	Steed
Edwards, La.	May	Stephens
Evans, Colo.	Melcher	Stratton
Evins, Tenn.	Meskill	Stuckey
Fallon	Michel	Symington
Farbstein	Miller, Calif.	Taft
Fisher	Mills	Talcott
Flowers	Minshall	Teague, Calif.
Ford, Gerald R.	Mizell	Teague, Tex.
Ford, William D.	Mollohan	Thompson, N.J.
	Moorhead	Thomson, Wis.
Fulton, Tenn.	Morse	Tiernan
Fuqua	Murphy, N.Y.	Tunney
Gallagher	Nichols	Weicker
Gilbert	O'Konski	Whitehurst
Goldwater	Olsen	Whitten
Griffiths	O'Neal, Ga.	Widnall
Gross	Ottinger	Wilson, Charles H.
Haley	Passman	
Hanley	Patman	Wold

The SPEAKER. On this rollcall 275 Members have answered to their names, a quorum.

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

PROVIDING FOR CONSIDERATION OF H.R. 19519, THE COMPREHENSIVE MANPOWER ACT

The SPEAKER. The Clerk will read the resolution.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution——

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

The SPEAKER. A quorum has just been established. The Clerk has not finished reading a sentence. The Clerk will proceed with the reading of the resolution.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19519) to assure an opportunity for employment to every American seeking work and to make available the education and training needed by any person to qualify for employment consistent with his highest potential and capability——

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

The SPEAKER. The Chair will always protect the rights of the gentleman under the rule. The Clerk will continue.

The Clerk read as follows:

with his highest potential and capability, and for other purposes——

CALL OF THE HOUSE

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

The SPEAKER. The gentleman from California makes the point of order that a quorum is not present. Evidently a quorum is not present.

Mr. MADDEN. Mr. Speaker, I withdraw the resolution.

The SPEAKER. The Chair will state that it is too late now.

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

A call of the House was ordered.

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

[Roll No. 346]

Abbitt	Fallon	O'Konski
Adair	Farbstein	Olsen
Addabbo	Fisher	O'Neal, Ga.
Alexander	Flowers	Ottinger
Ashley	Ford, Gerald R.	Passman
Aspinall	Ford, William D.	Patman
Ayres	Fulton, Tenn.	Pelly
Baring	Fuqua	Philbin
Barrett	Gettys	Podell
Beall, Md.	Gilbert	Pollock
Berry	Goldwater	Powell
Biaggi	Gray	Price, Tex.
Blackburn	Griffiths	Purcell
Blanton	Gross	Railsback
Bow	Haley	Reid, Ill.
Brock	Hanley	Reid, N.Y.
Brooks	Hanna	Reifel
Brown, Mich.	Hansen, Wash.	Roberts
Broyhill, N.C.	Hays	Rodino
Burke, Fla.	Hébert	Roe
Burlison, Mo.	Hicks	Rosenthal
Burton, Utah	Jarman	Roudebush
Bush	Johnson, Calif.	Rousselot
Button	Jones, N.C.	Ruppe
Cabell	King	Ruth
Casey	Kleppe	Satterfield
Celler	Landrum	Schadeberg
Chappell	Langen	Sikes
Clancy	Leggett	Smith, Iowa
Clay	Lloyd	Snyder
Collier	Long, La.	Springer
Collins	Long, Md.	Stanton
Corman	Lowenstein	Steed
Cowger	Lujan	Stephens
Cramer	Lukens	Stratton
Cunningham	McCarthy	Stuckey
Daddario	McFall	Symington
Davis, Ga.	MacGregor	Taft
Dawson	Mailliard	Talcott
Dellenback	May	Teague, Tex.
Denney	Melcher	Thompson, N.J.
Devine	Meskill	Thomson, Wis.
Diggs	Michel	Tunney
Dingell	Miller, Calif.	Weicker
Dowdy	Mills	Whitehurst
Dwyer	Minshall	Whitten
Eckhardt	Mizell	Wilson, Charles H.
Edmondson	Moorhead	Wold
Edwards, Ala.	Mosher	Wright
Edwards, La.	Murphy, N.Y.	
Evans, Colo.	Nichols	
Evins, Tenn.		

The SPEAKER. On this rollcall, 277 Members have answered to their names, a quorum.

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

PROVIDING FOR CONSIDERATION OF H.R. 19519, THE COMPREHENSIVE MANPOWER ACT

Mr. MADDEN. Mr. Speaker, because the House passed a resolution a week or so ago to recess today and since a number of the Members are out of the city, I withdraw the resolution (H. Res. 1252) which would make in order the consideration of the bill, H.R. 19519, the manpower bill.

Mr. Speaker, House Resolution 1252 provides an open rule with 2 hours of general debate for consideration of H.R. 19519. The Comprehensive Manpower Act, and, due to a transfer of funds, all points of order are waived against sections 502, 515 and 522 of the bill.

The purpose of H.R. 19519 is to develop workers' abilities, to create jobs which will make the most of these abilities and to match workers and jobs. This bill will eliminate redtape, streamline many programs and curtail duplication and will train and qualify every American seeking work.

Since the enactment of the Manpower Development and Training Act of 1962 and the Economic Opportunity Act of 1964, individual programs have lost much of their flexibility. Proliferation of training programs has led to overlapping and uncoordinated services.

H.R. 19519 provides for a comprehensive manpower services program to provide for referral to employment, training and related services for unemployed and underemployed persons, veterans and prison inmates, and improvements in the labor market by developing information systems and reducing impediments to employment.

The bill establishes a program of financial assistance to designated prime sponsors, or other public or private employers to help such employers train their employees for higher level jobs.

A public service employment program is authorized and a number of Federal manpower programs are provided; $2 billion is authorized for fiscal year 1972, $2.5 billion for fiscal year 1973, and $3 billion for 1974.

In addition, a National Manpower Advisory Committee is provided for comparative evaluation of different manpower programs. This legislation has the support of the administration and passed the Labor and Education Committee by a vote of 25 to 3.

Mr. Speaker, I urge the adoption of the rule in order that the bill may be considered.

Mr. Speaker, the above statement explains excerpts of the manpower bill which was withdrawn because of an organized "filibuster" of quorum calls made by opponents of this much needed legislation.

Mr. COHELAN. Mr. Speaker, I rise in strong support of H.R. 19519, the Comprehensive Manpower Act. I am an original cosponsor of H.R. 11620, a similar manpower measure. Many of the provisions of my original bill are incorporated in the legislation that this Chamber is considering today.

This bill, the Comprehensive Manpower Act of 1970, represents a major advance over the existing approaches in manpower programs. Let me briefly summarize the provisions of this bill:

In title I there is the consolidation of manpower programs; specifically those under the Manpower Development and Training Act of title I of the Economic Opportunity Act. This streamlined approach to manpower training will be under the Secretary of Labor. The Secretary can provide these services through local prime sponsors, that is, State officials, city officials of cities having a population of 100,000 or more, and officials representing a combination of cities of 100,000, and so forth. It is to be noted that the local area applications take precedence over those of the State. This could be a distinct advantage—having the program administered at the local level with oversight at the Federal level. This increased flexibility of delivery will hopefully assure a better end product.

It is to be noted that the conditions of employment of the trainees are protected. There is a specific provision for proper working conditions, workmen's compensation, and training allowances that approach the minimum wage.

In title II of this legislation there is a specific provision for occupational upgrading. This feature of this bill is a definite addition to existing manpower programs. There is nothing more frustrating than a worker being locked into a position without possibilities for advancement. I am hopeful that this legislation will make upward mobility a reality for the many workers who have the motivation to advance but no opportunity for continued training.

Mr. Speaker, in an economy that has a 5½-percent unemployment rate, it would be unreasonable to place all our efforts on job training for nonexistent jobs. Yet, even with a high unemployment rate, many vital tasks are not being completed in areas such as education, health, environment, neighborhood improvement, and mass transportation. These areas need qualified personnel but there remains a lack of funds for such programs. Title III of this bill attempts to provide personnel for jobs in such areas that I have mentioned as well as provide training so that employees can upgrade their skills. This public service employment provision holds great potential for the future.

There is no universally applicable method for job training but this bill provides new direction in this area. In title I there is a provision for increased local control of programs, subject to Federal review: Title IV provides for continual research and development in manpower programs and for the centralization of labor supply and demand information.

Mr. Speaker, I urge my colleagues to adopt this far-reaching legislation today.

Mr. DANIELS of New Jersey. Mr. Speaker, as chairman of the Select Subcommittee on Labor, which conducted the hearings on various comprehensive manpower bills which resulted in the full House Education and Labor Committee favorably reporting H.R. 19519, I desire to enter into the record a brief explanation of the principal provisions of the bill.

I am indeed disappointed that the House was prevented from considering this bill today due to the obstructionist tactics of a few Members.

H.R. 19519 consists of a statement of purpose and 5 titles:

Title I provides for a comprehensive manpower services program to provide for referral to employment; training and related services for unemployed and underemployed persons, veterans, and prison inmates; and improvements in the labor market by developing information systems and reducing impediments to employment. This program includes at least: education, orientation, employability skills, occupational training, and a range of activities designed to increase

employment potential; employment programs for low-income youth, new careers for the chronically unemployed poor in beautification and similar programs; programs to stimulate job opportunities by incentives for public and private employers; and improvements in the labor market through employment centers and relocation payments.

Title II establishes a program of financial assistance to prime sponsors designated under title I or other public or private employers to help such employers train their employees for higher-level jobs.

Title III—authorizes a public service employment program. The employment must be by Federal, State, or local government agencies and must provide a useful public service. Employees must have been unemployed for at least 5 weeks or have been employed part time for at least 10 weeks. Special consideration is given persons with family responsibility. Employees must be paid the applicable minimum wage or the prevailing rate for the work, whichever is higher.

The employment program must be tied in with other manpower training programs and have specified objectives for moving employees into nonsubsidized employment. Federal support is 80 percent of the cost of the program, but this may be reduced if the goals for moving employees into regular employment are not met.

Title IV provides for a number of Federal manpower programs including: Research and development, labor market information, improvement of manpower utilization, evaluation, and training and technical assistance. It also establishes a national computerized job-bank program and a new program to improve employment opportunities for the disadvantaged in federally assisted programs. The existing Job Corps program is transferred to the Secretary of Labor under this title.

Title V authorizes $2 billion for fiscal year 1972; $2.5 billion for fiscal year 1973; and $3 billion for fiscal year 1974. In addition, this title also provides for a National Manpower Advisory Committee for comparative evaluation of different manpower programs. Title V also contains numerous technical and miscellaneous provisions including appropriate repeals of existing law.

Mr. O'HARA. Mr. Speaker, I believe it is very unfortunate that the House was not permitted to discuss the provisions of H.R. 19519, the Comprehensive Manpower Act, today. I think it is unfortunate because I do believe that if the bill had been brought before the House, H.R. 19519 would have passed by a virtually unanimous vote.

The opponents of H.R. 19519 have delayed House action on this legislation by a month or so but they have not, I am confident, prevented or even seriously threatened approval of this bill by the House. I am confident and my discussions with colleagues on both sides of the aisle have strengthened my confidence, that the strong support given this legislation by the administration, by almost all Republican and Democratic members of the Committee on Education and Labor, by the Chamber of Commerce, by the AFL–CIO, by the Mayors and many of the Governors, and by those manpower experts and practitioners who have in fact read the bill, will continue unabated and we will simply take up a month from now where we left off.

So my initial disappointment stems from the loss of time and effort put in by Members and staff to prepare us for a sensible and open discussion of the bill's merits on this floor today.

But much more serious a cause for regret is the fact that hundreds of thousands of the unemployed, who could have been helped by this bill, and who would have taken the speedy and enthusiastic passage of this legislation as a symbol of congressional concern, may now begin to lose some part of the hope which our committee action, and the action of the other body, had given them.

It would be difficult enough, Mr. Speaker, to go home and try to explain to the people who every day are losing jobs why the Congress had rejected a program to help put them to work—if we had rejected it. But it will be a good deal harder, Mr. Speaker, to explain to them why we were not even allowed to bring this bill up for consideration.

A few short days ago, Mr. Speaker, I put in the RECORD, a list of labor markets in which the unemployment rates had reached true emergency proportions. It was alarming to note that these rates had reached as high last June as 7.5 percent in the Detroit labor market; as high as 9 percent in some parts of California, as high as 10 percent in some parts of Kansas, well over 6 percent in most Texas labor markets, well over 6 percent in some Virginia labor markets, over 10 percent in the Seattle area, and over 6.7 percent in the Portland, Oreg., area. The rates are higher in virtually every district now than they were in June. We have no cause for complacency, no cause for believing we can put the problem off for a month or sweep it under the rug.

Mr. Speaker, as a reminder of what could have been discussed and what we could have turned our attention to today, I would like to call the attention of my colleagues to that earlier insertion, which appears on page 35231 of the RECORD for October 6.

Mr. PEPPER. Mr. Speaker, I rise in support of the manpower bill, H.R. 19519, as a means of carrying out the commitment of this Congress to provide employment for all citizens willing and able to work. Since the 1946 Full-Employment Act, I have welcomed every opportunity to vote for a measure which would move toward fulfilling this statement of public policy. This bill is a move toward that end.

We are aware there are differences in the approach to this legislation in the Senate bill and in the House bill, but I speak today about the principle and our responsibility to provide the strongest legislation possible to guarantee the right to an employment opportunity for all American citizens—men, women, the young, the middle aged worker and the senior citizen.

We must accomplish two purposes: First, to provide skills for people who do not have them; and, second, to provide work so they can use these skills. It is useless and wrong morally to raise the hopes of people by inducing them to take training and then leave them without work when their training is completed.

I wish to call the attention of my colleagues to the fact that under the Economic Opportunity Act we have had some demonstrations. Notable and successful examples include the senior aides programs, sponsored by the National Council of Senior Citizens, and programs of a similar nature sponsored by the National Council for Aging and the American Association of Retired Persons in Florida have shown the tremendous potential these older workers have and the breadth of support that this type of program has at the community level.

These programs are providing solutions to problems that beset the older person who is in need of income and is physically and mentally able to work. Those who claim that because a man or woman who has passed his 56th birthday is no longer eligible for training and manpower programs, simply have not been out in the districts to see what employment and training can mean for the older man and woman. The service they do is so essential and so important, and they do such an excellent job, that all segments of the community say, "This is a wise expenditure of public money."

Green Thumb, a fine organization, does similar work to help provide work for senior citizens in rural and farming areas. In doing this we not only provide work, but we add to the total of wealth created.

We are all aware there is another group—the youth of this Nation—which is in desperate need of help at this time. Many young people have never had an opportunity to work; and I can assure you, as I stated in my testimony in behalf of this bill before the House Select Subcommittee on Labor, there is a close correlation between youth unemployment and youth crime. This has been substantiated time and time again in hearings before the House Select Committee on Crime, of which I am chairman. Organized crime costs this Nation between $30 billion to $50 billion a year. The typical man who is in prison today, came from a broken home, is a school dropout, unemployed, and formerly an inmate of prison.

This year, youth employment, ages 16 through 19, was 16.8 percent for the month of September, according to statistics furnished by the Department of Labor. A year ago, in September 1969, the rate for this same group was 12.9 percent. This is a frightening statistic and the rate of increase, approximately 4 percent this year over last, is even more frightening when we realize that one out of every 17 of our young men and women in this age category is jobless.

I am convinced that by providing adequate training and guaranteeing jobs we would be doing a great deal to reduce crime in our cities. This bill seeks to provide not only training but to make it possible for governments to provide new public service jobs in communities where there are not a sufficient number of employment opportunities in the private sector. This combination is necessary, and I am pleased to urge my col-

leagues to join me in the support of this bill.

Mr. LANGEN. Mr. Speaker, I offer my support of the Comprehensive Manpower Act, H.R. 19519, in particular the mainstream program.

Public Service employment under the mainstream program can be run effectively and efficiently, as exemplified by the Green Thumb program. Almost 3,000 older, low-income rural men and women who normally could not find employment are now working with this service-oriented organization, which has sought to improve our country through projects dealing with ecology, beautification, conservation, and general community improvements. Ranging in age from 55 to 94, the average age of participants in the Green Thumb program is 69—well above normal employment age standards.

In Minnesota alone, the 288 Green Thumbers have noticeably improved the appearance of the highways through their beautification efforts. When flash floods hit the Zumbro Falls area, Minnesota enlisted the aid of Green Thumbers to clean up after that disaster.

Green Light, the distaff side of the Green Thumb program, has 46 people in Minnesota helping State and local agencies perform community service tasks more efficiently and more effectively. These women work as lunchroom and teacher aides, senior citizen center aides, and commodity food stamp aides.

Mr. Speaker, it is clear that a program such as this ought to continue and it is the task of this Congress to see that provisions are made for it in the legislation presently under consideration. The variety of services provided by Green Thumb are needed not only in Minnesota but also in the other areas which Green Thumb serves.

As an example of Green Thumb versatility, I would like to point out a tornado warning system constructed in Cass County, Minn., by a Green Thumb crew using automobile horns and batteries. With a maximum of economy and ingenuity, an effective warning system was made available. The following is a newspaper article describing this effort:

GREEN THUMBERS HELP BUILD TORNADO WARNING SIRENS

A Green Thumb crew has been providing the manpower to build warning siren units which will help Cass County communities establish a tornado warning system.

The Green Thumb workers, who normally are employed in public works such as park development and roadside beautification, are in this instance helping the Cass county Civil Defense director, John Rohr, in assembling units for a unique warning system.

Mr. Rohr had since early 1968 been seeking to find an economical source of warning sirens which could be purchased and installed by village and township governments in order to achieve area-wide coverage of tornado or other storm warnings.

Unfortunately, he could not find commercial siren units at prices within the means of the local units of government and so Mr. Rohr set about trying to design a system which could be built without great cost.

The tornado disaster which hit the county in August, 1969, gave impetus to the search for a practical and also emphasized the need for a system which would work when power sources were interrupted.

Finally, he hit upon a scheme of ganging together a group of automobile horns and powering them with an ordinary car battery.

With the help of several Cass county businesses and industries he was able to accumulate some of the needed materials and the basement of a business building was obtained as a workshop location.

Green Thumb workers became involved because of the considerable skilled help needed to assemble the units.

Altogether, the Green Thumb workers have assembled about 50 of the warning units, each equipped with a gang of eight auto horns.

It is hoped that, when time from other projects will permit, the Green Thumbers will be able to complete another 50 of the units.

Green Thumb is the work program devised by Farmers Union, in which elderly low-income persons are employed in a variety of public betterment projects. The program operates in Minnesota and 13 other states. In Minnesota, it operates in 18 counties.

Farmers Union contracts with the U.S. Labor Department to supply the working force for the projects. Hiring is done through the state employment service in the counties involved in the Green Thumb program.

Mr. ULLMAN. Mr. Speaker, the public service employment bill (H.R. 19519) currently under consideration will prove a boost to the presently sluggish American economy. As an example of the potential of well-administered public service employment, I would cite the organization of Green Thumb.

Now in 17 States, Green Thumb is funded by the Federal Government and administered by the National Farmers Union. The project got under way in 1966 and now employs almost 3,000 men across the Nation.

The efforts of Green Thumb members in Oregon were recently recognized by the organization's reception of the Merit Award of the Soil Conservation Society of America. The honor was given in recognition of Green Thumb's outstanding service in advancing the art and science of wise land use.

Green Thumb members, usually retired farmers whose ages average 69, put in a solid 8-hour day 3 days a week on useful ecological, beautification, and conservation projects. In Oregon, they have been responsible for extensive improvement along State highways and fairgrounds. They have planted and maintained countless trees, flowers, and shrubs in an attempt to enhance the natural beauty of the area's parks and roadways.

Members have also assisted in the restoration of at least three historical Oregon sites: Bush Pasture Park, Spongs Landing, and Pioneer Cemetery.

Members of Green Thumb have exemplified the value of properly-administered Public Service Employment programs. I submit the following article from the Albany, Oreg., Democrat Herald for the attention of my colleagues:

"COUNTRY BOY" SPEAKS ABOUT "GREEN THUMB"

(By Dan Jones)

A "country boy" from the Dever-Conner district north of Albany went to Washington, D.C., and has come back excited to tell other retired men the merits of the Green Thumb program.

Charlie R. Billings, who has had farms in the Albany area for the past 23 years, is a crew foreman in the Green Thumb program. As a foreman, he was selected to represent the 142 Green Thumbers of Oregon at a national briefing in Washington in late June.

The session dealt with expanding the program and gaining federal appropriations for more manpower. Also proposed is a "Green Light" program for women, but this may take a few years to establish.

Green Thumb, Inc., was founded in 1965 as a subsidiary of the National Farmers Union. The corporation, working with the federal Office of Economic Opportunity, established demonstration programs in Oregon, Arkansas, Minnesota and New Jersey.

The program was to test the training of and future employment possibilities for over 300 older men with low incomes and farming backgrounds as workers in community development and beautification projects.

Billings read about the program in a newspaper three years ago and became interested. Application is made through the state employment office, followed by a personal interview. Acceptance comes from the state's Green Thumb office in Salem. Wanford Page, of Albany, is area supervisor.

Men selected are paid $1.75 an hour and work three days a week. Billings said as a foreman he earns a little more, but still less in a year than he is permitted to earn and still draw full social security benefits.

There are now three Green Thumb crews in Linn County of seven men each. Two of the crews work for the State Highway Department and the third is directed by the Linn County Parks Department.

The crews take care of highway landscaping, park development and planting, maintaining lawns and gardens at parks and highway rest areas and tending the floral beds and shrubs in the dividers along interstate 5.

Nation-wide, Green Thumbers have worked on a total of 350 parks in the 14 states where the program operates. The national program has a monthly newsletter for employees with helpful tips for the semiretired person.

Billings said the program is considered a "training ground." Men are encouraged to take other work which becomes available because of their experience as Green Thumbers. Such work includes park caretakers, landscape assistants, and industrial gardeners.

Billings said the program is for retired low income men. He sees a great deal of value in the program and hopes Congress authorizes expansion of the program, both in the manpower and in the number of states participating.

Mrs. GREEN of Oregon. Mr. Speaker, it is with a great deal of reluctance that I have opposed the consideration of this bill today. I believe the 22 different manpower training programs need to be coordinated and reorganized and I strongly support the full utilization of this Nation's manpower. I had desperately hoped that the Select Subcommittee on Labor, which had original jurisdiction of this legislation, would have designed a bill that could have accomplished that.

But this bill promises no such utilization of manpower.

Unfortunately, it offers a renewal of the same old familiar programs that have offered training without jobs and have spent money without tangible evidence of success.

If there were some compelling reason why this multibillion-dollar proposal had to become law before the recess without full and careful consideration,

then I would not protest. I find no such compelling reason. It may or may not be all right to create propaganda before an election, but I suggest to legislate in this manner on such an important matter—affecting the lives and pocketbooks of millions of people—does not have to be done on this closing day of the session with few more than a quorum present.

This 71-page bill, reported out by the full Commitee on Education and Labor the same day it was introduced, is the "late-into-the-night" product of a coalition of a Democratic and a Republican member of the committee, some committee staffers, and administrative spokesmen for the Labor Department.

They labored, it was reported, until 3:30 a.m. on the day the bill was approved and with the help of scissors and staples they tore into pieces five previously introduced House bills plus S. 3867, the Senate-passed Employment and Training Opportunities Act of 1967.

What emerged was a confusing array of old authorizations, new authorizations, new ideas sandwiched between old ideas, and a grand bag of authorizations for studies, pilot projects, evaluations, surveys, and so forth, that would promise to make even more incomprehensible the multiplicity of programs we have now.

Significantly, when the chairman called the committee together on September 30 at 10:30 a.m., the members did not know what was in it. I do not believe any but the two authors had ever had a copy to read of the pieced together 71-page bill Xeroxed only 7 hours earlier; not 7 days or 7 weeks earlier; but, I repeat, completed only 7 hours earlier. It was not read in the committee.

Yet demands were made that the bill be reported out by 11 a.m. Only a parliamentary squabble delayed the session to later in the afternoon.

It was reported out, but with several members of the committee dismayed at the tactics used. It did not improve the integrity of the committee system, nor the image of the House, as "the greatest deliberative body in the world."

As an aside—I think the integrity of the committee system is far more important in terms of congressional reform than is the much criticized seniority system. When—in this committee and others—quorums too often cannot be obtained, when sometimes only one out of 35 attends hearings to gain the necessary information; when 71-page amendments—as in this case—are not even available to members of the committee—and when the new 71-page amendments are not known or read—we need to consider committee integrity in congressional reform.

To casual one-time visitors in the gallery, we explain away the small number in the House Chamber by saying: "You have to understand the real work is done in committee." If we are not willing to do that real work in the committee, then that explanation will fast lose its credibility. And certainly it adds a persuasive reason for not considering it in the closing hours when everyone is more concerned about going home than reorganizing manpower programs.

I repeat, most of the committee members did not really know the provisions of the bill or what they called for. Assured that all of the material in the bill had in fact been included in much discussed legislation and the subject of many hearings in both House and Senate committees, the committee approved the bill.

The 71-page amendment in the form of a substitute was not read in the committee—and it obviously had not been read by many members before the committee meeting—because copies were not available.

But the cut-and-paste job on the six previously introduced bills produced an interesting mix of additions and deletions.

There was, in fact, the inclusion of new language not contained in the other bills in at least six different places in the bill, plus the inclusion of revised language in at least eight other places.

Although these new words were not subjected to a line-by-line scrutiny in committee, they are minor concerns compared to whole sections of the Senate bill—S. 3867—which were quietly dropped into the bill and never the subject of question before the House Committee on Education and Labor.

For instance:

In five different places in the early part of the bill requirements are made that community action agencies be intimately involved with any local manpower program. CAP agencies are supposed to be represented on manpower service councils, are involved in writing the applications for financial assistance, may be come prime sponsors of all the various manpower training programs themselves and are to be included in the conduct of any program in their areas.

No program is to be approved unless the local CAP agency has reviewed it.

In my mind these requirements make it impossible to have a meaningful delivery of manpower programs at the local level.

But they were never discussed in the committee.

Similarly, a downgrading of the role of State governments was effectively done in this bill by simply making a clever mix of House and Senate legislation, a little rewriting here and there and some clever deletions; such as the line in Mr. STEIGER'S bill, H.R. 10908—conveniently discarded—which would have simply stated that responsibility for a State plan is to be vested in the Governor.

The committee report then emphatically states that no Governor's veto is intended nor allowed in any manpower program operation in a State.

This is curious because the majority of the committee was so ignorant of the provisions of the bill that it is impossible that it could have been emphatic about anything.

One of the House bills used in the writing of the legislation was H.R. 19377.

This bill contained proposals for a public employment service. From this bill was constructed title III of today's proposed legislation.

But there was at least one major deletion. It provided that in evaluating applications for public service projects the Secretary of Labor shall:

(a) consider the savings to the United States and other participating governmental bodies under each such contract in the areas of:

(1) potential reductions in public assistance costs;

(2) potential reductions in unemployment compensation outlays;

(3) potential added tax revenues to the United States and other participating governmental bodies.

By dropping this language, an important concept was dropped.

The concept had been that the Government be the employer of last resort and that jobs, not the dole, be the answer for unemployment. It had been hoped by some, including myself, that eventually we could have a program where jobs would take the place of welfare and unemployment compensation and the multitudinous manpower training programs, that too often train for jobs that do not exist, could be reorganized.

Quite clearly the committee bill provides for jobs, welfare, and unemployment compensation, too.

It had never been the intent to create make-work jobs, but then neither had it been the intent to create a new bureaucracy.

Unfortunately, that is exactly what this bill would do.

The original idea has now become so perverted that this new program of public employment can now become a permanent new way of life. The Government is not just the employer of last resort. The bill would guarantee unemployment insurance, workman's compensation, the minimum wage or the prevailing wage, whichever is higher, promotional opportunities, and career employment. If a $15,000 engineer or GM employee in Detroit becomes unemployed, under this bill he could become a city engineer with the above benefits.

We create a new federal system parallel to civil service. What is the incentive for anyone to leave? Is this really what we want as the answer to reorganization of manpower programs and current unemployment?

The Federal Government would foot 80 percent of the entire cost.

Mr. Speaker, this bill has become so unrecognizable and so diverted from the original ideas in the reform and improvement of our manpower training system that I cannot, in all conscience, lend it my support. I do hope that in November or in the next Congress that a thorough and proper review will be given this program and that we will not pass up a real opportunity to make the needed changes.

The SPEAKER. The resolution is withdrawn.

GENERAL LEAVE TO EXTEND

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks at this point in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

RESIGNATION FROM AND APPOINTMENT TO U.S. GROUP OF NORTH ATLANTIC ASSEMBLY

The SPEAKER laid before the House the following resignation from the U.S. Group of the North Atlantic Assembly:

OCTOBER 14, 1970.

The HONORABLE THE SPEAKER,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I hereby submit my resignation from the United States Group of the North Atlantic Assembly.

Sincerely,

L. C. ARENDS.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

The SPEAKER. Pursuant to the provisions of Section 1, Public Law 689, 84th Congress, as amended the Chair appoints as a member of the U.S. Group of the North Atlantic Assembly the gentleman from Wisconsin, Mr. THOMSON to fill the existing vacancy thereon.

PROVIDING FOR CONSIDERATION OF H.R. 16408, AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1230 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1230

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16408) to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. COLMER. Mr. Speaker, I yield the customary 30 minutes to the distinguished gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

The SPEAKER. The gentleman from Mississippi is recognized.

Mr. COLMER. Mr. Speaker, House Resolution 1230 provides an open rule with 1 hour of general debate for consideration of H.R. 16408 to amend the joint resolution establishing the American Revolution Bicentennial Commission.

The Commission was established on July 4, 1966, to study and make specific recommendations for the commemoration of the bicentennial and of events related thereto.

One of the purposes of H.R. 16408 is to authorize an appropriation of $373,000 for the Commission for fiscal year 1971. Heretofore the authorization for appropriations has been open ended.

In addition, the legislation adds the Secretaries of HUD and of Transportation as members of the Commission. It is felt that their participation is desirable in planning bicentennial activities, including a possible international exposition.

Another purpose of the bill is to permit the Commission the exclusive use of distinctive logos, symbols, or marks to be designed as the hallmark of the commemoration and to provide penalties for unauthorized manufacture, reproduction, or use thereof.

Mr. Speaker, I urge the adoption of the rule.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

(Mr. SMITH of California asked and was given permission to revise and extend his remarks.)

Mr. SMITH of California. Mr. Speaker, I concur in the remarks made by the distinguished Chairman of the Rules Committee, the gentleman from Mississippi (Mr. COLMER). The rule is an open rule, providing for 1 hour of debate. The Bureau of the Budget supports the legislation. There are no minority views. I certainly hope we win this resolution the next time around. I hope we will not lose it this time.

Mr. Speaker, I move the adoption of the rule.

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

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Mr. ROGERS of Colorado. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16408) to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 16408, with Mr. GONZALEZ in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the rule, the gentleman from Colorado (Mr. ROGERS) will be recognized for 30 minutes, and the gentleman from California (Mr. WIGGINS), will be recognized for 30 minutes.

The Chair recognizes the gentleman from Colorado (Mr. ROGERS).

Mr. ROGERS of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 16408, which provides for a series of amendments to the joint resolution which established the American Revolution Bicentennial Commission.

This measure has been recommended to us by the administration and was referred to the Committee on the Judiciary in the form of an executive communication.

The American Revolution Bicentennial Commission was established on July 4, 1966, under the provisions of Public Law 89–491. That statute gives to the Commission the responsibility of planning, encouraging, developing, and coordinating the commemoration of the 200th anniversary of our Nation's birthday.

As the Commission is presently structured, it includes 17 members from private life who are appointed by the President, one of whom is designated by the President as Chairman of the Commission. In addition to members from private life, the Commission also includes 18 members representing various branches and agencies of the Federal Government.

In connection with the discharge of its responsibilities, the Commission has been directed to develop a national plan of commemorative activities throughout the Nation. This plan has been formulated and was submitted to the President in report form on July 4 of this year.

The purpose of the proposal now pending before you is to make several changes in the Statute which established the Commission. Summarized in brief, these changes are as follows:

First, the proposed bill provides authorizations for appropriations for fiscal year 1971. Although in the proposal as recommended by the Commission authorization for appropriations would have been openended for the duration of the entire life of the Commission through 1983, under the amendment adopted by your committee the authorization is limited to fiscal year 1971. Under the committee amendment the authorization is also limited to $373,000. Although the Commission had originally requested $375,000, it was determined that there would be a $2,000 carryover from 1970, Correspondingly, in the committee's amendment, the authorization has been adjusted accordingly.

Second, the bill would add the Secretary of Transportation and the Secretary of Housing and Urban Development as members of the Commission.

Third, the bill would permit payment to consultants of the amount permitted under the general provisions of law in lieu of the $75 maximum permitted under the present section 6(c) of the act.

Fourth, the bill would permit the Commission the exclusive use of distinctive logos, symbols or marks which will be designed as the hallmarks of the official bicentennial commemoration.

The Judiciary Committee held hearings on this proposal on May 6, 1970, and has considered the proposal carefully. In our view, this bill would serve a very worthy objective.

The Senate, on June 26, 1970, passed a bill, S. 3630, which is identical except for certain typographical errors.

Finally, I would like also to call attention to the fact that the appropriations authorizing this legislation have already

been approved by Congress. Under Public Law 91-361, the Department of the Interior Appropriations Act, $373,000 has been appropriated for 1971 subject to the enactment by Congress of H.R. 16408, S. 3630, or similar legislation.

Mr. Chairman, this legislation is highly meritorious, the appropriations have already been agreed upon and I, therefore, urge that we give this proposal prompt and favorable consideration today.

Mrs. SULLIVAN. Mr. Chairman, will the gentleman yield for some questions?

Mr. ROGERS of Colorado. I am pleased to yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. I should like to know: Is it the intention of the Commission to seek to raise funds through the sale of commemorative medals—which, of course, would be a valid idea?

Mr. ROGERS of Colorado. Yes; they may be able to do that.

Mrs. SULLIVAN. As the chairman of the subcommittee of the House Committee on Banking and Currency which has jurisdiction over coinage matters and commemorative medals, I want to assure the gentleman that we would certainly consider sympathetically any proposals of the Commission for authorization of national medals, and perhaps even for special commemorative coins—although that is a very controversial aspect. But I hope that in any planning which might go into this matter on the part of the Commission, it is kept firmly in mind that as a public agency, a governmental body, it should assume direct responsibility for the distribution of such items, under conditions which will enable the widest possible number of citizens to obtain copies or sets at reasonable prices. I mention that because I suspect there will be a tremendous effort made to have the Commission turn out merchandise for sale by private sellers and dealers, and in that situation there is always a possibility of having the output limited in quantity in order to make the items more valuable in the collector market. Can the gentleman assure me that any official souvenir items manufactured under the authority of the Commission, and offered for sale to the public, will not be so limited in quantity that individual collectors are unable to obtain copies or sets except at very high premiums in the coin or medal markets?

If the gentleman really does not have a complete answer on that question I wish he would put it in the RECORD.

Mr. ROGERS of Colorado. I should like to yield to the gentleman from Virginia (Mr. MARSH) who is a member of the Commission.

Mrs. SULLIVAN. May I just finish with one more question, and then I shall be glad to have the gentleman comment?

Mr. ROGERS of Colorado. Yes.

Mrs. SULLIVAN. I know that this legislation does not touch directly on the point I have just raised, but in view of all of the interest on the part of private firms seeking to capitalize on the bicentennial, I thought it would be useful to establish the fact that the Commission's first interest is in the public's participation, rather than in how much money can be raised or what profits can be enjoyed. I am sure that is the intention of the members of the Commission and of the managers of this bill.

Mr. ROGERS of Colorado. That certainly is the intention of the managers of the bill.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. MARSH).

Mr. MARSH. I thank the gentleman for yielding. I particularly thank the gentlewoman from Missouri for the points she has made.

The questions raised have been raised in their first stage in the Commission. I serve on the Commission, as does the gentleman from Pennsylvania (Mr. SAYLOR). This is one of the things I suspect will be a subject of discussion at the October meeting of the Commission.

The points you make are the type of guidance which I think are quite helpful to the Commission in its consideration of the matter. I can assure the gentlewoman that I will bring these points to the attention of the Commission. I very much appreciate your calling it to the attention of the House today.

Mrs. SULLIVAN. I thank the gentleman.

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

Mr. ROGERS of Colorado. I yield to the gentleman from Pennsylvania, who is a member of the Commission.

Mr. SAYLOR. I want to say to the gentleman from Colorado and to the distinguished gentlewoman from Missouri, as our colleague from Virginia said, this item is on the agenda for our meeting in the latter part of this month. One of the guidelines which some of the members of the Commission have already sent in as preliminaries is in line with what you have suggested. We want the broadest base possible for all Americans to participate and do not want this to be a moneymaking arrangement for anyone. One of the things we have recommended before it comes to the Congress is that no firm, corporation, or individual will be given a monopoly to sell any of the items so that they can make a profit—and it would be a tremendous profit—at the expense of the public.

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

Mr. ROGERS of Colorado. I yield to the gentleman from Pennsylvania.

Mr. DENT. I do not mind so much the price of the article, but I was wondering if there was any way that you could incorporate in the regulaitons some criteria or whatever you might call it about the souvenirs and mementos and commemorative types of coins or liberty bells or replicas of the event and such things that might be and will be used. I just hope that we do not get a basketball replica of the liberty bell coming in from Japan so that our grandchildren will come in many years from now and say that this commemorated the 200th birthday of the American Revolution.

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

Mr. ROGERS of Colorado. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. I want to say that the original firm in England which made the Liberty Bell has already produced a replica on sale in this country for an outstanding price. I might say, much to my surprise, there have been several hundred already sold in this country.

Mr. DENT. Will the gentleman yield further?

Mr. ROGERS of Colorado. I yield to the gentleman.

Mr. DENT. I am not so worried about that. They did have a small part in that revolution. I am more disturbed about what has happened to our Christmas ornaments and many other things of that nature. It is awfully difficult sometimes. As a matter of fact, if I had not saved some from our early days—mother and I did save some from way back—I do not think that my children would have one Christmas bauble to put on our tree that was not made in Japan, and they do not even believe in it.

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

Mr. ROGERS of Colorado. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman yielding.

I will say to my good friend from Pennsylvania who just spoke that under this adjournment we are talking about, if he reconvenes after the recess is over, he will be around here until Christmas to see lots of baubles and Christmas ornaments when we run until that season. Of course, I did not rise or ask the gentleman to yield for that purpose.

I wonder if this is the legislation I recognize on which the distinguished gentleman from Colorado and I have engaged in colloquy on many past occasions, which was originally instituted by the Congress on the basis of free-will donations only, and which was not to cost the taxpayers a single cent.

Mr. ROGERS of Colorado. The gentleman is correct. The original bill, provided for donations to be made.

Mr. HALL. Would the gentleman inform the members of the Committee of the Whole how much has been contributed in the form of donations and how much the taxpayers have been called on to furnish up to now, including this authorization and/or appropriation?

The amended legislation authorized appropriations and there was appropriated the sum of $150,000 to the Commission for fiscal year 1969, $77,000 of which was carried over to fiscal year 1970. The fiscal year 1970 appropriations to the Commission amounted to $175,000, giving the Commission a total of $252,000 available during 1970. That is the amount that has been authorized and appropriated.

Mr. HALL. That is correct, except the gentleman forgot to supply me with the figure on outside or voluntary donations.

Mr. ROGERS of Colorado. Well, I do not have the exact information immediately available to me. However, it was only a nominal amount.

Mr. HALL. I will say to the distinguished gentleman, Mr. Chairman, that the amount is $5,000 that has been contributed, according to a report in the other body and according to a report from the Comptroller General which I just happen to have available.

The gentleman tells me we are acting after the fact because we have already

agreed on the amount that is going to be appropriated in fiscal year 1971. Could the gentleman tell us how much that is?

Mr. ROGERS of Colorado. That is $373,000.

Mr. HALL. Meaning that is an accumulative figure plus the $2,000 holdover? This is in addition to the other figures which the gentleman gave me, and the $5,000 contribution?

Mr. ROGERS of Colorado. The gentleman from Missouri is correct.

Mr. HALL. Is there any estimate as to how much this bicentennial celebration is going to cost the Treasury of the United States before it is all over?

Mr. ROGERS of Colorado. I have no estimates and no estimate has been submitted. The plan, according to the report that was given to the President on the 4th of July this year, was very extensive in its nature, to cover almost every part of the United States. So to anticipate exactly what the cost connected therewith would be would be speculative at this time.

Mr. HALL. I am awfully glad that the gentleman brought that up because actually, Mr. Chairman, that was my next question.

If the gentleman will recall and refer to the RECORD of October 6, 1969, and the colloquy in which the gentleman and I engaged, the gentleman will find it had to do primarily—and it is on page 9047—with the question of whether all the States of the Union were going to engage in this bicentennial, or whether just the Thirteen Original Colonies and their derivative States were going to engage in it.

Can the gentleman advise me as to whether this is going to be a total U.S. effort and celebration?

Mr. ROGERS of Colorado. May I direct the gentleman's attention to the report submitted to the President, dated July 4, 1970, where they outlined the fact that it is to be something dealing with the entire Nation. And, I may further point out that in this bill we are authorizing an appropriation only for this year, and are not asking for an open-ended authorization as was originally requested.

Mr. HALL. Oh, Mr. Chairman, I do appreciate that, as one who is and has been traditionally a watchdog of the Treasury and foursquare against back-door raids on the Treasury and open-ended funding. However, let us go a little bit further in order to establish the legislative history and the legislative action preceding this request.

As I understood it originally, and based upon the gentleman's own report, this Commission had a hard time getting off the ground. Perhaps that was because they were depending upon voluntary contributions originally, instead of the taxpayers' good old "moola." However, according to the record they did not meet for a year. In fact the Commission members were not appointed for 8 months after the enactment of the legislation and they only had one more meeting in the next 14 months or so, and then they all resigned with the change of administration. Seven were continued on, and we now have a new Commission that is meeting almost monthly with the next meeting being set for this month, and they are doing a lot. This is the same basic Commission, is it not?

Mr. ROGERS of Colorado. Yes. I think the gentleman from Pennsylvania (Mr. SAYLOR) probably has the honor of having attended all these meetings, and know what activities have taken place, and he could probably enlighten the gentleman from Missouri on any particular question.

Mr. HALL. If the gentleman will continue to yield to me, let me say that I know that my distinguished colleague (Mr. TAYLOR), is going to make a speech, and I am glad that he and the gentleman from Virginia are on the Commission. I think probably that augers well for the Commission, and indeed is why it is now functioning properly after all these years of backing and filling. But I think the taxpayers ought to know what trouble this Commission had aborning. It indeed went through the travails and labours of a very well-fixed outlet in the process of birthing. One of those processes were complaints by the great State of North Carolina and the Commonwealth of Pennsylvania, and indeed the Smithsonian Institution, about who should do what in the celebration; and indeed there are in the record many allegations toward not only the expense and the way it was to be funded, but the mission and objective of the Bicentennial Commission, namely, was it going to be a social agency? Was it going to emphasize such things as slum clearance? Was it going to get into the political field and the sociological field? Was it going to emphasize through the 200th anniversary our environment and ecology, or the rights of minorities? Maybe all of these, taken singularly, would be worthwhile objectives, but hardly the basis, in my opinion, of a Commission for celebration of our Nation's independence.

Does the gentleman from Colorado know if those problems have all been ironed out?

The CHAIRMAN. If the gentleman from Colorado will permit, the Chair would like to advise the gentleman from Colorado that he has about 10 minutes remaining of his allotted time, having consumed 20 minutes.

Mr. ROGERS of Colorado. I thank the Chairman.

Mr. Chairman, may I direct the attention of the gentleman from Missouri to the report that was given to the President by this Commission, and on page 2 they say:

> Specifically, Congress instructed the Commission to:
>
> Plan, encourage, develop and coordinate observances and activities commemorating the historic events that preceded, and are associated with, the American Revolution.

The mandate as set forth in the report is what this commission intends to do. So I am certain that what we are going to try to do is to instill a little patriotism and understanding among the American people of the importance of the revolution we had.

Mr. HALL. I think that would be a very worthwhile thing. Indeed, it would ill behoove any person to object to such a worthy mission. But does the gentleman's committee or subcommittee maintain surveillance, review, and oversight of this commission?

Mr. ROGERS of Colorado. I would say we do not.

Mr. HALL. Does the Congress have any surveillance to review, or have an oversight function with regard to the commission or the celebration?

Mr. ROGERS of Colorado. Yes; in this, that they must come, if we adopt this bill, before any appropriations can be had, they must come to Congress and Congress can then pass upon it.

Mr. HALL. In other words, we will only exercise the function of purse strings control?

Mr. ROGERS of Colorado. The gentleman is correct.

Mr. HALL. In which we are notably week and laggardly.

Mr. ROGERS of Colorado. We at least can control that part.

Mr. HALL. One final question, and I will relent, because of the time situation. I do notice, and I have read the committee report word for word, that the commission has not selected any bicentennial symbol. I believe the gentleman addressed himself to this matter a while ago.

What is the "hallmark"—with no pun or anything like that intended—what is the intended hallmark of the celebration, or the Centennial Commission, and please define for me what is the "logos"?

We are protecting that by this legislation, practically legislating into being the copyright and patent.

Mr. ROGERS of Colorado. That is right. Anything this commission may come up with to help to promote the celebration would then be the property of the commission.

Mr. HALL. Is that the meaning of the word "logos"?

Mr. ROGERS of Colorado. Emblem—emblem—that is what it means.

Mr. HALL. I presume that it came from the Greek word meaning logic, or emblematic, or something like logorrhea—a running off of the mouth. Is this about the same protection that we give to the Civil War Centennial Commission?

Mr. ROGERS of Colorado. I would not know about the matter of protection, but it is about the same protection we gave to Smokey the Bear.

Mr. HALL. Well, if it is the same as Smokey the Bear—we can be against that? I have accomplished my purpose and wish the best to the Commission.

The CHAIRMAN. The gentleman from Colorado has consumed 23 minutes.

Mr. WIGGINS. Mr. Chairman, I rise in support of H.R. 16408.

The primary purpose of this bill is to authorize the expenditure of $373,000 by the American Revolution Bicentennial Commission for fiscal year 1971. This money has already been appropriated, subject to passage of authorizing legislation.

This Commission was established in 1966 to plan the celebration of the 200th anniversary of the American Revolution in 1976. The original executive communication requested $200,000 for the first 2 years of the life of the Commission, but the House Judiciary Committee amended the resolution to provide that the Commission be financed entirely by donated funds.

At its first meeting on February 22, 1967, the Commission decided to seek an

open-ended authorization for appropriation of funds. Once again, the Judiciary Committee had a watchful eye on the taxpayers' dollar and limited the authorization to $450,000 through the end of fiscal year 1969. This $450,000 authorization was subsequently extended through the end of fiscal year 1970, with no additional funds being sought. Out of this $450,000 authorization, $325,000 was actually appropriated—$150,000 for fiscal year 1969 and $175,000 for fiscal year 1970.

The latest request by the Commission was for an open-ended authorization for the life of the Commission; that is, until 1983. The Judiciary Committee then limited the authorization to an amount certain for 1 year only—$373,000 for fiscal year 1971. The other body subsequently accepted this amendment.

In terms of actual expenditures, $73,000 was obligated in fiscal year 1969 and $263,000 in fiscal year 1970. The projected figure of $373,000 for fiscal year 1971 thus does not appear as formidable an increase over last year if the expenditure figures, rather than the amounts appropriated, are considered.

The funds up through fiscal year 1971 are essentially for salaries and administrative overhead. Unfortunately, it is not possible to state at this time the extent of Federal funds which will be needed beyond fiscal year 1971. The Commission's recent report to the President expressly declined to estimate the cost of the programs recommended, but promised to do so in future reports.

In addition to authorizing expenditure of funds, H.R. 16408 would add the Secretaries of Housing and Urban Development and Transportation to the Commission and would make unauthorized reproduction of symbols used in connection with the bicentennial celebration subject to a $250 fine and a 6-month jail term. The bill would also remove the present $75 per day limit on the maximum amount payable to consultants to the Commission and permit the Commission to pay consultants up to the amount allowed under the Administrative Expenses Act, which is currently $107 per day.

While the work of the Bicentennial Commission has and will continue to cost a considerable amount of money, I submit that it is money well spent. This celebration will be as relevant to the present and future, as it will be to the past. This point is well illustrated by a portion of the Commission's report to the President, which I would like to quote:

We desire peace, yet find ourselves at war. We believe in justice and equality, yet there are wrongs and injustices in the land. We proclaim reverence for our God-given environment, yet tolerate its pollution. We believe in the brotherhood of man, yet there is violence in the streets, prejudice of the mind, distress and discord on the campuses.

As we move to solve the problems which confront us, we should derive strength and courage from our past. The ideals of human freedom which made us an independent nation in 1776 still live, vital and daring, but are now put to new tests. Can this society indeed achieve equal opportunity and full citizenship for all its members, and will it commit itself to that task?

The program which the Commission submits for the Bicentennial celebration is formative and flexible, as it should be if it is to accommodate changes that will occur during the Bicentennial Era. No program can change the past: the past is a matter of record. But there is in that record much that was new in its day, much that is noble—so new and noble that it provided inspiration, in this country and elsewhere, for those who strove to advance the cause of human freedom. The Commission believes that this record has not lost its power to inspire and that it will do so during the Bicentennial Era as Americans tackle the problems of today and prepare to enter Century III of American life. No one should forget, ignore, or neglect what is good about America.

Mr. Chairman, today many Americans question the validity of American society and its values and mores. Some even hurl bombs and talk of revolution.

But the vast majority of Americans love their country and want to celebrate its 200th birthday. H.R. 16408 would help bring this celebration about and I therefore urge its adoption.

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

Mr. WIGGINS. I yield to the gentleman.

Mr. PEPPER. Mr. Chairman, I thank the distinguished gentleman.

Mr. Chairman, I want to commend the committee on bringing forth this legislation.

Also, I want to commend the Bicentennial Commission for the splendid work it has done thus far in carrying out its high purpose in seeing to it that our country appropriately celebrates the 200th anniversary of this Nation.

I am sure that at a subsequent time when they get their plans more fully developed, they will come back to the Congress and indicate more fully what we can do to help them in their great work.

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

Mr. WIGGINS. I yield to the gentleman.

Mr. HALL. Mr. Chairman, I wonder if the distinguished gentleman from Florida thinks that this will work out better than the Interama bill?

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

Mr. WIGGINS. I yield to the gentleman.

Mr. PEPPER. Interama never had such a bright future as it has today. I hope that the gentleman from Missouri will honor us by coming down and seeing it and the great plans that are moving so majestically forward toward completion day, which I hope the gentleman will attend.

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

Mr. WIGGINS. I yield to the gentleman.

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SAYLOR. Mr. Chairman, after more than 9 months this august legislative body finally acts upon a relatively small authorization measure dealing with the American Revolution Bicentennial Commission. This action, first on H.R. 16408 and then S. 3630, came on the very last day before the election recess.

Mr. Chairman, the Bicentennial Commission was created by the Congress July 4, 1966—Public Law 89-491—to provide for the proper commemoration of one of the world's greatest and most important events—the 200th year of American freedom.

No other country in the world exists today with the same form of government for so long a period of time.

We are in what is known as the bicentennial era of our country.

In 1976 we shall have had 200 years of freedom.

Does the Congress think this event worthy of a special commemoration across our land, in every one of the 50 States, in every county, city, town, and school as is planned?

When the Bicentennial Commission was created in 1966 the Nation was given to understand that special recognition would be given to our 200th year of freedom. Is there anyone who does not think this is worthwhile?

Mr. Chairman, I challenge anyone to say 200 years of freedom is not something to observe; to commemorate; to recall the ideals and principles of our forefathers; to recapture today some of the principles which may have been forgotten.

Yet, Mr. Chairman, the Congress has dragged its feet ever since it created the Commission.

The Commission and its dedicated staff are struggling. It is a wonder the public members of the Commission have not given up in disgust for lack of congressional support. And remember, they serve without pay; they serve only as a public duty.

The latest authorization bill was passed after the appropriation measure already had passed both Houses. Thanks to the gentlewoman from Washington State (Mrs. HANSEN) provision was made so the Commission would obtain this small appropriation upon authorization. The Senate acted swiftly and passed the authorization; this Chamber has let it slide for months and months.

Why?

If 200 years of freedom are not worth anything, then it is time to stand up and dare to say so.

If not, then let us act promptly in the coming session.

The Commission may need $5, 6, 7, or 8 million; I do not know at this point. But it is going to need money for the proper commemoration of our bicentennial. Remember: it was the Congress which created it.

The time has come for the Congress either to properly finance this Commission for the work the Congress instructed it to do, or else just plain eliminate it entirely. Who is trying to kid whom about what the Congress directed in 1966

After it became law in 1966, the law just sat there, in a manner of speaking.

Finally, in 1967 the Commissioners were named, including eight Members of the Congress. I have been a member of this Commission since its start. I have pled. I have begged. I have repeatedly asked that this important Commission be given the right to act as the Congress directed.

After the Commissioners were named in 1967, it was almost exactly one year

from the day the law was enacted that the Congress got around to providing $150,000 so work could get started. And it was in October of 1969 before Congress granted any more funds.

The Bicentennial Commission staff operation is an excellent one, despite the handicaps forced upon it by lack of money.

The congressional intent was that this Commission was the only Federal agency charged with the responsibility of handling this commemoration. It is on a nationwide basis.

It took 10 years for a similar Commission to plan and execute the national celebration of our 100th birthday.

Here we are, in the middle of October, 1970, our 200th birthday only a few years away and the Congress has not provided adequately for the commemoration.

What are we to tell our children?

That we don't give a hoot about our freedom? Our 200 years of freedom; our birthday?

What do we tell those abroad? That we are ashamed of our freedom so we won't commemorate it because it might make someone in Russia mad?

I repeat: the Congress should get "on the ball" as soon as possible; give this Commission the funds needed; authorize the Commission for the length of the bicentennial era, not just year by year.

Authorizing the life of this Commission in 1-year snatches must look fishy to those abroad, as well as to many of us at home.

Anyone ashamed? Anyone afraid?

I beg of you, Mr. Chairman, let us do the right thing, the American thing, and give the Commission which we created the tools it needs. If it needs money, let us appropriate it. It is only a short-lived Commission, remember. If it needs authorization for the bicentennial era, let us do it immediately. If the Commission needs a corporation, let us give our approval. These people have worked hard. The public members come from all walks of life; Congressional Members have any and all facts about the working of the Commission at any time by just asking or attending Commission meetings.

If we do not do this—and only a short time remains—then the Congress itself will let all our citizens and all the world know it does not give a hang about our ideals, principles, or 200 years of freedom. Or for that matter, our form of government.

Mr. Chairman, here is the legislative history, the appropriation history through the year 1969, the powers granted the Commission by Congress, and also I outline a calendar of events leading to this legislation which I think would be most informative.

First, the legislative history of the legislation creating the Commission with dates and names of sponsors in both the Senate and House:

March 10, 1966: Presidential message to Congress proposing such a commission;

March 16, 1966: Introduced in House as House Joint Resolution 903 by Mr. CELLER and referred to Committee on the Judiciary;

May 19, 1966: Introduced in Senate as Senate Joint Resolution 162 by Mr. EASTLAND and Mr. BURDICK and referred to Committee on the Judiciary;

May 24, 1966: Favorable report from Department of Justice—House Committee on the Judiciary;

June 24, 1966: Reported to Senate by Mr. Dirksen—Senate Joint Resolution 162;

June 27, 1966: Reported to House by Mr. ROGERS of Colorado—House Joint Resolution 903;

June 28, 1966: Passed by Senate—Senate Joint Resolution 162;

June 29, 1966: Passed Senate Joint Resolution 162 in lieu of House Joint Resolution 903; and

July 4, 1966: Approved as Public Law 89–491.

A copy of a legislative history of Senate Joint Resolution 162 giving citations to committee reports, congressional documents, and the CONGRESSIONAL RECORD is attached.

Second, just how broad the powers of this Commission are, and specifically if the Commission has the sole right to select and recommend to the President a possible site for a world's fair in 1976.

Specifically, the enactment creating the American Revolution Bicentennial Commission sets forth the duties of the Commission as follows:

(a) It shall be the duty of the Commission to prepare an overall program for commemorating the bicentennial of the American Revolution, and to plan, encourage, develop, and coordinate observance and activities commemorating the historic events that preceded, and are associated with, the American Revolution.

(b) In preparing its plans and program, the Commission shall give due consideration to any related plans and programs developed by State, local, and private groups and it may designate special committees with representatives from such bodies to plan, develop, and coordinate specific activities.

(c) In all planning, the Commission shall give special emphasis to the ideas associated with the Revolution . . .

(d) Not later than two years after the date of enactment of this Act, the Commission shall submit to the President a comprehensive report incorporating its specific recommendations for the commemoration of the bicentennial and related events . . .

(e) The report of the Commission shall include recommendations for the allocation of financial and administrative responsibility among the public and private authorities and organizations recommended for participation by the Commission . . .

Third, opinion as to the actual legislative intent of the legislation: In reporting the resolution to the Senate, the Committee report—Senate Report 1317, 89th Congress—stated in part:

The Commission would (1) provide a creative and helping hand to State, local and private groups in their commemorations; . . . (3) plan for celebrations at the national level . . .

The House committee, in reporting the House Resolution—House Joint Resolution 903—adopted an excerpt from the Senate report which included the above quoted language—House Report 1672, 89th Congress.

This language indicates intent on the part of the Congress to create a single Commission to plan and coordinate on a most comprehensive basis the commemoration of the American Revolution bicentennial.

Fourth, dates and amounts of authorizations for appropriations: In proposing the legislation enacted as Public Law 89–491 the President recommended an authorization of $200,000 for "the 24-month period beginning on the date of the enactment." See House Report 1672, 89th Congress. However, the proposed resolution was amended by the committee on the Judiciary of both the House and Senate to delete the authorization of funds. It was felt in such committees that—

Because of the great interest of all Americans . . . the Commission should be privately financed by public donations. (See S. Rept. 1317 and H. Rept. 1672, 89th Congress.)

It was not until December 12, 1967, when section 7(a) of the act was amended that funds—$450,000—were authorized for the Commission for the period through fiscal 1969 (Public Law 90–187). On October 10, 1969, this authorization was extended for 1 additional year, through fiscal 1970 (Public Law 91–84).

Fifth, dates and amounts of actual appropriations: The first Federal funds available to the Commission—$150,000—were appropriated on July 9, 1968, some 2 years after enactment of the basic legislation, Public Law 90–392. Additional funds, $175,000, were appropriated on October 29, 1969, by Public Law 91–98. Thus a total of $325,000 of the $450,000 authorized through fiscal 1970 has been appropriated.

The material referred to follows:

LEGISLATIVE HISTORY OF PUBLIC LAW 89–491

JOINT RESOLUTION TO ESTABLISH THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Presidential message to Congress: House of Representatives (H. Doc. 408, 89th Congress), 112 Cong. Rec. 5573; Senate, Id 5597.

Introduced in Senate by Mr. Eastland and Mr. Burdick as S.J. Res. 162 and referred to Committee on the Judiciary, Id 10990.

Reported in Senate, with amendments (S. Rept. 1317, 89th Congress) by Mr. Dirksen, Id 14182.

Passed over in Senate, Id 14372.

Passed by Senate, amended, Id 14512.

Passed by House in lieu of H.J. Res. 903, Id 14627.

Approved as Public Law 89–491.

House Joint Resolution 903, 89th Congress

Introduced (identical to S.J. Res. 162) in House by Mr. Celler and referred to Committee on the Judiciary, Id 6058.

Reported in House, amended by Mr. Rogers of Colorado (H. Rept. 1672, 89th Congress), Id 14589.

CALENDAR OF EVENTS LEADING TO THE CREATION AND HISTORY OF THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

March 10, 1966: Presidential message to Congress.

March 16, 1966: Introduced in House as H.J. Res. 903 by Mr. Celler and referred to Committee on the Judiciary.

May 19, 1966: Introduced in Senate as S.J. Res. 162 by Mr. Eastland and Mr. Burdick.

May 24, 1966: Report from Department of Justice.

June 24, 1966: Reported to Senate by Mr. Dirksen.

June 27, 1966: Reported to House by Mrs. Rogers of Colorado.

June 28, 1966: Passed by Senate.

June 29, 1966: Passed by House.

July 4, 1966: Approved as Public Law 89-491.

December 12, 1967: Act creating commission amended to include Secretary of Commerce as ex officio member, extend time for filing report for one year (until July 4, 1969), and authorize funds ($450,000) for the period through fiscal 1969.

June 18, 1968: Hearings before Subcommittee of Senate Committee on Appropriations, requesting an appropriation of $225,000.

July 9, 1968: Approved, Second Supplemental Appropriation Act, 1968, appropriating $150,000.

March 26, 1969: Hearings before Subcommittee of the House Committee on Appropriations, requesting an appropriation of $265,000.

March 27, 1969: Hearings before Subcommittee of the Senate Committee on Appropriations requesting an appropriation of $265,000.

October 10, 1969: Act creating commission amended to extend authorization for funds through fiscal 1970.

October 29, 1969: Approval, Department of the Interior and Related Agencies Appropriation Act, 1970, appropriating $175,000.

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

Mr. WIGGINS. I yield to the gentleman

Mr. MARSH. Mr. Chairman, I want to commend the members of the subcommittee for the work the committee has done and the subcommittee chairman on bringing this bill to the floor.

Earlier our colleague, the gentleman from Missouri (Mr. HALL), mentioned the legislative oversight by the Congress of various programs of the Bicentennial Commission. I would point out that those programs that would come forward from various agencies or departments of Government would be subject, of course, to congressional approval and legislative oversight. In that regard, the Congress would have an overview of the activities of the various agencies of Government when we implement the Bicentennial programs.

Mr. WIGGINS. I thank the gentleman.

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

Mr. WIGGINS. I yield to the gentleman.

(By unanimous consent, Mr. ARENDS was allowed to speak out of order.)

THE FARM BILL

Mr. ARENDS. Mr. Chairman, it is not very often that I have found occasion to criticize the action of the other body. I have always felt that my responsibility here in the House, as is the case with every Member of this body, was to maintain the spirit of comity.

But yesterday and today that spirit was closer to comedy than it was to comity.

In due deliberation and in the regular order yesterday, the House considered and approved the conference report on the farm bill. The official papers on that legislation plus the papers on other bills were carried by a House employee to the other body, in conformity with the normal practice.

Strangely enough, the path was blocked in a fashion reminiscent of the action of Gov. George Wallace who one day stood in the schoolroom door.

This morning the same sorry scene was repeated as our House employee was again abruptly turned away.

Finally, we now hear the farm bill papers have been accepted, but alas, the farm bill is not going to be considered prior to the election recess.

In my time in the House I can recall no instance of this nature—whatever one may think of the farm bill.

What I cannot understand, Mr. Chairman, is why the leadership of the other body would refuse to even consider the farm bill.

But why, I ask, is this bill any better after the election than it is before it?

If this is a good bill in November, why is it not a good bill in October?

What assurance do we have, Mr. Chairman, that after the election the "lame ducks" will be able to hatch the egg?

No, Mr. Chairman, this action—or more appropriately this paralysis of action—is more an effort to kill meaningful farm legislation than it is to cure it.

And in the absence of new legislation, the old and outmoded programs of the past will creak and grind back into operation.

Strict controls will be back in effect for cotton and wheat.

Price support and diversion payments on corn and feed grains will end.

Public Law 480, the food for peace program, will expire.

The armed services dairy program will end.

The Wool Act will expire.

The Veterans Hospital special dairy program will be no more.

I certainly think this whole dismal affair has pointed up very dramatically the need for change in the other body—a change from pettiness to substance that will make it both responsible and responsive to public interest.

Mr. WIGGINS. Mr. Chairman, I have no further requests for time, and reserve the balance of my time.

Mr. ROGERS of Colorado. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 16408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint Resolution To Establish the American Revolution Bicentennial Commission, and for other purposes", approved July 4, 1966 (80 Stat. 259), as amended, is further amended—

(1) by adding in section 2(b)(3) the words "the Secretary of Housing and Urban Development and the Secretary of Transportation," after the words "the Secretary of Commerce,";

(2) by deleting in section 6(c) everything after the word "section" and inserting in lieu thereof the words "3109 of title 5, United States Code.";

(3) by adding an additional section 6(g) to read as follows:

"SEC. 6. (g) Whoever, except as authorized under rules and regulations issued by the Commission, knowingly manufactures, reproduces, or uses any logos, symbols, or marks originated under authority of and certified by the Commission for use in connection with the commemoration of the American Revolution Bicentennial, or any facsimile thereof, or in such a manner as suggests any such logos, symbols, or marks, shall be fined not more than $250 or imprisoned not more than six months or both: *Provided,* That this section shall be applicable upon publication in the Federal Register of notification of certification hereunder by the Commission with respect to each such logo, symbol, or mark.";

(4) by deleting section 7(a) and inserting in lieu thereof the following:

"SEC. 7. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act."

Mr. ROGERS of Colorado (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and printed in the RECORD.

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

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Missouri will state his parliamentary inquiry.

Mr. HALL. Does the gentleman from Colorado mean to include in his unanimous-consent request that the bill be open to amendment at all points?

Mr. ROGERS of Colorado. Oh, yes.

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

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, strike out lines 20 through 22, and insert:

"SEC. 7.(a) There is authorized to be appropriated not to exceed $373,000 for the period through fiscal year 1971."

Mr. ROGERS of Colorado. Mr. Chairman, the amendment is for the purpose of authorizing appropriations in the amount of $373,000 for the fiscal year 1971.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. ROGERS OF COLORADO

Mr. ROGERS of Colorado. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS of Colorado: On page 2, lines 6 and 7, strike the word "manufacturers" and insert in lieu thereof the word "manufactures".

Mr. ROGERS of Colorado. Mr. Chairman, the amendment is offered for the purpose of correcting a typographical error.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado.

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to be offered?

Mr. ROGERS of Colorado. We have no further amendments.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker (Mr. ALBERT) having assumed the Chair, Mr. GONZALEZ, chair-

man of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 16408) to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended, pursuant to House Resolution 1230, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

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

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

The question was taken; and there were—yeas 304, nays 1, not voting 125, as follows:

[Roll No. 347]

YEAS—304

Abernethy	Clark	Frey
Adams	Clausen,	Friedel
Addabbo	Don H.	Fulton, Pa.
Albert	Clawson, Del	Galifianakis
Alexander	Cleveland	Gallagher
Anderson,	Cohelan	Garmatz
Calif.	Colmer	Gaydos
Anderson, Ill.	Conable	Gettys
Andrews, Ala.	Conte	Giaimo
Andrews,	Conyers	Gibbons
N. Dak.	Corbett	Gonzalez
Annunzio	Coughlin	Goodling
Arends	Crane	Gray
Ashbrook	Culver	Green, Oreg.
Ashley	Daniel, Va.	Green, Pa.
Ayres	Daniels, N.J.	Griffin
Barrett	Davis, Wis.	Grover
Belcher	Delaney	Gubser
Bell, Calif.	Dellenback	Gude
Bennett	Denney	Hagan
Betts	Dennis	Hall
Bevill	Dent	Hamilton
Biester	Derwinski	Hammer-
Bingham	Dickinson	schmidt
Blatnik	Dingell	Hanley
Boggs	Donohue	Hansen, Idaho
Boland	Dorn	Harrington
Bolling	Downing	Harsha
Brademas	Dulski	Harvey
Brasco	Duncan	Hastings
Bray	Eckhardt	Hathaway
Brinkley	Edwards, Calif.	Hechler, W. Va.
Broomfield	Eilberg	Heckler, Mass.
Brotzman	Erlenborn	Helstoski
Brown, Calif.	Esch	Henderson
Brown, Mich.	Eshleman	Hogan
Brown, Ohio	Evins, Tenn.	Holifield
Broyhill, Va.	Fascell	Horton
Buchanan	Feighan	Hosmer
Burke, Mass.	Findley	Howard
Burleson, Tex.	Fish	Hull
Burton, Calif.	Flood	Hungate
Byrne, Pa.	Flynt	Hunt
Byrnes, Wis.	Foley	Hutchinson
Caffery	Ford,	Ichord
Camp	William D.	Jacobs
Carter	Foreman	Jarman
Cederberg	Fountain	Johnson, Calif.
Celler	Fraser	Johnson, Pa.
Chamberlain	Frelinghuysen	Jones, Ala.
Jones, Tenn.	Natcher	Sisk
Karth	Nedzi	Skubitz
Kastenmeier	Nelsen	Slack
Kazen	Nix	Smith, Calif.
Kee	Obey	Smith, Iowa
Keith	O'Hara	Smith, N.Y.
Kluczynski	O'Neill, Mass.	Springer
Koch	Patten	Stafford
Kuykendall	Pepper	Staggers
Kyl	Perkins	Steed
Kyros	Pettis	Steiger, Ariz.
Landgrebe	Pickle	Steiger, Wis.
Latta	Pike	Stephens
Leggett	Pirnie	Stokes
Lennon	Poage	Stratton
Long, La.	Podell	Stubblefield
Long, Md.	Poff	Sullivan
McClory	Preyer, N.C.	Symington
McCloskey	Price, Ill.	Taylor
McClure	Pryor, Ark.	Teague, Calif.
McCulloch	Pucinski	Teague, Tex.
McDade	Quie	Thompson, Ga.
McDonald,	Quillen	Tiernan
Mich.	Railsback	Udall
McEwen	Randall	Ullman
McKneally	Rarick	Van Deerlin
McMillan	Rees	Vander Jagt
Macdonald,	Reid, Ill.	Vanik
Mass.	Reid, N.Y.	Vigorito
Madden	Reuss	Waggonner
Mahon	Rhodes	Waldie
Mann	Riegle	Wampler
Marsh	Rivers	Watson
Martin	Rodino	Watts
Mathias	Roe	Whalen
Matsunaga	Rogers, Colo.	Whalley
Mayne	Rogers, Fla.	White
Meeds	Rooney, N.Y.	Whitten
Mikva	Rosenthal	Wiggins
Miller, Ohio	Rostenkowski	Williams
Minish	Roth	Wilson, Bob
Mink	Roybal	Wilson,
Minshall	Ryan	Charles H.
Mize	St Germain	Winn
Monagan	Sandman	Wolff
Montgomery	Saylor	Wyatt
Moorhead	Scherle	Wydler
Morgan	Scheuer	Wylie
Morse	Schmitz	Wyman
Morton	Schneebeli	Yatron
Mosher	Schwengel	Young
Moss	Scott	Zablocki
Murphy, Ill.	Sebelius	Zion
Myers	Shriver	Zwach

NAYS—1

de la Garza

NOT VOTING—125

Abbitt	Edwards, La.	Mollohan
Adair	Evans, Colo.	Murphy, N.Y.
Anderson,	Fallon	Nichols
Tenn.	Farbstein	O'Konski
Aspinall	Fisher	Olsen
Baring	Flowers	O'Neal, Ga.
Beall, Md.	Ford, Gerald R.	Ottinger
Berry	Fulton, Tenn.	Passman
Biaggi	Fuqua	Patman
Blackburn	Gilbert	Pelly
Blanton	Goldwater	Philbin
Bow	Griffiths	Pollock
Brock	Gross	Powell
Brooks	Haley	Price, Tex.
Broyhill, N.C.	Halpern	Purcell
Burke, Fla.	Hanna	Reifel
Burlison, Mo.	Hansen, Wash.	Roberts
Burton, Utah	Hawkins	Robison
Bush	Hays	Rooney, Pa.
Button	Hébert	Roudebush
Cabell	Hicks	Rousselot
Carey	Jonas	Ruppe
Casey	Jones, N.C.	Ruth
Chappell	King	Satterfield
Chisholm	Kleppe	Schadeberg
Clancy	Landrum	Shipley
Clay	Langen	Sikes
Collier	Lloyd	Snyder
Collins	Lowenstein	Stanton
Corman	Lujan	Stuckey
Cowger	Lukens	Taft
Cramer	McCarthy	Talcott
Cunningham	McFall	Thompson, N.J.
Daddario	MacGregor	Thomson, Wis.
Davis, Ga.	Mailliard	Tunney
Dawson	May	Weicker
Devine	Melcher	Whitehurst
Diggs	Meskill	Widnall
Dowdy	Michel	Wold
Dwyer	Miller, Calif.	Wright
Edmondson	Mills	Yates
Edwards, Ala.	Mizell	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Adair.
Mr. Hébert with Mr. Price of Texas.
Mr. Blanton with Mr. Reifel.
Mr. Fulton of Tennessee with Mr. Collier.
Mr. Olsen with Mr. Berry.
Mr. Nichols with Mr. Robison.
Mr. Cabell with Mr. Schadeberg.
Mr. Fisher with Mr. Cramer.
Mr. Brooks with Mr. Edwards of Alabama.
Mr. Edmondson with Mr. Gerald R. Ford.
Mr. Davis of Georgia with Mr. Stanton.
Mr. Biaggi with Mr. Whitehurst.
Mr. Hanna with Mr. Ruppe.
Mr. Sikes with Mr. Pelly.
Mr. Flowers with Mr. Beall of Maryland.
Mr. Ottinger with Mr. Roudebush.
Mr. Evans of Colorado with Mr. Snyder.
Mr. Casey with Mr. Devine.
Mr. Tunney with Mr. Goldwater.
Mr. Aspinall with Mr. Blackburn.
Mr. O'Neal of Georgia with Mr. O'Konski.
Mr. Murphy of New York with Mr. MacGregor.
Mr. Daddario with Mr. Jonas.
Mr. Patman with Mr. Bow.
Mr. Haley with Mr. Rousselot.
Mr. Dowdy with Mr. Clancy.
Mrs. Hansen of Washington with Mr. Burke of Florida.
Mr. Mills with Mr. Mizell.
Mr. Corman with Mr. Langen.
Mr. Farbstein with Mr. Ruth.
Mr. Gilbert with Mr. Cunningham.
Mr. Hays with Mr. Taft.
Mr. Chappell with Mr. Wold.
Mr. McFall with Mr. Mailliard.
Mr. Jones of North Carolina with Mr. Lloyd.
Mr. Passman with Mr. Meskill.
Mr. Diggs with Mr. Carey.
Mr. Edwards of Louisiana with Mr. Brock.
Mr. Fallon with Mr. Powell.
Mr. Abbitt with Mr. Bush.
Mr. Anderson of Tennessee with Mrs. Dwyer.
Mr. Clay with Mr. Lowenstein.
Mr. Yates with Mr. Weicker.
Mr. Fuqua with Mr. Cowger.
Mr. Rooney of Pennsylvania with Mr. Dawson.
Mr. Philbin with Mr. Gross.
Mr. Melcher with Mr. Button.
Mr. Mollohan with Mr. Halpern.
Mr. Wright with Mr. Collins.
Mr. Hicks with Mr. King.
Mr. Baring with Mrs. Chisholm.
Mr. Burlison of Missouri with Mr. Lujan.
Mr. Miller of California with Mr. Talcott.
Mr. Landrum with Mr. Kleppe.
Mrs. Griffiths with Mr. Thomson of Wisconsin.
Mr. Purcell with Mr. Lukens.
Mr. Roberts with Mrs. May.
Mr. Satterfield with Mr. Michel.
Mr. Shipley with Mr. Pollock.
Mr. Hawkins with Mr. Widnall.
Mr. McCarthy with Mr. Broyhill of North Carolina.
Mr. Stuckey with Mr. Burton of Utah.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent for the immediate consideration of S. 3630, to amend the joint resolution establishing the American Revolution Bicentennial Commission.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill as follows:

S. 3630

An act to amend the joint resolution establishing the American Revolution Bicentennial Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint resolution to establish the American Revolution Bicentennial Commission, and for other purposes", approved July 4, 1966 (80 Stat. 259), as amended, is further amended—

(1) by adding in section 2(b)(3) the words "the Secretary of Housing and Urban Development and the Secretary of Transportation," after the words "the Secretary of Commerce,";

(2) by deleting in section 6(c) everything after the word "section" and inserting in lieu thereof the words "3109 of title 5, United States Code."

(3) by adding an additional section 6(g) to read as follows:

"SEC. 6. (g) Whoever, except as authorized under rules and regulations issued by the Commission, knowingly manufactures, reproduces, or uses any logos, symbols, or marks originated under authority of and certified by the Commission for use in connection with the commemoration of the American Revolution bicentennial or any facsimile thereof, or in such a manner as suggests any such logos, symbols, or marks, shall be fined not more than $250 or imprisoned not more than six months or both: *Provided,* That this section shall be applied upon publication in the Federal Register of notification of certification hereunder by the Commission with respect to each such logo, symbol, or mark.";

(4) by deleting section 7(a) and inserting in lieu thereof the following:

"SEC. 7. (a) There is authorized to be appropriated not to exceed $373,000 for the period through fiscal year 1971."

MOTION OFFERED BY MR. ROGERS OF COLORADO

Mr. ROGERS of Colorado. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROGERS of Colorado moves to strike out all after the enacting clause of S. 3630 and to insert in lieu thereof the provisions of H.R. 16408 as passed, as follows:

"That the joint resolution entitled 'Joint Resolution To Establish the American Revolution Bicentennial Commission, and for other purposes', approved July 4, 1966 (80 Stat. 259), as amended, is further amended—

"(1) by adding in section 2(b)(3) the words 'the Secretary of Housing and Urban Development and the Secretary of Transportation,' after the words 'the Secretary of Commerce,';

"(2) by deleting in section 6(c) everything after the word 'section' and inserting in lieu thereof the words '3109 of title 5, United States Code.';

"(3) by adding an additional section 6(g) to read as follows:

"'SEC. 6. (g) Whoever, except as authorized under rules and regulations issued by the Commission, knowingly manufactures, reproduces, or uses any logos, symbols, or marks originated under authority of and certified by the Commission for use in connection with the commemoration of the American Revolution Bicentennial, or any facsimile thereof, or in such a manner as suggests any such logos, symbols, or marks, shall be fined not more than $250 or imprisoned not more than six months or both: *Provided,* That this section shall be applicable upon publication in the Federal Register of notification of certification hereunder by the Commission with respect to each such logo, symbol, or mark.';

"(4) by deleting section 7(a) and inserting in lieu thereof the following:

"'SEC. 7. (a) There is authorized to be appropriated not to exceed $373,000 for the period through fiscal year 1971.'"

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 16408) was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

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

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 18126. An act to amend title 28 of the United States Code to provide for holding district court for the Eastern District of New York at Westbury, N.Y.

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. 17604) entitled "An act to authorize certain construction at military installations, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to a bill of the House of the following title:

H.R. 16710. An act to amend chapter 37 of title 38, United States Code, to remove the time limitations on the use of entitlement to loan benefits, to authorize guaranteed and direct loans for the purchase of mobile homes, to authorize direct loans for certain disabled veterans, and for the purposes.

AUTHORIZING VOLUNTARY ADMISSION OF PATIENTS TO DISTRICT OF COLUMBIA INSTITUTION PROVIDING CARE, EDUCATION, AND TREATMENT OF MENTALLY RETARDED PERSONS

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4182) to authorize voluntary admission of patients to the District of Columbia institution providing care, education, and treatment of mentally retarded persons, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 2, strike out "'mentally" and insert "'substantially".

Page 2, lines 9 and 10, strike out "'mentally" and insert "'substantially".

Page 3, line 6, strike out "'mentally" and insert "'substantially".

Page 3, line 16, strike out "'mentally" and insert "'substantially".

Page 4, line 1, after "admit" insert "a person".

Page 4, line 2, strike out all after "Haven" down to and including line 7.

Page 4, line 10, strike out "mentally" and insert "substantially".

Page 5, line 4, strike out "mentally retarded".

Page 6, strike out lines 1 to 4, inclusive, and insert:

"'(e) The District of Columbia Council is authorized to issue regulations to carry out the purposes of this section."

Page 6, after line 4, insert:

"'(f) The authority contained in this section shall extend to January 1, 1975, unless repealed prior to that date.'"

Page 6, line 15, strike out "'"mentally" and insert "'"substantially".

Page 7, line 21, strike out "'mental" and insert "'substantial".

Page 8, line 6, strike out "'mentally" and insert "'substantially".

Page 8, line 15, strike out "'mentally" and insert "'substantially".

Page 9, line 2, strike out "'MENTALLY" and insert "'SUBSTANTIALLY".

Page 9, line 3, strike out "21e" and insert "21".

Page 9, line 6, strike out "'Mentally" and insert "'Substantially".

Amend the title so as to read: "An Act to authorize voluntary admission of patients to the District of Columbia institution providing care, education, and treatment of substantially retarded persons."

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

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING COMMISSIONER OF DISTRICT OF COLUMBIA TO SELL OR EXCHANGE CERTAIN REAL PROPERTY OWNED BY THE DISTRICT IN PRINCE WILLIAM COUNTY, VA.

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 18086) to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Va., with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 16, strike out "or bog." and insert "bog, pothole, swale, glade, slash, overflow land of river flats, pool, slough, hole, as well as those areas necessary to protect the natural features of a contiguous wetland area. The area encompassed by the definition of wetlands is to be determined jointly by the Commissioner and the Secretary of the Interior."

Page 2, line 24, strike out "one year" and insert "three years".

Page 3, line 5, strike out "one year" and insert "three years".

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

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

RESIGNATION FROM COMMITTEE ON APPROPRIATIONS

The SPEAKER laid before the House the following resignation from the Committee on Appropriations:

OCTOBER 14, 1970.

Hon. JOHN MCCORMACK,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I hereby tender my resignation from the House Appropriations Committee.

The associations with the Chairman, ranking member and other members of this great Committee have been the most enjoyable and satisfactory experience of my years in the Congress.

Sincerely yours,

BEN REIFEL,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

LEGISLATIVE PROGRAM FOR WEEK OF NOVEMBER 16

(Mr. ARENDS asked and was given permission to address the House for one minute.)

Mr. ARENDS. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader as to the legislative program on our return after the recess.

Mr. ALBERT. Will the gentleman yield?

Mr. ARENDS. I am glad to yield to the distinguished gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, in response to the inquiry of the distinguished minority whip, the program for the House for the week of November 16, 1970, is as follows:

Monday is Consent Calendar day. There are four suspensions:

S. 2455, to authorize appropriations for the Civil Rights Commission;

S. 3785, to authorize assistance to wives of prisoners of war;

House Resolution 1147, relating to certain allowances of Members, officers, and committees of the House of Representatives; and

Senate Joint Resolution 236, authorizing the printing of a revised edition of the Constitution of the U.S.A.—Analysis and Interpretation.

May I advise the House that bills may be added to the suspension list during the recess. To the fullest extent possible, Members will be advised of additions by a supplemental whip notice.

Tuesday is Private Calendar day.

There is also for the consideration of the House H.R. 19510, the Comprehensive Manpower Act, under an open rule with 2 hours of general debate.

For Wednesday and the balance of the week the program is as follows:

H.R. 18970, the Trade Act of 1970, under a closed rule with 8 hours of general debate, and if time is remaining the following bills will be considered:

H.R. 19504, the Federal-Aid Highway Act of 1970, subject to a rule being granted;

H.R. 18214, the Consumer Protection Act of 1970, subject to a rule being granted.

This announcement is made subject to the usual reservation that conference reports may be brought up at any time and that any further program may be announced later.

Mr. Speaker, if the gentleman will yield further, rules will be forthcoming and should we finish the announced program sooner than anticipated, we will add bills which already have rules to the program, but we will give the Members of the House notice of that in due time.

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

Mr. ARENDS. I will be glad to yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate the gentleman yielding. A bill for which a rule has been granted but which is not scheduled for action during the week of November 16 is H.R. 16785, the Health Safety Act.

When may we expect that bill to be scheduled for the consideration of the House?

Mr. ALBERT. That bill will be programed, but we have major legislation to be considered, including the trade bill, but the bill to which the gentleman has made reference will be programed.

Mr. STEIGER of Wisconsin. Mr. Speaker, if the distinguished minority whip will yield further, would it be fair to expect that if neither the consumer bill nor the highway bill are granted a rule, then we could expect the programing of the safety health bill?

Mr. ALBERT. I am not able to give the gentleman that information at this time. We will, however, give as much advance notice as we can. The trade bill is set to come up and it certainly will take—unless it moves faster than we expect—2 days.

Mr. STEIGER of Wisconsin. Mr. Speaker, if the gentleman will yield further, I would like to ask the distinguished majority leader whether or not one could anticipate the safety health bill would be scheduled for the second week when we come back?

Mr. ALBERT. As far as I can go at this time is to state to the gentleman that the bill will be programed, but I cannot give him a definite date as to when it will be programed.

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

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

Mr. HALL. Mr. Speaker, I have listened to the remarks of the distinguished majority leader with interest. I want to clarify whether or not the gentleman intended to imply that bills might be added to the Consent Calendar which will be eligible for consideration on Monday, November 16, or not?

Mr. ALBERT. Mr. Speaker, if the gentleman will yield further, the additional bills which may be listed for consideration are suspensions and are not Consent Calendar bills.

Mr. HALL. I thank the distinguished gentleman.

Mr. ALBERT. Mr. Speaker, if the distinguished minority whip will yield further, as much notice as possible will be given to the Members as to any bills which will be added for the consideration of the House.

Mr. HALL. It is the gentleman's understanding that we will at least have the bills and reports in hand if they are added so we can study them for a few days before they are considered?

Mr. ALBERT. That is correct.

Mr. ARENDS. I thank the distinguished majority leader.

THE TRADE ACT OF 1970

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

Mr. ALBERT. Mr. Speaker, I have requested this time in order to respond to some questions of the gentleman from South Carolina (Mr. RIVERS).

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

Mr. ALBERT. I yield to the gentleman from South Carolina.

Mr. RIVERS. It is our understanding that the textile bill will come up on the 18th?

Mr. ALBERT. The gentleman is talking about the trade bill?

Mr. RIVERS. The gentleman is correct.

Mr. ALBERT. Yes, on the 18th. At the request of the distinguished chairman of the Committee on Ways and Means it was set down for the 18th of November with 8 hours of general debate.

Mr. RIVERS. I thank the distinguished majority leader.

LEGISLATION TO PROVIDE FOR IMPROVED SYSTEM OF EGG INSPECTION

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

Mr. STUBBLEFIELD. Mr. Speaker, I am today introducing legislation to provide for an improved system of egg inspection in this Nation.

My new bill is the result of hearings held by the Dairy and Poultry Subcommittee on September 14 and 15, 1970.

As chairman of the subcommittee, I followed the testimony of the various witnesses that appeared; and in my new bill I have tried to include provisions which not only reflect the views expressed at the hearings, but also those which will improve and strengthen the bill.

It is my hope that my new bill can be reviewed and studied during the recess and that it will then be considered early in the special session following the congressional election.

The following amendments to my original bill (H.R. 16092) are incorporated in my new bill:

AMENDMENTS TO H.R. 16092

Page 13, line 2, insert the following wording after the word "appropriate": (and in

the case of shell egg packers, packing eggs for the ultimate consumer, at least once each calendar quarter).

Pages 17 and 18, Sec. 8 (5) and (6) and (7) delete the word "knowingly" in each subsection.

Page 24, paragraph 6, line 7, insert the words "not to exceed two years" following the word "time" and preceding the word "during".

Page 24, line 11, insert a new paragraph (7) as follows:

(7) the sale of eggs by any egg producer with an annual egg production from less than 500 hen flock.

Page 32, lines 6 through 10 (subparagraph (b)), delete lines 6 through 10 and insert in lieu thereof the following:

(b) For eggs which have moved or are moving in interstate or foreign commerce, (1) no State or local jurisdiction may require the use of standards of quality, condition, weight, quantity, or grade which are in addition to or different from the official federal standards, and (2) no State or local jurisdiction other than those in noncontiguous areas of the United States may require labeling to show the State.

Page 34, Sec. 24, line 3, insert a new section 24 (b) to read as follows:

(b) The term "holiday" for the purposes of assessment or reimbursement of the cost of inspection performed under this Act, the Wholesome Poultry Products Act, and the Wholesome Meat Act shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, Title 5 of the United States Code.

Page 34, insert the following:

SMALL BUSINESS ASSISTANCE

SEC. 25. (a) Section 7 (b) of the Small Business Act is amended—

(1) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (4) a new paragraph as follows:

(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed by the Eggs and Egg Products Inspection Act, the Wholesome Poultry and Poultry Products Act, and the Wholesome Meat Act of 1967 or State laws enacted in conformity therewith, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph.

(b) The third sentence of section 7 (b) of such Act is amended by inserting "or (5)" after "paragraph (3)".

(c) Section 4 (c) (1) of the Small Business Act is amended by inserting "7 (b) (5)," after "7 (b) (4),"

Page 34, insert the following:

ANNUAL REPORT

SEC. 26. (a) Not later than March 1 of each year following the enactment of this Act the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate a comprehensive and detailed written report with respect to—

(1) the processing, storage, handling, and distribution of eggs and egg products subject to the provisions of this title; the inspection of establishments operated in connection therewith; the effectiveness of the operation of the inspection, including the effectiveness of the operations of State egg inspection programs; and recommendations for legislation to improve such program; and

(2) the administration of section 16 of this Act (relating to imports) during the immediately preceding calendar year, including but not limited to—

(A) a certification by the Secretary that foreign plants exporting eggs or egg products to the United States have complied with requirements of this Act and regulations issued thereunder;

(B) the names and locations of plants authorized or permitted to export eggs or egg products to the United States;

(C) the number of inspectors employed by the Department of Agriculture in the calendar year concerned who were assigned to inspect plants referred to in paragraph (B) hereof and the frequency with which each such plant was inspected by such inspectors;

(D) the number of inspectors that were licensed by each country from which any imports were received and that were assigned, during the calendar year concerned, to inspect such imports and the facilities in which such imports were handled; and the frequency and effectiveness of such inspections;

(E) the total volume of eggs and egg products which was imported into the United States during the calendar year concerned from each country, including a separate itemization of the volume of each major category of such imports from each country during such year, and a detailed report of rejections of plants and products because of failure to meet appropriate standards prescribed by this title; and

(F) recommendations for legislation to improve such program.

Renumber the following sections on page 34:

From Section 25 to Section 27
From Section 26 to Section 28
From Section 27 to Section 29

THE PRESIDENT'S INITIATIVES FOR PEACE IN VIETNAM

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

Mr. ARENDS. Mr. Speaker, I would like to briefly discuss today the President's initiatives for peace in Vietnam. Since the President's speech last week, many people have been debating the merits of the President's proposals, and I am pleased to note that most persons have expressed approval for the President. Before looking at the proposals made by the President, I would like to briefly discuss the success of the Cambodian operation, the troop reductions, the level of combat deaths, and past proposals for peace made by the President.

To begin with, the great success of the Cambodian operation can be seen in the 35-percent decrease in American deaths in Vietnam. It should also be pointed out that even the pre-Cambodian deaths were at a level 60 percent below the same period in 1969. This is, as he made clear, an indication of progress being made to wind down the war.

I would like to point out to my colleagues that President Nixon has made several promises of troop reductions. He has kept each promise. A chart in the current issue of U.S. News & World Report, October 19, 1970, points out the troop reductions that have occurred during the Nixon administration. The chart follows:

April 1969, 543,400, Peak.
August 1969, 524,500, End of first Nixon cutback.
December 1969, 484,000, End of second Nixon cutback.
April 1970, 434,000, End of third Nixon cutback.
October 1970, 384,000, End of fourth Nixon cutback.
May 1971, 284,000, Goal announced by President Nixon.

I would like to point out that the reductions came after years and years of troop buildups by the previous administration.

Last Thursday, October 8, 1970, it was announced that American combat deaths in Vietnam dropped to their lowest point in nearly 4½ years. The toll of 38 deaths was the lowest since April of 1966, when 37 were killed. This is just another indication that the Nixon administration is ending the war in Vietnam.

A look at the weekly deaths in Vietnam over the last 5 years will show conclusively that the President's policy in Vietnam is working. I would like to insert in the RECORD another chart that was published in the current issue of U.S. News & World Report.

The chart follows:

Year and weekly average:
1966, 96 deaths.
1967, 180 deaths.
1968, 280 deaths.
1969, 181 deaths.
1970, 95 deaths.

This chart shows that since Richard Nixon became President, we have indeed been successful in cutting back on the loss of American lives in Vietnam, after years of increasing casualties during the Johnson administration.

On many occasions, the administration has detailed the program of Vietnamization which is essentially an effort to turn over the defense of South Vietnam to the people of South Vietnam. The South Vietnamese are assuming a larger role in the defense of their country, which is proof that the President's Vietnamization policy is working.

In the past, many persons have made the point that the President will not forget the importance of ending this war through negotiations. A week ago, the President announced a major new peace initiative for Vietnam. On last Thursday—October 8—the President's proposal was laid on the table at the peace talks in Paris.

Before going into a discussion of what the President proposed last week, I think it is important to keep in mind what the President proposed on May 14, 1969. At that time, the President made an eight-point peace proposal, which I would like to briefly outline now:

As soon as agreement can be reached, all non-South Vietnamese forces would begin withdrawals from South Vietnam.

Over a period of 12 months, by agreed upon stages, the major portions of all U.S., allied, and other non-South Vietnamese forces would be withdrawn. At the end of this 12-month period, the remaining U.S., allied, and other non-South Vietnamese forces would move into designated base areas and would not engage in combat operations.

The remaining U.S. and allied forces would move to complete their withdrawals as the

remaining North Vietnamese forces were withdrawn and returned to North Vietnam.

An international supervisory body, acceptable to both sides, would be created for the purpose of verifying withdrawals, and for any other purposes agreed upon between the two sides.

This international body would begin operating in accordance with an agreed timetable, and would participate in arranging supervised cease-fires.

As soon as possible after the international body was functioning, elections would be held under agreed procedures and under the supervision of the international body.

Arrangements would be made for the earliest possible release of prisoners of war on both sides.

All parties would agree to observe the Geneva Accords of 1954 regarding Vietnam and Cambodia and the Laos Accord of 1962.

Despite these generous proposals, little progress was made at the Paris peace talks. In order to get the talks moving again, the President proposed new plans for peace last week in his address to the Nation.

To begin with, the President proposed a cease-fire in all of Indochina. As the President noted, such a cease-fire would have to be effectively supervised and should not be the means by which one side builds up its strength. Of course, the international supervisory body recommended by the President in May of 1969 could serve as the supervisor of the cease-fire.

Second, the President proposed an Indochina Peace Conference, to meet concurrently with the peace talks in Paris. This proposal was made in realization that the Communists have used the other states of Indochina as pawns to carry on their war against South Vietnam.

Third, the President reiterated the willingness of the United States to negotiate an agreed timetable for complete withdrawals as part of an overall settlement.

Fourth, we seek a political settlement in Vietnam which is fair to all sides. We must realize that any agreement must be fair so that both sides will have an interest in preserving the settlement.

Finally, the President proposed the immediate and unconditional release of prisoners of war held by both sides. As the President pointed out, this should be done out of simple decency and humanity. But it could do more than that. The release of all prisoners of war could serve to establish good faith, the intent to make progress, and thus improve the prospects for negotiation.

In concluding his address to the Nation, the President spoke from his heart when he said:

There is no goal to which this nation is more dedicated, and to which I am more dedicated than to build a new structure of peace in the world where every nation including North Vietnam as well as South Vietnam can be free and independent with no fear of foreign agression or domination.

I believe every American deeply believes in his heart that the proudest legacy the United States can leave during this period when we are the strongest nation in the world is that our power was used to defend freedom, not to destroy it; to preserve the peace, not to break the peace.

It is in that spirit that I make this proposal for a just peace in Vietnam and in Indochina.

I ask that the leaders in Hanoi respond to this proposal in the same spirit.

Let us give our children what we have not enjoyed during this century, a chance to enjoy a generation of peace.

We can end the war in Vietnam if all Americans unite behind the President's generous proposals for peace. We must demonstrate to the North Vietnamese that America does stand behind our President, and we do.

FINANCING OF REVOLUTIONARY ACTIVITIES

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

Mr. ICHORD. Mr. Speaker, earlier this year William Kunstler, counsel for the Chicago-7, stated:

We raise most of the money for our movement through speaking engagements.

In May of this year, the House Committee on Internal Security authorized a limited voluntary survey of educational institutions for the purpose of obtaining information as to the extent of honoraria being used as a source of financing the revolutionary activities. Last Wednesday the Committee on Internal Security ordered the results of such survey reported to the House. In some way unknown to me a copy of the unpublished report came into the hands of the American Civil Liberties Union. A suit was filed yesterday in the U.S. District Court of the District of Columbia for the purpose of enjoining me as chairman of the House Committee on Internal Security from filing the report in the House of Representatives.

The case was heard by Judge Gerhard Gesell, and it is my understanding that though the judge at this moment has not signed the order, that Judge Gesell does intend to enjoin the Public Printer from publishing the report.

Mr. Speaker, this is the first time in the history of the American Republic that this has happened. The matter is now out of my hands, but I would admonish the House that the anticipated action of Judge Gesell is in blatant disregard of the "speech and debate" clause of the Constitution—article I, section 6. The Court, if the order is issued and permitted to stand, will have done something indirectly which it could not do directly. Such an order can only ultimately lead to a tyranny of the judicial. Apparently, we have reached a point in this country where radical speakers, many of whom are advocating violent overthrow of our Government, have the absolute right of free speech, but this privilege does not extend to Members of the U.S. House of Representatives.

Mr. Speaker, I will extend my remarks in the Extensions of Remarks of the RECORD setting out this whole matter in detail.

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

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

Mr. DENT. Mr. Speaker, was the gentleman served with this notice?

Mr. ICHORD. This was an ex parte proceeding, I would advise the gentleman from Pennsylvania, but the case was directed against me as chairman, all the members of the House Committee on Internal Security, the chief counsel of the House Internal Security Committee, as well as the Superintendent of Documents and the Public Printer, Mr. James L. Harrison. This is apparently a mistake of identity because James L. Harrison is no longer Public Printer.

It is my understanding that the order has been prepared and Judge Gesell does intend to issue the order enjoining the Public Printer from printing this report which I will file at 12 o'clock noon today.

Mr. DENT. When the gentleman is filing this, is he asking that the copies be printed for the benefit of the House?

Mr. ICHORD. Under the rules of the House, copies will be printed for the benefit of the Members of the House. Of course, that will probably come to the committee of the gentleman from Pennsylvania. Let me say that there will be copies furnished the Members of the House regardless of what ultimately occurs because the order does not preclude me from reproducing the report but only the Public Printer from printing the same.

Mr. DENT. If the House goes along with the proposition, I am sure that the order to print will come from the committee.

THE RISING RETAIL PRICE OF HAMBURGER

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

Mr. MONAGAN. Mr. Speaker, a little over 2 months ago, I called the attention of the House to the fact that the retail price of hamburger had been increasing over the high price of last year for that product which is vitally important to the American consumer. At the same time, I referred to the slight increase in the meat import quota authorized by the President a month earlier.

What is the present picture?

The price of hamburger at retail has shown a continuous increase since the beginning of 1970. Last year, the retail price of hamburger stood at 65.6 cents a pound in September and October. During the winter, the price slid back somewhat but by March of this year, it had reached 65.5 cents, just below last year's high. In April of this year the climb began, reaching 66.3 cents, above last year's high. For May and June the price was 66.7 cents and 66.5 cents. In July and August the price rose respectively to 66.9 cents and 67.2 cents per pound. In the last 5 months under discussion, the price of hamburger even though the rise has not been radical, has been above the high price of that product in 1969. At the same time, the retail price of choice beef has not approached the high price it attained during June, July, and August of 1969. It would only be reasonable to assume that as the price of choice beef went down, the price of hamburger would be subject to a similar decline, but this has not been true.

The shortage of lean beef for hamburger, which the above price relation seems to indicate, cannot be overcome, as in the case of manufactured goods, by

running extra shifts in a factory to meet unprecedented demand. Clearly, the supplies of beef that cannot be raised inside the United States, should be made available from other sources while the need lasts.

The import picture shows total imports for the first half of the quota year at 581 million pounds. The President established a quota of 1,140 million pounds in his proclamation last June, which leaves 559 million pounds available for import during the second half of the quota year. July and August saw a total of 223 million pounds imported under the quota, leaving only 336 million pounds for the last 4 months of the year. Thus far this year, the monthly rate of imports has averaged over 100 million pounds without resulting in any reduction in the price of hamburger.

With the permissible level of imports under the quota averaging only 84 million pounds per month for the last 4 months of the year, some upward effect on the price of hamburger can reasonably be anticipated. It is significant that while such meat imports in 1969 increased 8 percent over 1968, the 1970 increase allowed is only 5 percent over the 1969 total. Against this is the fact that domestic cow slaughter, the major source of domestic lean beef, for the first half of 1970 is 10 percent below the first half of 1969 and is not expected to increase very much for the second half of 1970.

HOUSING CRISIS

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

Mr. WIDNALL. Mr. Speaker, the Nixon administration inherited a severe housing situation when it took office in January 1969. In fact, the severity of this crisis in meeting the Nation's housing needs was already well documented. The Housing and Urban Development Act of 1968, itself the product of a Democrat administration and a Democrat-controlled Congress, estimated the need for housing at 26 million units over the next 10 years—1968–1978. This goal was reaffirmed by President Johnson's National Commission on Urban Problems in its 1968 report.

Not only did the previous Democrat administration bequeath a severe housing crisis, but it also passed on near-record inflation which has caused the housing problem to persist. This inflation, the product of unwise guns-and-butter overspending during the Johnson administration, has hit the housing problem from several directions all at the same time. It has caused the cost of homebuilding, including land, labor, materials, management, and financing to increase 10-percent since 1968. It has made financing home purchases more difficult and costly. And it has increased the price of existing housing, often pricing it out of the market for which it was intended.

The Nixon administration, I am glad to say, has taken several specific steps to meet the housing crisis. These steps are beginning to bring tangible results.

The most important step to take in curing the housing crisis is to curb inflation. As Federal Reserve Board Chairman Arthur Burns said on February 7, 1970:

> There can be no doubt whatever that the single most important contribution toward improving housing market conditions would be success in the present struggle to check inflationary trends and expectations. Nonetheless, it must be recognized that it takes time to overcome an inflationary momentum that has gathered headway over a span of years dating all the way back to 1964.

The Nixon administration has instituted a number of fiscal and monetary changes designed to bring inflation under control. We recently heard the heartening news that the prime interest rate had dropped from 8 to 7.5 percent and that the cost-of-living figures held steady in August and September, signaling a break in the upward spiral. The President's antiinflationary policy, it appears, is paying off. This success should be reflected in an easing of the housing finance situation in the near future. The lower prime rate especially should mean that very soon home mortgages will be down to the point where the average family can begin to afford to buy a home. Unfortunately, the Democrat-controlled Congress did not see fit to adhere to the President's fiscal policy which called for a $1.3 billion surplus in fiscal year 1971. Such a surplus would also have had the effect of making more money available for investment and thereby forcing down interest rates. Rather than a surplus, however, the Democrats have passed legislation which so far has added $2.7 billion to the President's fiscal year 1971 budget.

The administration has also increased the flow of funds into mortgages by extending the Fannie Mae commitment and by adjusting interest rate ceilings on FHA and VA mortgages.

Attacking the housing problem from another direction, the President also took steps to stabilize the cost of building materials. The Department of Agriculture was directed to use a supplemental appropriation for fiscal year 1969 and an increased appropriation for 1970 to provide additional timber from national forests. The Department of Interior was directed to make available increased timber for sale. And the Interstate Commerce Commission issued orders to relieve the shortage of boxcars used to move lumber and plywood from the Northwest. As a result of these measures, the sharp increase in prices which had seriously affected the building costs for single family homes and small apartments was reversed. Lumber and plywood prices have declined from their high levels of a year ago.

Working to relieve the labor shortages that have helped push housing costs up, the Nixon administration has initiated special job training programs to make entrance into the labor market easier. At present, 250,000 students are enrolled in construction training; the Department of Labor is encouraging local surveys and reports on specific manpower needs; and the Department of Health, Education, and Welfare is helping States develop plans for vocational education in secondary schools, postsecondary schools, and cooperative education programs which emphasize preparation for the construction industry.

In addition to attacking inflation, materials costs, and labor shortages, the Nixon administration has launched an imaginative program, Operation Breakthrough, which aims at developing entirely new ways to go about meeting our housing needs. Operation Breakthrough seeks to apply the principles of mass production to homebuilding so that the discoveries of industrial research and technology can be used to move homebuilding out of the Middle Ages. As this succeeds, volume production and economy of scale will become possible, permitting greater efficiency in the design, production, transfer, financing and management of our national housing effort. This will mean attractive, well-built homes at prices familes can afford.

Because of these efforts by the Nixon administration, the housing outlook is a lot brighter than it was when the President took office in January, 1969. His efforts to control the inflation which the Democrats bequeathed to the Nation in the 1960's means that soon the housing problems that accompanied the inflation will begin to respond. Already, in fact, homebuilders are beginning to sound a bit more optimistic. Housing starts improved in July and August. The Council of Housing Producers, whose 13 members are among the major home builders in the United States, say that its members expect to build about 33 percent more units in 1970 than a year ago. Individual building corporations express similar expectations.

Thus, we must conclude that the Nixon administration efforts, both to improve the state of the economy, as well as additional efforts to control materials costs and labor shortages and to develop new housing construction approaches will help us beat the Nation's housing shortage in the 1970's.

CAMPUS UNREST

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

Mr. CAMP. Mr. Speaker, looking back over the conclusions and recommendations of the Commission on Campus Unrest, I was struck by an interesting paradox. Since January 1969, the Nixon administration has been accused of using words rather than actions. Now, we find that the Scranton Commission is saying, in effect, it is not so much what the Nixon administration does, but what it says, that counts. It urges him to "seek to convince," "take the lead in explaining," "articulate and emphasize," and "point out."

Well, it seems to me that actions as well as words are needed and that the President has thus far compiled a solid record in coping with this crisis in higher education. Without exhaustively reviewing the record, one can cite quite a few things he has done recently to express his concern over campus problems and try to restore order to our colleges and universities.

He journeyed to Kansas State University a week before the Commission made its report, to make a speech which

carried out the Commission's recommendation that he "take the lead in explaining to the American people the urgency of our present situation, articulate and emphasize those values all Americans hold in common, and point out the importance of diversity and coexistence to the Nation's health." In that lengthy address, the President explained the urgency of our present situation. He said:

In some of the geat universities small bands of destructionists have been allowed to impose their own rule of arbitrary force. Because of this, we today face the greatest crisis in the history of American education.

He articulated and emphasized those values all Americans hold in common, and pointed out the importance of diversity:

I do not call for a conformity in which the young simply ape the old or in which we freeze the faults that we have. We must be honest enough to find what is right and to change what is wrong in America . . . Automatic conformity with the older generation . . . is wrong. At the same time, it is just as wrong to fall into a slavish conformity with those who falsely claim to be the leaders of the new generation, out of fear that it would be unpopular . . . not to follow their lead . . . . Making (America's) promise real requires an atmosphere of reason, of tolerance, and of common courtesy, with that basic regard for the rights and feelings that is the mark of any civilized society . . . . Idealism lies in the respect each shows for the rights of others.

The President has also seen to it that the administration reaches out to learn the concerns of the young people on the Nation's campuses. He has sent young White House staff members out across the country to visit colleges and universities and to talk with students. After the Cambodian action, when thousands of students flocked to Washington to make their views known, he instructed administration officals at all levels to open their offices to these students. This resulted in availability of public officials, including cabinet officers, to students that is unprecedented in the history of this Government.

President Nixon appointed two special advisers, G. Alexander Heard, chancellor of Vanderbilt University, and James E. Cheek, president of Howard University. Their role was not only "to increase the volume of communications about campus points of view, convictions or types of behavior, but also to interpret these matters so that there will be an increase in understanding on the Part of the President and those around him," according to Heard.

Finally, it is to his credit that throughout his administration, the President has resisted almost overwhelming pressures to recommend that Congress assume major responsibility for dealing with the campus crisis. His has consistently been a voice of moderation and reason.

This is not to say, however, that President Nixon has avoided the firm measures needed to end the wanton and destructive violence threatening academic life and the safety of college students and teachers. On September 22, he asked Congress to permit prompt intervention by the FBI in cases involving explosives on college and university campuses, and the timelines and need for this legislation were evidenced by the speed with which both House and Senate acted upon the measure.

The President's record in handling the campus problem is clear. He has, to borrow the language of the Scranton commission's report, effectively articulated the underlying causes and emphasized the values that all Americans hold in common. He has "lent his personal support and assistance to American universities to accomplish" needed changes. He has "taken steps to assure that he is continuously informed of the views of students and blacks." He has "met with Governors of the States, with university leaders, with law enforcement officers and with black and student leaders." In short, President Nixon has already done a fine job of implementing the recommendations set down for him by the Scranton commission.

One suspects that perhaps the Commission was so busy getting its report into final shape that it did not have time to notice that the President was already implementing its recommendations, before they were even made.

Before the Commission's report was released, the President had already taken the lead in contacting campus presidents, to provide them with leadership and support in their efforts to bring peace and academic freedom to the Nation's campuses. In a letter to 900 college presidents, he encouraged them to "accept the responsibility for order and discipline on campuses." Accompanying these letters and warmly endorsed the President was a cogent and direct article by Professor Sidney Hook. The outline for action expressed in this article followed many of the Commission's recommendations—the formulation of guidelines affecting the expression of dissent, the judicious use of force to maintain order, the assumption of responsibility by campus officials, and the resumption of academic freedom.

Earlier in the year, the President called a meeting of black college presidents who conveyed to him the disenchantment of blacks with our society and with the Federal Government, and their dissatisfaction with the portion of Federal funds allocated to black institutions of higher education. Not long after, the Department of Health, Education, and Welfare made additional funds from existing programs available to these colleges, and this week HEW announced that a total of $30 million will be provided in supplemental funds this calendar year to help predominantly black colleges and their students.

At a different meeting with college officials, this one with representatives of the American Association of Universities, the President was able to learn the views and concerns of the academic community at large. One of his responses to this meeting was to increase the budget request for the National Defense Education Act, title VI—Language Development and Area Center program. More recently, the President met for an hour with Sol Linowitz and Logan Wilson, representatives of the American Council on Education's special committee on campus unrest.

RECENT RULING BY THE INTERNAL REVENUE SERVICE WITH RESPECT TO ENVIRONMENTAL LITIGATION ORGANIZATION

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

Mr. DINGELL. Mr. Speaker, I have for some days been concerned about the proposed IRS ruling with regard to environmental litigation organizations.

I must report to the House with some sadness and concern that it appears that the Internal Revenue Service of the United States is seeking to deny the tax-exempt status of these organizations which engage in litigation for the protection of consumer rights for conservation and for the protection of a decent wholesome environment.

Mr. Speaker, the practical effect of a recent IRS ruling which is discussed in this morning's Washington Post and Times Herald will be just that, to sterilize these agencies, to prevent citizens from binding together to litigate on questions of this kind.

Mr. Speaker, I feel that this is an outrageous ruling. It is an attempt to do something that is not in conformity with statutes passed by the Congress of the United States and it is in direct violation of the Environmental Protection Act whose policy statement and clear langauge requires all Government agencies to construe their responsibilities to achieve the the end of a wholesome environment. I intend, as chairman of the subcommittee with jurisdiction over these matters, to bring that statute and sections 103 and 102(c) vigorously to the attention of the Internal Revenue Service.

Mr. Speaker, pursuant to permission granted, I insert into the CONGRESSIONAL RECORD at this point the text of the Internal Revenue Service press release on this matter, as well as an excellent editorial appearing in this morning's Washington, D.C., Post entitled "The Law, the IRS and the Environment," pointing out the outrageous effects of this ruling:

WASHINGTON, D.C.—The Internal Revenue Service announced today that it has temporarily suspended the issuance of rulings on claims for tax exempt status by "public interest law firms" and other organizations which litigate or support litigation for what they determine to be the public good in some chosen area of national interest, such as preservation of the environment, protection of consumer interests, and the like.

The "public interest law firm" is a new phenomenon rapidly proliferating on the American scene.

The IRS said it now has pending before it applications from a number of such groups seeking recognition of exemption from federal income tax as charitable organizations, and deductibility of contributions by their donors. Action on these applications will depend upon conclusions reached in a study now underway.

Section 501(c)(3) of the Internal Revenue Code grants exemption to groups organized and operated exclusively for charitable purposes. However, the IRS distinguished the "public interest law firm", organized to initiate, stimulate and handle litigation broadly in the public interest, from the familiar legal aid group which provides representation for

specifically identified persons or groups, such as poor and underprivileged people that are traditionally recognized as objects of charity. At the same time, the IRS said it is not questioning the status of organizations engaged in research on environmental and other problems of public concern which qualify as "educational" under the tax exempt provisions of the Code.

The IRS expressed concern about the lack of standards or controls if tax exemption and deductibility of contributions were provided for every group desiring to litigate on behalf of the public interest. Not infrequently opposing sides in a law suit involving substantial private interests claim that they are acting in the public interest.

The IRS said it has received suggestions from several interested and informed sources on standards to be observed to assure operations exclusively in the public interest, but these differed in numerous respects. Pointing out that this lack of agreement demonstrated the need for examination of the issue, the IRS said it would welcome the presentation of views by interested foundations, applicants, public agencies and other appropriate sources.

The IRS is in no position at this stage to make any judgment about the deductibility of contributions made during the period of the study to currently tax exempt firms of the type being studied. To minimize this uncertainty, the IRS said it expects to conclude the study and announce a position within the next 60 days.

THE LAW, THE IRS AND THE ENVIRONMENT

In a move both surprising and ominous, the Internal Revenue Service announced last week that it was temporarily suspending tax exemptions to public interest law firms that wage court battles on environmental issues, consumer protection and similiar areas. A 60-day study by the IRS is under way to decide finally on the matter; until then, donors to the public interest firms have been warned that ther contributions are no longer deductible.

The impact is clear. Since many of the firms take cases for which there is no pay, they must rely on grants and gifts; but since the IRS now says the donations are not tax deductible, the water is cut off. Benefactors will look elsewhere to give their money.

The action of the IRS comes at an odd moment. First, as an article elsewhere on this page shows, the work of a public interest law firm can be useful and important. They accept cases that no other firms go near. Even before the IRS move was made public, private opposition to it was strong. Russell E. Train, chairman of the Council on Environmental Quality, wrote to Randolph W. Thrower, Commissioner of Internal Revenue, two weeks ago that the environment was being well served by the public interest lawyers. "Litigation brought by private groups which must rely on contributions for their support . . . (has) strengthend and accelerated the process of enforcement of anti-pollution laws."

The timing of the IRS move could hardly be worse; at no time has the establishment ever been preaching more loudly the work-within-the-system sermon to the young. Exactly when a few young lawyers and law students do work within the system, they are whammed over the head by the most financially powerful part of that system, the IRS. A third irony involves the contrast between the detailed supervision the IRS is giving the public interest law firms and its casualness in examining the recent tax-exemption claims of the Southern white academies that tried to evade desegregation laws.

Although not all the facts are yet out—if all of them ever will be—a number of urgent questions need to be asked about the IRS decision. Who is behind it? This decision is a major move, one that will prevent qualified lawyers acting on recognized laws going into established courts. It is no secret that major corporations, already buffeted by tight money, a bear market and strikes, feel harassed by court cases in anti-pollution and consumer areas. From the board room, the outlook is even more grim; currently in Congress are two class action bills that would restore to the public the protection it needs from pollution and fraud. With public interest lawyers all too eager to use the law to protect both the environment and the consumer, the thought occurs—though these things are hard to prove—that business interests may have sent an SOS to the Nixon administration, saying in effect, get the kids off our backs.

The truth of the matter is, of course, that the public interest lawyers aren't on the corporations' backs. Filing a suit against a business or a federal agency meant to regulate it means nothing in itself. The judge decides whether a case can be made. It is true, of course, that more than a few corporations resent even being hauled into court and in many ways their resistance is understandable. For years, no one said a thing about the rivers or air being polluted; the companies were only providing America with the good things of the good life. But suddenly, the public sees that progress has a price and is no longer willing to pay it. Wisely, most judges and even most public interest lawyers are not demanding that all law breaking businesses be forced to close instantly. If anything, businesses are treated with great tenderness. Because the IRS action bears directly on the crucial question of environment and on the quiet, constructive efforts of conscientious people to do something about policing it, a few senators are talking about hearings on the whole subject. They are needed—fast.

Mr. Speaker, one of the most fundamental rights of American citizens is the precious right to gather together and petition their government for redress of grievance. This IRS proposal strikes very directly at citizen endeavors to join together to litigate regarding questions of consumer protection, conservation of natural resources, and preservation of a wholesome environment.

Because of the long experience of IRS with questions involving tax deductibility of organizations, one can only come to the unhappy conclusion that IRS intended to sterilize private litigation of questions involving the environment, conservation, and consumer protection.

The ruling has already had the unfortunate effect of shutting off funds to most organizations which have not yet achieved tax deductible status and is beginning to have an adverse affect on consumer, conservation, and environmentally directed organizations which have already achieved tax deductibility.

It appears that the polluters, those who seek to defile the environment, those who would do violence to the consumer and consumer rights, have won a remarkable victory.

Of late the Congress and the courts have been moving vigorously to protect the rights at which this ruling would strike. It seems that the polluters, the defilers of our environment, and those who would fleece the consumer, having failed in the courts and in the legislative halls, now have secured the first step toward sterilizing citizens organizations in asserting their rights in the courts.

Citizens litigation is so fantastically expensive and complicated that an ordinary citizen alone cannot assert his right in the courts. Citizens organized and banded together can and have been doing so with increasing effectiveness. It is at this kind of organized citizen action, that this unfortunate IRS ruling strikes most directly.

Mr. Speaker, I insert at this point an excellent article by Mr. Colman McCarthy entitled, "Laws, Lawyers and the System," appearing in today's Washington, D.C., Post discussing in detail the IRS action to which I have been alluding. This outrageous action must be set aside. The article follows:

LAWS, LAWYERS AND THE SYSTEM

(By Colman McCarthy)

For some time now, many parents, teachers and politicians have been telling young activists of conscience that the way to change the system is to work peacefully within it. Don't riot in the streets, throw bombs, shoot cops or tie up professors; the system only hardens with those no-win stunts. Instead, get on the inside and work for social change from there. You'll be surprised what you can pull off.

Among those taking that advice were a growing number of law students and young lawyers. For the past three or four years, they have formed or joined what are called public interest law firms, often arguing cases against corporations that pollute the environment or cheat the consumer. Just as the establishment said, the young lawyers were surprised at what they could pull off.

Last week, public interest law firms were in the news. The Internal Revenue Service announced a 60-day study that will decide whether or not to revoke their tax exempt status, especially those taking corporations to court on pollution, consumer and other cases. The IRS move would leave the firms without money because contributors would get no tax deductions on their grants or gifts.

Among those firms which may be affected by the IRS decision is the Center for Law and Social Policy, a Washington-based group that opened shop in August 1969. Its director is Charles Halpern, a graduate of Yale Law School and the son of a late New York judge. Nearly everything about the firm suggests the utmost in decorum and discretion. Its board of trustees include phisohex lawyers like Francis T. P. Plimpton, former president of the New York City bar association; Mitchell Rogovin of Washington's Arnold and Porter; Ramsey Clark; J. Lee Rankin, New York City chief counsel; Joseph L. Sax, a Michigan lawyer who wrote the Hart-McGovern bill that would allow class action pollution suits. In addition, the Center has arrangements with the law schools of Stanford, Yale, Michigan, Pennsylvania and UCLA whereby sudents come to Washington for six months for clinical training and legal education. A full semester credit is given by the schools. Prompted in part by all this establishment support, the Ford Foundation granted the Center $275,000 last July that will last 18 months.

"We are called public interest lawyers," said Charles Halpern, "but less pompously we're just lawyers for unrepresented people, the ones who are getting clobbered but with no one there to protect them. These people are all over the place—not just the poor, but also the victims of pollution, the victims of corporate arrogance or maybe just the odd guy who wants to eat his pickles without DDT in them."

Halpern's reference to DDT is not a joke. Earlier this year, on behalf of the Sierra Club, the National Audubon Society, the Izaak Walton League and others, the center took on the Secretary of Agriculture. A petition was filed urging him to suspend

the use of DDT and to begin canceling registration of products containing that poison. On May 28, the D.C. Court of Appeals ruled in favor of the center. In effect, the court restrained the government from barging ahead on the DDT question with no concern for the environment. Moreover, the court told Agriculture that the views of the citizens were crucial to governmental decisions, since the citizens were the ones who swallow DDT.

"We were delighted with the decision," said Halpern, "even though the stuff is still on the market. The court gave now power to the average guy dealing with the traditionally impassive government. Previously, only industry got the bureaucrat's ear."

A second center activity that has upset, even infuriated, a rich and tough industry involves the construction of the Trans-Alaskan pipeline system. The giant pipeline, 800 miles long and four feet wide, would present enormous technical and environmental challenges never faced before. The oil companies involved in the project include Union, Phillips, Mobil, Hess, Atlantic Richfield and Humble. On behalf of conservationists, the center brought a suit to stop the Secretary of Interior from issuing permits to the oil companies for construction. Last April, the District Court agreed with the center; a preliminary injunction was issued, based on the National Environmental Policy Act of 1969 and the Mineral Leasing Act of 1920.

For now, the oil companies have put away their bulldozers and dynamite. A government-industry task force is examining whether or not TAPS can be built without ruining the countryside. According to a recent and slightly bitter article in Barron's Weekly, out-of-pocket loss to the oil companies is $100,000 a day, with $50 million worth of machinery and supplies sitting idle.

A third success for the center involves the largest corporation of them all, General Motors. Representing the Center for Auto Safety and others, a complaint was entered against the National Highway Safety Bureau to reopen a case involving a GM recall of 50,000 defective truck wheels. The center argued that 150,000 other trucks displayed the same defects and should also be called in. The court ordered the NHSB to reopen the investigation, rejecting the agency's view that it alone, with no citizen consultation, should decide recalls.

Although public interest lawyers like Charles Halpern cause unceasing bother and financial pain to both large and small corporations, they do it in the simplest and perhaps least dramatic way—using recognized, often dormant laws in established courts. As Halpern describes it, "it was really an open field. On one hand, you had the old line regulatory agencies—FTC, FDA, FCC, ICC and the others. They were created to protect the public and to keep a strict eye on the marketplace. But for so many years, the opposite was true. The agencies looked out for the industries and corporations, not the public. The adversary system, which was a big subject in law school, was nowhere to be found in Washington. The laws were on the books waiting to be used."

The origins of public interest law go back to a 1966 decision by a then little known Washington judge, Warren E. Burger, now Chief Justice of the Supreme Court. A group of poor and black Mississippians challenged a Jackson television station on its biased news coverage. The Federal Communications Commission, which supposedly protects the interests of viewers—including the poor and black—tried to brush off the plaintiffs, on the grounds that it alone knew what was best. Judge Burger said no, the commission must listen to the complaints of the viewers in its administrative decisions.

Last week, following the announcement of the IRS, many lawyers at the Center for Law and Social Policy were dismayed. They saw the IRS study as a direct attack on public interest law, the agency being used by someone as a lethal political weapon against the forces for peaceful change.

A worry of Halpern went beyond the future of his own operation. He had just returned from a number of universities and law schools where he was often greeted as a sucker for the establishment—for believing that one can change the system from within and from below. Halpern had always thought he was something of a reformer, but next to some of the students he met, he was only a non-returnable dreamer. "What do I tell these people now?" he asked, referring to the IRS decision which forcefully confirmed their cynicism. Halpern has no answer.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Speaker, I commend the gentleman from Michigan for bringing this outrageous ruling of the Internal Revenue Service to the attention of the House and I hope his efforts are successful in getting it reversed.

Mr. DINGELL. I thank my good friend from West Virginia.

REPORT TO THE PEOPLE OF THE THIRD DISTRICT OF PENNSYLVANIA

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

Mr. BYRNE of Pennsylvania. Mr. Speaker, as the 91st Congress moves into its final months, it is my duty to report to the people of the Third Congressional District of Pennsylvania on what we have accomplished during this 2-year period.

In all, despite some disappointments, the 91st Congress has been a most productive one—and I speak with the experience of serving in nine Congresses. Needless to say, all of the legislation I had hoped for did not become law during this period—through a number of factors.

Nevertheless, I think history will record our record as one of progress. I have had the honor of sponsoring and cosponsoring much of the legislation which was acted upon.

Of course, it is impossible to list all the actions taken by this Congress—that could fill volumes. Nor is it feasible to list the 147 bills and resolutions which I sponsored or cosponsored. But at this time I would like to touch upon some of the most important actions of this Congress, and outline those areas in which we need further movement.

HOSPITALS

I think almost everyone in this country appreciates the need for increased medical care facilities. Recognizing this, the Congress extended through the fiscal year of 1973 a program and grants and guaranteed loans for hospital construction. Unfortunately, the President vetoed the measure, but this veto was overridden and the bill is now law.

This is, admittedly, only a start. It is strange that in the richest country in the world a sick person must wait for a bed to become available in a hospital.

We need a massive health program to insure preventive medicine for each person to keep them well and curative medicine when they become ill.

POLLUTION

The Congress has taken a number of active steps toward ending pollution in the United States. Among these are the tightening of controls for water pollution through oil and sewage from ships, discharges from mines and thermal action by atomic energy plants. This is now law.

Another phase is the "Clean Air Act," passed by both Houses of Congress in different forms, requiring 1975 automobiles to achieve a 90-percent reduction of 1970 standards for emission of hydrocarbons, carbon monoxide, and nitrogen oxides.

It is time that everyone realizes that we have only one world and we are rushing toward its destruction. We must start cleaning up, and the best place to start is our own country. We must repurify the air we breathe, the water we drink and the soil that gives us our food.

DRUGS

The proliferation of drugs—especially among our young people—is one of our greatest domestic problems. To help combat this vicious traffic and to attack the criminals behind these operations, Congress has passed a series of laws.

Among the actions performed by these bills, the Attorney General is given the right to classify drugs according to danger and judges are given greater latitude in disposing of drug cases—in some cases raising the penalties for chronic offenders and in others lowering the term for first offenders.

Much more needs to be done in this field—and we hope to do it in the near future.

VETERANS

My record is clear on seeking a speedy conclusion to the Vietnam war. But our concern cannot end there. We must realize that if we have wars, we are going to have wounded veterans.

As a senior member of the Armed Services Committee, it is clear to me that we do not have sufficient facilities at veterans' hospitals to fulfill the needs of wounded and sick veterans.

Surely, if there is one single group that this Nation owes a special debt, it is to the veterans.

MIDDLE EAST

Peace is needed desperately in the Middle East—but it must not come at the expense of our only ally in that part of the world—Israel. Israel needs the means with which to protect itself. It does not ask for our men. It wants only those weapons needed for self protection.

Toward this end, the Congress recently passed a bill—and spelled out in language no one could misunderstand that Israel was to be able to purchase all the arms it needs at favorable credit terms.

ELECTORAL REFORM

The House of Representatives overwhelmingly passed a constitutional amendment providing for the direct election of the President by the people. Unfortunately, this bill—at this time—has been tied up in the Senate by a filibuster

of Southern Senators and conservatives. This means it is improbable that action will be taken this year. If not, I feel sure the House will reactivate the measure in the next Congress—and—hopefully—secure passage through the Senate as well.

SCHOOL AID

The Congress passed—and the President signed—a law extending aid to schools for another 2 years. This, however, merely scratched the surface of need, as far as I am concerned.

Massive Federal aid is needed for schools if they are to survive. And it should be in bloc-grants—directly to the school districts, without the States siphoning off funds.

INFLATION

Our number one domestic problem is inflation—higher and higher prices eroding the savings and earnings of our people. This inflation must be halted.

Meanwhile, social security, on which many millions of our elderly depend upon as their sole income, must be brought in line with the true value of the dollar today.

The House passed an automatic 5-percent increase for social security benefits in 1971 and they are completing action in the Senate. The Senate has increased these benefits to 10 percent.

But this is nowhere enough. Ask anyone on social security. These benefits must be upgraded and pegged to the actual cost of living.

UNEMPLOYMENT

Anyone who thinks higher unemployment will cure inflation is living in a dream world—not the United States of America in 1970. Our unemployment rate has already grown to the dangerous stage. Some economists in Government may think that this is desirable, but they better not try to convince the thousands of jobless in my district.

We must move toward full employment again—regardless what the administration thinks is a "healthy economy."

HOUSING

Housing in our cities continues to age and crumble, but there are no adequate replacements. I suggest what is needed today is a massive housing program which can provide homes to those who want and need them.

There is little mortgage money in the market. The building trades workers are without work, adding to the already dangerous unemployment rate.

I believe it is our responsibility to get housing programs in action again—and now.

GENERAL

I fully realize that programs cost money—but I believe there is sufficient money available for all of these projects. Where are the funds to come from? From the unneeded and wasteful programs which the people really do not need or want.

The money can come through ending the war in Southeast Asia, where billions of dollars and thousands of lives have been siphoned off.

The funds can come through diversion from unneeded weapons research and manufacture—such as the ABM and the MIRV. They can come by scrapping unneeded manned space flights. They can come from wasteful projects such as the supersonic jet plane—which we don't need as much as "people projects."

Hopefully, these unsolved problems will be acted on expeditiously in the next Congress. Our people need and demand it.

NEW DUTIES BEING PERFORMED BY THE VICE PRESIDENT OF THE UNITED STATES

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

Mr. DENT. Mr. Speaker and Members of the House, on behalf of the gentleman from Ohio, Mr. WAYNE HAYS, and myself, I intend to present at the end of my remarks a copy of a constitutional amendment which will be printed for the information of the Members of the House.

Mr. Speaker, inasmuch as there has been a new dimension added to the duties of the Vice President far beyond any ever performed by the Vice President before, we have discovered that since the beginning of the session or since his ascendancy to the office of Vice President he has served exactly 14 hours and 50 minutes in his official capacity as President of the Senate.

However, according to the news reports he has performed some very serious duties which in the opinion of many people he is performing very well.

So, in the interest of fair play and equal opportunity for both political parties, and in the face of the fact that the President has seen fit to veto the limitation of $20,000 to be expended on television time and in view of the plight of the finances of the Democratic Party and the booming coffers of the Republican Party due to the activities of the Vice President, we decided that there be a constitutional amendment creating two Vice Presidents, one for the Democrats to raise money and one for the Republicans. However, we have some safeguards contained therein as to what the qualifications of the Vice President would be.

No. 1, no person who speaks in terms other than those without meaning, in terms other than those evidencing superfluousness, redundancy, and so forth, in terms other than those of the most basic nature shall be eligible for the office of the Vice Presidents.

No person whose facial characteristics do not make him an easy target for cartoonists and pundits shall be eligible for the Office of the Vice Presidents.

No person whose basic intellectual capacity is such that the average citizen finds him understandable shall be eligible for the Office of the Vice President.

He must be furnished a complete list of all those who are potential contributors for one reason or another but, certainly, for the reason of wanting to know someone high in office and in power in the Government at the same time. We feel this is the only way that the Democratic candidates would have an opportunity to spend over $20,000 in campaign funds for television alone.

I do not know where the rest of you fellows come from, but where I come from if you spent $20,000 to get elected, they would run you out of office.

The material referred to is as follows:

U.S. Reps. John H. Dent (D., Pa.) and Wayne L. Hays (D., Ohio) today presented a Constitutional amendment inspired by the President's veto of a bill to place a $20,000 limitation on the television expenditures of Congressional candidates.

Dent said the amendment was suggested by "concerned citizens" who pointed out that "the Vice President seems to spend all of his time raising funds—reported to be in the neighborhood of $11 million—for Republican Congressional candidates. While this amendment is not in keeping with our concept of serious legislative enactments, neither is a full-time Vice Presidential money raiser." According to the official record, Mr. Agnew has presided over the United States Senate for 14 hours and 50 minutes out of the 950 hours it was in session.

"If the Vice President continues to spend the bulk of his time soliciting contributions for Republican campaigns, his salary should come from these very coffers. One would expect that those who filled these coffers, for instance job hopefuls, businessmen, and free trade advocates, would not oppose such action.

"This amendment will be read for the record to highlight the President's veto, the fund raising activities of Vice President Agnew, and the relationship between the two. The amendment proposal (which follows) is as serious as Vice President Agnew's attention to his Constitutional duties has been."

The text of the amendment follows:

Mr. Dent and Mr. Hays (by request) introduced the following Joint Resolution.

Proposing an amendment to the Constitution of the United States relative to the election of two Vice Presidents of the United States.

Section 1. Purpose of the Article. Whereas the function of the Vice President of the United States appears to be the solicitation of funds for political purposes by attending dinners, rallies, and any and all similar gatherings, and whereas the number of these gatherings has increased throughout the years with the resultant effect that demands on the Vice President's time have become exorbitant and have made it impossible for one man to attend all the necessary functions of both major political parties, be it resolved that, with the exception of the provisions of Section 4 of this Article, two Vice Presidents be elected for a four year term to run concurrently with that of the President of the United States.

Section 2. Duties of the Two Vice Presidents. Of the two persons elected to serve concurrently in the Office of the Vice Presidents of the United States, one shall be assigned to raise funds for the Democratic Party; the other person shall be assigned to raise funds for the Republican Party.

Section 3. Qualifications. (a) No persons except those who meet the age, residency, and citizenship requirements established for the President of the United States, as stated in Article II, Section 1 of the Constitution of the United States shall be eligible for the Office of the Vice Presidents.

(b) No person who speaks in terms other than those without meaning, in terms other than those evidencing superfluousness, redundancy, etc. In terms other than those of the most basic nature shall be eligible for the Office of the Vice Presidents.

(c) No person whose facial characteristics do not make him an easy target for cartoonists and pundits shall be eligible for the Office of the Vice Presidents.

(d) No person whose basic intellectual capacity is such that the average citizen finds him understandable shall be eligible for the Office of the Vice Presidents.

Section 4. Special Election. Whereas the current Vice President has been able to find the time to collect funds for the Republican Party only, and whereas the United States has traditionally supported the doctrine of equal time and equal rights for all, and whereas another Presidential election is not scheduled until November, 1972, a special election shall be held 24 hours after the passage of this article for the purpose of choosing a co-Vice President of the United States. The individual so chosen shall, immediately upon election, assume the duties of the Democratic Vice President as provided in Section 2 of this article.

Section 5. This amendment shall take effect immediately upon ratification of three-fourths of the several States, or immediately after the current Vice President attends another political fund-raising event, whichever is sooner.

H.J. Res. —

Joint resolution proposing an amendment to the Constitution of the United States relative to the election of two Vice Presidents of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

Article —

Section 1. Purpose of the Article.—Whereas the function of the Vice President of the United States appears to be the solicitation of funds for political purposes by attending dinners, rallies and any and all similar gatherings, and whereas the number of these gatherings has increased throughout the years with the resultant effect that demands on the Vice President's time have become exorbitant and have made it impossible for one man to attend all the necessary functions of both major political parties, be it resolved that, with the exception of the provisions of section 4 of this article, two Vice Presidents be elected for a four-year term to run concurrently with that of the President of the United States.

Sec. 2. Duties of the Two Vice Presidents.—Of the two persons elected to serve concurrently in the Office of the Vice Presidents of the United States, one shall be assigned to raise funds for the Democratic Party; the other person shall be assigned to raise funds for the Republican Party.

Sec. 3. Qualifications.—(a) No persons except those who meet the age, residency, and citizenship requirements established for the President of the United States, as stated in article II, section 1 of the Constitution of the United States shall be eligible for the Office of the Vice Presidents.

(b) No person who speaks in terms other than those without meaning, in terms other than those evidencing superfluousness, redundancy, etc., in terms other than those of the most basic nature shall be eligible for the Office of the Vice Presidents.

(c) No person whose facial characteristics do not make him an easy target for cartoonists and pundits shall be eligible for the Office of the Vice Presidents.

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BIPARTISAN SUPPORT FOR NATIONAL ECONOMIC CONVERSION BILL

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

Mr. MORSE. Mr. Speaker, on October 1, my colleague from New York (Mr. Bingham) and I introduced a bill designed to facilitate the transition to a peacetime economy and to alleviate the problems now being experienced by many industries and communities throughout the Nation as a result of the failure of business and Government alike to plan for the effects that the predictable decline in levels of military and space spending is having on our economy.

Since the introduction of this legislation 2 weeks ago, a number of our colleagues in the House have indicated their support for the prompt and concrete governmental action to ease the shift to civilian production and for the assistance to those who are caught in the forces of economic change which this bill, the National Economic Conversion Act, H.R. 19557, would provide.

Mr. Bingham and I greatly welcome and much appreciate this strong demonstration of bipartisan interest, and are delighted to be able to offer this legislation again today with the following 39 cosponsors:

Brock Adams, Democrat of Washington.

Joseph P. Addabbo, Democrat of New York.

John F. Anderson, Republican of Illinois.

Frank J. Brasco, Democrat of New York.

George E. Brown, Jr., Democrat of California.

Daniel E. Button, Republican of New York.

Shirley Chisholm, Democrat of New York.

William Clay, Democrat of Missouri.

John R. Dellenback, Republican of Oregon.

Don Edwards, Democrat of California.

Joshua Eilberg, Democrat of Pennsylvania.

Marvin L. Esch, Republican of Michigan.

Leonard Farbstein, Democrat of New York.

Donald M. Fraser, Democrat of Minnesota.

Seymour Halpern, Republican of New York.

Michael Harrington, Democrat of Massachusetts.

Augustus C. Hawkins, Democrat of California.

Ken M. Hechler, Democrat of West Virginia.

Frank Horton, Republican of New York.

Hastings Keith, Republican of Massachusetts.

Edward I. Koch, Democrat of New York.

Allard K. Lowenstein, Democrat of New York.

Paul N. McCloskey, Jr., Republican of California.

Joseph M. McDade, Republican of Pennsylvania.

Abner J. Mikva, Democrat of Illinois.

Richard L. Ottinger, Democrat of New York.

Bertram L. Podell, Democrat of New York.

Thomas M. Rees, Democrat of California.

Howard W. Robison, Republican of New York.

Benjamin S. Rosenthal, Democrat of New York.

William P. Ryan, Democrat of New York.

Herman T. Schneebeli, Republican of Pennsylvania.

Fred Schwengel, Republican of Iowa.

Louis Stokes, Democrat of Ohio.

Robert Taft, Jr., Republican of Ohio.

Frank Thompson, Jr., Democrat of New Jersey.

Morris K. Udall, Democrat of Arizona.

Charles W. Whalen, Jr., Republican of Ohio.

Lester L. Wolff, Democrat of New York.

DRUG ABUSE

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

Mr. DORN. Mr. Speaker, the Drug Abuse Prevention and Control Act before the House today is a significant step in the fight against the national crisis of drug abuse. But more needs to be done, Mr. Speaker. I intend to introduce legislation that will double the criminal sanctions against the drug pusher and the profiteer who lead our young people into this 20th century form of involuntary servitude. The pusher and the profiteer now operate on the campus of elementary, junior high, or high schools. The pusher's filthy profits now fund the activities of the criminal underworld. All this must be stopped by effective legislation. Mr. Speaker, one of the outstanding features of the bill now before the House is the heavier sentence it provides for one who possesses dangerous drugs for the purpose of selling to others. The help-

less addict often merits our sympathy, Mr. Speaker, but the pusher and the profiteer deserve only our contempt.

VETO OF POLITICAL BROADCASTING BILL EMBARRASSES HOUSE REPUBLICANS

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

Mr. MACDONALD of Massachusetts. Mr. Speaker, the President's veto of the Political Broadcasting Act could best be described as an inexplicable, partisan political maneuver of the first magnitude. It also would seem to be a repudiation by the President of the leadership of his own party in the House of Representatives, who supported the bill down the line, and who now have been left high and dry by the President's action.

We all know that there has been an astonishing lack of coordination between the White House and the Congress. By this veto the President has struck down a measure seen as beneficial to the Nation by such Republican leaders as GERALD R. FORD, House minority leader, who supported the legislation both on the vote for final passage and on subsequent adoption of the House-Senate conference report, and the Republican whip, Congressman ARENDS, who also voted in favor of adoption of the conference report. Congressman ROGERS C. B. MORTON, the Republican National Committee chairman, voted for the passage of the bill. Also voting for the bill were Chairman JOHN ANDERSON, Vice Chairman WILLIAM CRAMER, and Secretary RICHARD POFF, of the House Republican Leadership Conference.

Other important House Republicans have also been abandoned by the White House action. The ranking minority member of the House Commerce Committee was vigorous in his support of the legislation during House debate. All the Republicans on the Communications Subcommittee, of which I am chairman, cosponsored the bill as they had helped write the bill. The bill was reported out of the subcommittee unanimously and out of the full committee with only one voting in the negative.

The President's apparent indifference to the wishes of his Republican leadership in the House raises difficult questions. Who provided the pressure on the President to veto the bill? What arguments could have prevailed to cause the President to hand such a rebuke to the hard-working and responsible Republicans in Congress who supported the measure?

In floor debate, the ranking Republican of the committee in answer to a question indicated he knew of no opposition to the bill except "the radio and TV stations and ownership thereof." But he correctly noted that the bill had struck a moderate position with regard to broadcasters; there have been many who urge that stations be required to give free time for campaign messages, he observed.

One speculation is that Mr. Nixon has vetoed the bill because it contained the repeal of section 315 of the so-called equal-time provision, which the networks have urged for a long time. The suspension of that section in 1960 made possible the great Kennedy-Nixon debates of 1960. As one who traveled with President Kennedy on the 1960 campaign, and personally saw the direct effect of the debates on the public all over the country, I could understand some reluctance on Mr. Nixon's part to engage in other debates. Ironically, the bill as passed does not require debates. But in the public interest it would make them possible, or at least provide for separate appearance of the major presidential candidates on free prime time donated by the networks. Incidentally, they support these debates willingly in the public interest. Should the titular leader of this country shy away from providing full television exposure of the candidates who control the very lives of the American public?

Other questions suggest themselves. I have read that the White House and many of the top-level advisers of the Nixon administration is staffed with a large number of ex-broadcasting and advertising industry members. Of course, how they stand on this bill is unknown. But after reading Joe McGinness' "The Selling of a President" one wonders.

It should be noted that the official administration spokesman at the Federal Communications Commission, Chairman Dean Burch, supported the basic goals of the bill in testimony before the Subcommittee on Communications. It is also obvious that Mr. Burch's credentials as a Republican political figure are impeccable. In his testimony he stressed "the importance of the need for legislation in the area of political broadcasting" along the lines of the bill before the subcommittee.

The preponderance of former advertising and broadcasting personnel around Mr. Nixon raises the possibility that concern for former and future employers outweighed the public interest in the President's inner councils. How else explain the decision in favor of higher broadcasting and advertising packaging profits against the position of practically the entire Republican leadership and their rank and file in the House of Representatives?

The number and fine caliber of the House Republicans who have been so left out on a limb argues forcibly that the House will override the President's veto. He has once again thrown down the gauntlet, not only to the majority, but to his own minority members. His congressional relations, which have not earned high marks with either party, must now sink to an all-time low. We have for a precedent that Hill-Burton veto, a veto of another public interest bill. I believe that to make a partisan measure out of a public interest bill is a grave mistake. This bill merely protects the public's right to know. It is a bill which would provide that the candidate be elected after a firsthand look at their merits—not an accounting of their financial assets. Government service should not be turned into a rich man's game.

The bill he vetoed was a bill for good government and against the special interests—those who would buy elections with runaway spending on saturation TV campaigns. With his veto, I believe, he has misjudged the legitimate concern of the American people and their elected representatives of both parties.

PRISON RIOTS AND THE NEED FOR PRISON REFORM

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

Mr. KOCH. Mr. Speaker, since I last spoke on this floor on August 12 concerning the need for prison reform, there have been more prison riots in the city of New York. They are no longer restricted to the Manhattan Detention Center for Men known as the Tombs, but have spread to other detention centers in the city including the Queens and Brooklyn houses of detention for men.

These detention centers house primarily men awaiting trial and who are by law presumed to be innocent unless and until their guilt is established after trial. Everyone, and that includes the Governor of the State of New York and the mayor of the city of New York and the respective corrections commissioners and all of those State senators and assemblymen who have investigated the prisoners grievances, agree that those grievances are justified. Those grievances relate to long periods of detention without bail or trial, overcrowded physical facilities where sometimes three men sleep in a cell built for one, and alleged physical brutality practiced upon some prisoners by some guards.

In the October 10 prison riot, one prisoner said and it bears repeating:

> We are not animals. We are human beings. We are trying to get attention to what is going on.

But no one has listened and as soon as the riot has been quelled the plight of these men is forgotten by those who are charged under the law with responsibility for providing justice for the individual as well as protection for society.

The most regrettable official act of all is the barring and restricting of the prison chaplains by both the city and State commissioners of correction from performing their duties in the prisons. State Commissioner of Corrections Paul D. McGinnis, restricted and has sought to intimidate Father William O'Brien, Catholic chaplain in the State Correctional Institution at Napanoch. Why, you may ask. Because that Catholic Chaplain saw it as his duty to come to a hearing which I conducted on prison reform in my district and testify to outrageous conditions in the Napanoch State facility. Father Lawrence Gibney, Catholic Chaplain in the Tombs, who sought to ameliorate the dangerous situation existing in the Tombs where the prisoners had taken hostages and sought to calm

and mediate the situation, has been removed and barred by Commissioner George F. McGrath from entering the Tombs. It is clear that what is taking place is that both State and city officials on the highest levels wish to quash and quell any independent voices crying out against injustice. Yes, injustice exists when men not convicted, and even where convicted, are treated in a barbarous way. The treatment given to these prisoners awaiting trial can have no defense. Indeed, Governor Rockefeller and Mayor Lindsay have criticized their own official practices and yet they permit those practices to continue.

Mr. Speaker, I have been informed that the only comparable case in which clergymen regularly ministering to prisoners have been barred is that which took place in Nazi Germany when Adolph Hitler barred chaplains from attending to and administering last rites to those prisoners who were charged with the conspiracy of seeking to assassinate him.

Prison reform is required and one way we may achieve it would be for this Congress to pass H.R. 16794 which would establish minimum standards for correctional institutions and provide Federal financial assistance to State and local prisons in meeting these standards.

CONGRESSMAN JOSEPH P. ADDABBO REPORTS ON 91ST CONGRESS

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 60 minutes.

Mr. ADDABBO. Mr. Speaker, as soon as possible at the end of each Congress, I summarize the activities of the Congress for the 2-year period, reprint it from the CONGRESSIONAL RECORD at my expense, and mail it to my constituents. This is my ninth such report and I am submitting it at this time because although Congress has not completed its legislative tasks for the year, I feel that my constituents have a right to review my record before November.

In addition to sending a summary of the year's activities, each Congress I send to my constituents a questionnaire on the issues expected to come before the Congress. From the answers received to those questions, from the mail received in my office, and from personal contacts in the district, I believe I learn the majority thinking of those I represent. This is helpful to me in deciding how to vote on various measures as well as in other duties connected with my representati n of the Seventh Congressional District. I try to reflect the will of my constituents and I believe that I have been successful to a large degree.

QUESTIONNAIRE RESULTS

This Congress I sent out approximately 190,000 questionnaires and received a return of approximately 15 percent which, by any standard, is considered quite good. I am very pleased to represent an active and informed constituency. Following are the questions asked and the answers received:

[Answers in percent]

Which of the following should be U.S. policy in Vietnam? (Please check only one answer):	
(a) Speed up the policy of "Vietnamization" to assure withdrawal of all U.S. troops by the end of 1970	28.7
(b) Continue present policy and present rate of withdrawal	46.2
(c) Increase military activities to force a negotiated settlement	18.6
Which of the following should be U.S. policy in the Middle East? (Please check one or more):	
(a) Continue efforts to reach a Big Four agreement on a proposed peace settlement	35.1
(b) Insist on direct negotiations between Israel and the Arab Nations	32.3
(c) Pursue a position of neutrality in any Middle East conflict	19.6
(d) Pledge economic and military aid to Israel but send no U.S. troops to the Middle East	41.8
(Please answer each question)	
Do you favor a Constitutional Amendment to lower the voting age to 18?	
Yes	63.4
No	28.2
Do you favor a volunteer army to replace the draft-lottery system?	
Yes	74.7
No	19.4
Do you favor wage and price controls to halt inflation?	
Yes	52.4
No	41.1
Would you support a $1 billion program to fight water pollution?	
Yes	49.2
No	21.7
Do you favor the proposed welfare reform, including a $1,600 minimum annual family assistance level?	
Yes	43.6
No	34.1
Do you favor Postal Corporation to take over Post Office operation?	
Yes	46.2
No	37.1
Do you believe military spending should be (Check one):	
Increased	3
Decreased	41.2
Remain the same	46.3
Do you believe expenditures for space exploration should be (Check one):	
Increased	12.6
Decreased	34.7
Remain the same	37.1

You will note that many of the percentages do not total 100—the missing percentages represent those who failed to answer and on which I have assumed they are undecided.

At the present time the Congress is in recess but will reconvene in November in a lameduck session. Pending final action on several important bills, I can report to you on some of the legislation passed this year which is of interest to the people of the Seventh Congressional District.

FOREIGN AFFAIRS

This past year Congress made clear its desire to play a more active role in determining foreign policy. Immediately following the Cambodia controversy, I joined with a large number of other Congressmen in sponsoring resolutions expressing the views of the House that Congress should be consulted before U.S. troops are sent into any other nation. While these resolutions did not pass the Congress, the feelings of a substantial number of Congressmen were effectively communicated to the President.

The crisis in the Middle East continues to dominate the news and remains the No. 1 threat to world peace. During the past year I have made several statements in the House and in communications to the President, expressing my concern over deteriorating relations between the United States and Israel. The vague and often delayed statements of the President with respect to Israel's request for economic and military assistance have, in my opinion, been unjustified. The United States should take a firm position in support of the state of Israel and pledge to provide Israel with Phantom jets and other aid necessary to assure the defense capabilities of that nation.

I was able to work for the inclusion of funds for this purpose when the House Appropriations Committee on which I serve drafted the 1971 defense appropriations bill.

As public concern over the Middle East crisis increases, it is imperative that we do not allow our troop commitments in South Vietnam to drag on unnecessarily. I will continue to speak out for acceleration of U.S. troop withdrawals from Vietnam and for more effective negotiating tactics at the Paris peace talks. The President's latest peace proposals were responsible and I hope this marks a new period of constructive diplomacy in Vietnam.

In order to make more facts available to the public concerning our commitments abroad and other factors on which our foreign policy is based, I sponsored legislation to create a Joint Congressional Committee on Classified Information. Such a committee could recommend ways to reduce the amount of classified information which is kept from the public even though its disclosure would not have an adverse impact on our security. I am convinced that the power to classify information has been abused and should be more closely controlled by the Congress.

DEFENSE SPENDING

The 91st Congress was determined to reduce nonessential defense spending and I was able to participate in the deliberations on this subject as a member of the House Appropriations Committee and its Defense Appropriation Subcommittee. During this Congress appropriations for defense were reduced well below $70 billion. The $5.2 billion cut in fiscal 1970 and the House cut of $6 billion in fiscal 1971 defense budgets were the largest since the Korean war.

I am convinced that these reductions were in our Nation's best interests and will not have an adverse impact on our defense posture. Among the items for which funds were cut or reduced were the anti-ballistic-missile program. New sites have been limited to missile sites only where there was overfunding and research and development funds.

The 91st Congress has served notice on the Department of Defense that the legislative branch plans to scrutinize future budget requests from the Pentagon more closely and where possible to cut or postpone expenditures until we are convinced of both the necessity and the feasibility of these programs.

THE ECONOMY

The most dangerous trend in 1970 was the steady increase in the Nation's unemployment figures at a time when inflation continues to hit every consumer. The most recent statistics released by the Government indicate that unemployment has reached 5.5 percent. On Long Island where a substantial part of the economy is dependent on defense and space contracts, the unemployment level has passed 6 percent.

The fiscal policies of the administration have failed to bring the shaky economy under control and new efforts are desperately needed to hold back a period of recession and spiraling inflation. I have supported congressional efforts to provide Federal funds for public employment at the local level; to create a National Commission on Economic Conversion to direct the Nation's conversion from a wartime to a peacetime economy and to protect workers who are caught in the conversion squeeze; to lower interest rates; and to provide new incentives for the construction of low- and middle-income housing—both apartments and private dwellings.

I will continue to press for legislative and administrative action to curb rising unemployment and stem inflation.

EDUCATION

In August 1970 the Congress voted to override a Presidential veto of the $4.4 billion Office of Education appropriation bill. I voted to override the veto and supported this legislation because I believe our Nation should assign a high priority to education. The appropriation measure was $453 million above the amount requested by the President, but failure to approve this amount would have placed the extra burden on the local taxpayer who must support the increased costs of elementary and secondary education.

HOUSING

A second Presidential veto was overridden by the Congress when we approved an $18 billion Housing and Urban Development appropriation bill—$541 million more than requested by the administration. Again on the basis of priorities I voted to override the veto and supported the appropriation. While Congress did increase some budget requests, it should be kept in mind that reductions were made in defense spending, as discussed above, in amounts large enough to make up for these increases.

The housing crisis in Queens and across the Nation, particularly in our urban areas, requires greater emphasis on new incentives. With interest rates at such high levels, the prospective purchaser of a home or an apartment has little choice. We must increase the availability of financing at reasonable terms.

DRUG ABUSE

The narcotics problem has become one of the most serious issues facing our society. The House has approved a Drug Abuse Prevention and Control Act—H.R. 18583—which will provide some Federal leadership and assistance in combating this drug crisis. I have supported efforts to increase criminal penalties for drug pushers. In addition, I have introduced legislation to cut off foreign economic and military aid to any nation which fails to cooperate with the United States in curbing the illegal importing of heroin and other narcotic drugs. We know where the heroin supply is coming from but to date we have not been able to curb its importation. Now is the time to take stronger steps to require the nations involved to help us stop the illegal heroin traffic.

CRIME CONTROL

The 91st Congress has assigned a high priority to crime control, authorizing more funds under the Safe Streets Act than requested by the President. The need for improved law enforcement techniques and better educated officers at the local level must be met quickly. Our judicial and prison systems have not kept pace with changing times. More manpower and more effective manpower to enforce and administer our laws is the most urgent requirement if we are to be successful in curbing crime. I have supported efforts to provide the funds necessary for this attack on the growing criminal activity in this Nation.

VOTING RIGHTS ACT

Public Law 91–285 extends for 5 years the landmark Voting Rights Act enacted in 1965. In addition the legislation lowers the voting age to 18 for all elections beginning January 1, 1971. I voted for this bill and believe that by broadening the base of eligible voters in this Nation we will also broaden the understanding of democracy and bridge the communication gap among our citizens.

HEALTH

A third Presidential veto was beaten back by Congress when it approved the legislation extending the Hill-Burton program for the construction of hospitals and other health facilities. I voted to override this veto because of the shortage of hospital beds in our country and particularly in our own communities in Queens. This legislation—Public Law 91–296—will enable localities to plan for needed construction projects to provide care to all our citizens.

I have also sponsored legislation to create a national health insurance program so that all Americans can have access to quality health care. Our health system needs a complete overhaul and modernization program so that health care costs can be controlled within a system which offers care to all who need it.

FOREIGN AID

Another area in which the House reduced spending was foreign aid. Early in 1970, the House passed a $2.5 billion foreign aid appropriation bill, nearly $900,000 less than requested by the President. The Senate has not yet acted on this legislation but a substantial reduction in spending in this area can be anticipated.

THE ENVIRONMENT

The House and Senate have passed a stricter air pollution control bill which requires automobiles to achieve a 90-percent reduction of present emission standards by 1975. The legislation also provides that all new factories must install and use the best technological pollution control devices available at the time of construction.

Congress also passed a Clean Water Act and has authorized new programs to control discharges from vessels and thermal pollution from atomic powerplants.

The Interior Department has proposed the establishment of the Gateway National Recreation Area to include about 20,000 acres of land and water at the entrance to New York Harbor, including Breezy Point and Jamaica Bay. I have supported this proposal and have introduced legislation to create this national park. My bill would also prohibit the use of any of this area for airport expansion—a provision which I inserted in the legislation after Interior Secretary Hickel refused to take a strong stand against the proposed extension of runways at Kennedy into Jamaica Bay. I have opposed such expansion because it would mean more noise, more pollution, more air traffic congestion and more destruction of the unique resources of Jamaica Bay.

AIRPORT NOISE AND POLLUTION

Throughout 1970, I have tried to prod the Department of Transportation and the Federal Aviation Administration to move more quickly and with greater determination in enforcing the 1968 Aircraft Noise Abatement Act which I cosponsored. As of this date I remain disappointed by the failure of the Federal Government to increase pressure on the airlines to spend additional money to reduce aircraft noise and pollution.

Various experiments with revised flight patterns at Kennedy Airport have provided no meaningful relief to residents of our airport communities and I believe relief will only come when the Government insists that the airlines purchase noise abatement equipment and quieter engines. I will continue to keep as much pressure on the FAA in order to achieve this goal.

I voted against the appropriation of funds for development of the supersonic transport because of the threat to the environment as well as the lack of economic justification for Federal financing of this project. The backlog of neglected domestic programs is too long to permit the luxury of continuing on the SST program and a growing number of experts and commissions have opposed the SST on these grounds. While the House has approved funding for the SST, I will continue to urge Federal officials to delay the use of these funds.

NEW BUDGET (OBLIGATIONAL) AUTHORITY IN THE APPROPRIATION BILLS, FISCAL YEAR 1971

[As to fiscal year 1971 amounts only]

Bill	Budget requests considered	Approved	Change, (+) or (−)
In the House:			
1. Legislative	$356,043,285	$346,649,230	−$9,394,055
2. Treasury-Post Office (net of estimated postal revenues appropriated)	3,044,755,000	2,971,702,000	−73,053,000
3. Education (veto overridden)	3,807,524,000	4,127,114,000	+319,590,000
4. Independent Offices-HUD (veto sustained)	17,216,823,500	17,390,212,300	+173,388,800
5. State-Justice-Commerce-Judiciary	3,243,905,000	3,106,956,500	−136,948,500
6. Interior	1,610,757,600	1,610,026,700	−730,900
7. Transportation	2,465,814,937	2,429,579,937	−36,235,000
8. District of Columbia (Federal funds)	109,088,000	108,938,000	−150,000
9. Foreign Assistance	2,876,539,000	2,220,961,000	−655,578,000
10. Agriculture	7,531,775,500	7,450,188,150	−81,587,350
11. Military Construction	2,134,800,000	1,997,037,000	−137,763,000
12. Public Works-AEC	5,263,433,000	5,236,808,000	−26,625,000
13. Labor-HEW	18,731,737,000	18,824,663,000	+92,926,000
14. Defense	68,745,666,000	66,806,561,000	−1,939,105,000
15. Supplemental	(380,844,000)		
Subtotal, House bills	137,138,661,822	134,627,396,817	−2,511,265,005
Deduct: Independent Offices-HUD bill (veto sustained)	17,216,823,500	17,390,212,300	+173,388,800
Net total, House bills	119,921,838,322	117,237,184,517	−2,684,653,805
In the Senate:			
1. Legislative	421,414,899	413,889,653	−7,525,246
2. Education	3,966,824,000	4,782,871,000	+816,047,000
3. Independent Offices-HUD	17,468,223,500	18,655,019,500	+1,186,796,000
4. Interior	1,839,974,600	1,835,337,500	−4,637,100
5. District of Columbia (Federal funds)	109,088,000	108,938,000	−150,000
6. Agriculture	7,748,354,500	8,475,935,100	+727,580,600
7. Public Works-AEC	5,263,433,000	5,258,695,000	−4,738,000
8. State-Justice-Commerce-Judiciary	3,251,200,000	3,122,080,500	−129,119,500
9. Treasury-Post Office (net of estimated postal revenues appropriated)	$3,046,693,000	$3,018,079,000	−$28,614,000
10. Military construction	2,134,800,000	[1] 2,057,871,000	[1] −76,929,000
11. Labor-HEW	(18,759,377,000) [1]	(19,070,964,078) [1]	[1] (+311,587,078)
Subtotal, bills cleared Senate	45,250,005,499	47,728,716,253	+2,478,710,754
Deduct: Independent Offices-HUD bill (veto sustained by House)	17,468,223,500	18,655,019,500	+1,186,796,000
Net total, bills cleared Senate	27,781,781,999	29,073,696,753	+1,291,914,754
Enacted:			
1. Education (veto overridden by House)	3,966,824,000	4,420,145,000	+453,321,000
2. Interior	1,839,974,600	1,835,474,700	−4,499,900
3. District of Columbia (Federal funds)	109,088,000	108,938,000	−150,000
4. Independent Offices-HUD (veto sustained)	17,468,223,500	18,009,525,300	+541,301,800
5. Legislative	421,414,899	413,054,220	−8,360,679
6. Treasury-Post Office (net of estimated postal revenues appropriated)	3,046,693,000	3,004,711,000	−41,982,000
7. Public Works-AEC	5,263,433,000	5,238,715,000	−24,916,000
8. State-Justice-Commerce-Judiciary	3,251,200,000	3,108,074,500	−143,125,500
Subtotal, bills cleared Congress	35,366,850,999	36,138,439,720	+771,588,721
Deduct: Independent Offices-HUD (veto sustained)	17,468,223,500	18,009,525,300	+541,301,800
Net total, bills enacted (7 bills)	17,898,627,499	18,128,914,420	+230,286,921

[1] As reported.

Source: Prepared Oct. 12, 1970, in the House Committee on Appropriations.

MY WASHINGTON AND NEW YORK OFFICES

One of my most important duties as your Representative is to assist the people of the Seventh Congressional District with their individual problems involving the Federal Government. I try to be available at all times to constituents who wish to speak with me and as time permits, I attend meetings and other functions of various civic, fraternal, veterans, and religious organizations in the district.

For the convenience of my constituents, I maintain a full-time district office and my office in Washington is always ready to assist you. Please write or call me at room 2440, Rayburn House Office Building, Washington, D.C. 20515 or at 96–11 101st Avenue, Ozone Park, N.Y. 11416.

CALL FOR ACTION BY CONGRESS TO REVIEW PHILADELPHIA URBAN RENEWAL POLICY

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BYRNE) is recognized for 30 minutes.

Mr. BYRNE of Pennsylvania. Mr. Speaker, in August of 1966, I called to your attention my concern about the direction which our city planners were taking on a matter of vital importance to the people of Philadelphia and particularly to the residents of my district. I then pointed out that an area in my district, the Franklin Square-Northern Liberties area, had been designated for exclusively industrial renewal, in flagrant disregard of its cultural heritage, of the interests of the people who reside in the area, and of the hopes of so many other families who could make their home in the area, if only the designation were removed. I then pointed out that the designation makes no sense, even if Philadelphia needs industry as much as it needs housing. I pointed out that the Franklin Square-Northern Liberties area is not an area where extensive industrial development can be expected to occur. In this regard my views have been fully confirmed. No significant industrial development has occurred in this area since 1966. Instead, the residents and the many cultural and religious institutions that grace the area have been exposed to the ravages of another 4 years of waiting until the planners' false dream can materialize.

I bring this matter to your attention again because it is part of a larger pattern I see developing in the renewal of our city, a pattern that would call on the modest people of the city to sacrifice their present hopes for better housing to an ever receding future. I would like to speak on this subject now. What I say here is especially applicable to the Kensington-Richmond, South Philadelphia, Ludlow, and other areas in my district.

In August of 1968, the Congress adopted a new approach to urban renewal—to be known as the neighborhood development program. The purpose of this program was to permit local public authorities to start on the improvement of neighborhoods immediately, without having to wait until all of the details of an entire project have been settled. Under the law as it stood before August of 1968, a local public authority could not begin any work on rehabilitation, spot clearance, and improvement of a neighborhood without first submitting many detailed plans and documents to the Department of Housing and Urban Development relating to the entire project and waiting until the entire project had been approved in every last detail. This was a process that took many years to complete. Meanwhile, a neighborhood that could have been improved and saved would be exposed to the ravages of speculation—properties would be purchased by speculators, drained of their income potential, abandoned, and vandalized. People in the project area would become discouraged, the prospects of improvement being so near and yet so far. That is why Congress authorized the new program—to let the local public authorities start the work immediately and proceed, in the words of the statute: "on the basis of annual increments" to the improvements of an entire neighborhood.

The testimony before Congress indicates, without exception, that the neighborhood development program was designed and intended to benefit neighborhoods, to benefit people who need housing. Indeed, its title bears witness to the purpose—a neighborhood to me means a place where people live as well as work and I doubt not that it means the same to you.

Why do I take this occasion to remind myself and you of the purpose which Congress had in mind when it authorized the neighborhood development program?

Because I find in the city of Philadelphia little sign that the program is being utilized in the direction which Congress intended. Philadelphia has converted all

of its urban renewal projects to the new neighborhood development approach. That program is entering its second year and the city has submitted its application to the Department of Housing and Urban Development describing what it proposes to do in this next year.

It is not difficult to pick the figures out of the mass of data submitted by the city and to distort their meaning. Yet, I am bound to note that out of a total of approximately $46 million requested for next year's program, the city proposes to spend $17 million on Market Street East—a vast shopping and commercial complex in center city. Many of our citizens ask whether this is an appropriate priority for our times. Could not the funds be better employed to improve the living conditions of our people?

As you know, urban renewal money is not available directly for the construction of new housing. Yet the land that is now lying fallow in the condemned areas in my district awaiting the unlikely arrival of industry could be made available for a mixed complex of housing and related commercial and industrial uses planned in accordance with the best concepts of land use and development so successfully employed by the larger developers in the suburbs—as a city within the city catering to a whole range of incomes and individual tastes but particularly to the modest citizen of Philadelphia whose interests have been forgotten. I believe that given the will and the energy of our financial community, and given support from the city and the Federal Government, such a concept for the condemned areas in my district could be translated from a dream to reality.

Instead, our city proposes to follow a pattern for the next year which is alarming. More than one-half of the land which is to be disposed of by the redevelopment authority in the next year will be devoted to commercial and institutional use. Only a small fraction of the remaining acreage will be made available for housing which the modest wage earner can afford.

I personally believe that a lot more could be done. What I find particularly disturbing is the fact that the redevelopment authority expects to displace another 2,831 families and 1,100 individuals by its various projects in the coming year. The redevelopment authority admits that it has a backlog of 7,000 families and individuals seeking relocation into decent housing. It now proposes to add another 3,931 families and individuals to this figure. I find this continued disregard for the human suffering produced by the urban renewal programs alarming. I find it particularly distasteful that these programs are being processed under the title "neighborhood development."

I note that Congress has before it a new housing measure, the Housing and Urban Development Act of 1970. While the current bill consolidates and simplifies the existing housing legislation and introduces some welcome flexibility to make the existing programs more effective, it does not propose any major changes in the approach thus far taken to urban renewal and housing. I believe that it is high time that Congress reviews some of its policies in this field.

SIXTH VIETNAM ROLL OF HONOR

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, President Nixon's announcement that 40,000 additional U.S. troops will be withdrawn between now and Christmas is the best Christmas tidings these men and their families could possibly receive, and certainly cause for rejoicing by all Americans.

According to the announcement this represents an acceleration in the withdrawal rate of 30,000 men.

A survey of my constituency during the spring and early summer of this year showed very clearly a very broad support for the President's withdrawal policy. Even more significant, it showed that those responding want no turning back from the withdrawal policy even if South Vietnam shows weakness in defending itself.

On my questionnaire, I posed this multiple-choice question:

President Nixon has described the Vietnamization program (withdrawal of troops) as "irreversible." If South Vietnam's government shows weakness as it assumes full responsibility for ground action, what should we do about our troops?

	Totals
Continue to withdraw them	8,397
Send more in	820
Halt further withdrawals indefinitely	3,571

Of the 12,788 participating in the survey, 65 percent definitely want no turning back from the policy of withdrawing troops.

Only 6 percent want the withdrawal policy reversed if South Vietnam shows weakness as it assumes full responsibility for ground action.

I cite this survey as evidence that the American people will support the troop withdrawal policy even if the going gets rough.

Up to this point, the withdrawal program has been extraordinarily smooth. It is a tribute to the skilled leadership in Vietnam of both American and ARVN forces, as well as to the overall policy direction by the President and his staff.

While all of us wish that the withdrawal of our troops could have been completed long ago, and note with deep regret that much of the task—perhaps the most trying and difficult period—remains ahead, we can properly note the progress achieved.

The list of American men killed by hostile action fortunately has been shortened very greatly in recent months. When I first started listing war dead in early 1969, deaths were averaging over 1,000 men each month. Presently, monthly casualties are less than half that number. Last week, the number of Americans killed was 38—the lowest number in the last 4 years of war. For that we can all be thankful.

Yet, each death is total to the family and friends involved. Each takes from our society a young man just approaching his prime of life and achievement. And surely each additional name on the Vietnam roll of honor must weigh very heavily upon our Commander in Chief.

With these remarks I insert an additional listing of the roll of honor. This brings to 43,426 the number of men killed in hostile action which I have listed in the CONGRESSIONAL RECORD on six different occasions. I do so as a means of personal tribute to these 2,875 young men who have made the supreme sacrifice for their country and its national purposes. Also, it explains why the President has seen fit to accelerate the pace of withdrawal. He realizes better than any of us that so long as our combat forces remain in Vietnam the roll of honor inevitably will lengthen.

The list follows:

DEATHS RESULTING FROM HOSTILE ACTION IN SOUTHEAST ASIA FROM JANUARY THROUGH JUNE 1970 NOT PREVIOUSLY RECORDED IN THE CONGRESSIONAL RECORD

ALABAMA

Army

Austin, Willie, Jr., Mount Vernon.
Barnes, Richard Louis, Five Points.
Bartlett, Donnie Stephen, Opelika.
Bass, Roy Lee, New Brockton.
Benoski, Joseph, Jr., Birmingham.
Bentford, Ananias, Leighton.
Carver, Jerry Dewayne, Tuscaloosa.
Connell, Oscar Allen, Montevallo.
Downs, James Larry, Toney.
Grayson, Ramon Lee, Dixons Mills.
Hawkins, Dannie Lee, Hanceville.
Hayes, Harry Ellis, Alexander City.
Hendon, John Lewis, Carbon Hill.
Herman, Lawrence John, III, Ozark.
Higginbotham, Richard Lee, Scottsboro.
Hill, Thomas Marvin, Jr., Tarrant.
Holland, Robert Joseph, Mobile.
Howard, Edward Emanuel, Tuskegee.
Isaac, Will, Jr., Coatopa.
Jones, Larry Neal, Oakman.
Lasseter, Kenneth Ray, Boaz.
Lee, James Franklin, Gallion.
McBride, Grady E., III, East Gadsden.
Miller, Green Edward, Jr., Enterprise.
Moiren, Richard Allen, Mobile.
Nelson, Leroy, Theodore.
Nisewonger, Edward Earl, Flomaton.
Roberson, Joseph Thomas, Columbia.
Russell, Charles Terry, Florence.
Sanders, Jessie Franklin, Hollytree.
Sanders, Rodney Rayford, Phenix City.
Schofield, Cecil Clayton, Andalusia.
Sims, Clint Joseph, Birmingham.
Smith, Gary, Jefferson County.
Smith, John Lee, Millbrook.
Smith, Thomas Timothy, Demopolis.
Stanley, James Mitchel, Gadsden.
Stanley, James Steven, Opp.
Stokes, Kenneth Larry, Stapleton.
Tolbert, Roderick Kenneth, Fairfield.
Walker, Willie Terry, Jr., Abbeville.
Watson, Johnny Mack, Mobile.
Weed, Moragn William, Decatur.
Wood, Larry David, Huntsville.

Air Force

Huggins, Bobby Gene, Troy.
Scott, Travis Henry, Jr., Montgomery.

Marine Corps

Jackson, Adam, Birmingham.
Kitchens, Frank M., Jr., Birmingham.
McAuley, Guy Thomas, Mobile.
McDonald, Joseph Wayne, Letohatchie.

Navy

Brewton, John Cooke, Mobile.
Edwards, Freedie Lee, Jr., Prichard.

ALASKA

Army

Cook, Clinton Arthur, Hydaburg.
Fewel, Timothy Floyd, Porterville.
Walters, William Francis, Anchorage.

ARIZONA

Army

Anderson, Gary John, Tucson.
Bennett, Wayne, Scottsdale.
Broadston, Scotty Ray, Lake Havasu City.
Calderon, Richard Torres, Silverbell.
Christman, Lawrence Paul, Phoenix.
Corpus, David Joseph, Glendale.
Davidson, Charles Allen, Tucson.
Davis, Donald Allen, Wickenburg.
Davis, Cary Lynn, Phoenix.
Davis, James Mark, Flagstaff.
Foote, Walter Bruce, Safford.
Garcia, Larry Robert, Eloy.
Gayne, Jeffrey Lee, Phoenix.
Hood, Terrance Lee, Yuma.
Hulse, Richard David, Flagstaff.
Kee, Wilson Begay, Chinle.
Melius, John Sterling, Phoenix.
O'Brien, Willard Donald, Tucson.
Olson, Erick Owen, Tucson.
Paulsen, Michael, Tucson.
Perry, Elmer Reid, Tucson.
Santa Cruz, Jose Angel, Glendale.
Serna, Herman, Buckeye.
Sharpe, William A., Jr., Tucson.
Solis, David Tobias, Winslow.
Tillou, John Frederick, Jr., Yuma.
Torres, Manuel Romero, Phoenix.
Vance, Kerry Laverne, Show Low.
Verno, John Arthur, Phoenix.
Wilbanks, Leslie Joe, Gila Bend.

Air Force

Jenkins, Paul Laverne, McGehee.
Miller, Michael Andrew, Tucson.
Warren, Tommy Ray, Tucson.

Marine Corps

Bludworth, Michael Vernon, Phoenix.
Garcia, Arthur Martinez, Jr., Mammoth.
Hawkins, Robert Lewis, Tucson.
Pena, John L., Tucson.
Romero, Michael Andrew, Sells.

Navy

Lopez, Robert Dias, Tolleson.

ARKANSAS

Army

Baggett, Charles Richard, Rison.
Branscum, Arlis Ray, Missouri.
Burnley, John Moore, Pine Bluff.
Crelia, Billy Duane, Huntington.
Crow, Kenneth Leland, Stonewall.
Dacus, William Floyd, Bono.
Dill, Garvin Wayne, Manila.
Epperson, Steven Bill, El Dorado.
Garner, Ernest Leroy, Wickes.
Goss, Danny Leon, Cove.
Harmon, Edewin Cleo, Corning.
Harris, Noel Austin, Jr., Strawberry.
Hebert, Syriac, Jr., Pine Bluff.
Hicks, James Ben, Strong.
Holman, Donald Woods, England.
Housley, James David, Van Buren.
Hughes, James Alvin, Little Rock.
Hunter, John Robert, Texarkana.
Ingrum, John Daniel, Springdale.
Keleher, Kevin Reynolds, Ft. Smith.
Lewis, Roy Robert, Farmington.
Long, Raymond Leon, Jr., Little Rock.
Melody, Edward Bruce, Fayetteville.
Moreau, Thomas Michael, Pine Bluff.
Parrish, Connie Wayne, Osceola.
Polk, Gary Don, Conway.
Ray, Michael Wayne, Cabot.
Tettleton, David Dewayne, Eureka Springs.
Whaler, Archie Leon, Siloam Springs.

Air Force

Bell, Marvin Earl, Blytheville.

Marine Corps

Childress, J. M., Lonoke.
Ford, Harold Joseph, Redfield.
Hardin, Phillip Ralph, Marion.
Ward, Garry Wallace, Monticello.

CALIFORNIA

Army

Aguilera, Daniel, Cutler.
Alegre, Daniel Albert, San Francisco.
Allen, Jerry Joe, Los Angeles.
Anella, James David, Spring Valley.
Armstrong, Donald Glenn, Ukiah.
Auston, Kenneth Joe, Santa Clara.
Aznoe, Kenneth Eugene, Sacramento.
Backman, Robert Eugene, Mountain View.
Baptista, Paul Alipio, San Leandro.
Barkley, Stephen Richard, Norwalk.
Beardsley, Jeffrey Thomas, San Jose.
Beaudette, Larry Michael, Ventura.
Bedsworth, Billie Michael, Palo Alto.
Beek, John Lawrence, Oakland.
Belon, Marc Bradley, Lompoc.
Bennett, Philip Mark, Sacramento.
Berg, Myron Waldo, Woodland Hills.
Blowers, Richard Lyle, Los Angeles.
Bonner, William Robert, Los Angeles.
Borges, Michael Edward, Fairfield.
Bowen, Thomas Ray, Forestville.
Brantley, Mark Curtis, El Monte.
Bratton, Freddy Lamar, Sepulveda.
Brown, Tanner Martin, Jr., Van Nuys.
Bush, Mark Joel, Anaheim.
Butcher, Gale W., Jr., Hayward.
Caldwall, Everette Brent, San Diego.
Capuano, George Anthony, San Diego.
Carrillo, Jimmy, Bakersfield.
Carson, Clarence Jasper, Jr., San Bernardino.
Charlesworth, Chad Allen, Ojai.
Chavez, Carlos, Jr., Oxnard.
Clayton, Tommy Makin, Los Angeles.
Cole, Wayne Michael, Covina.
Combs, James Miles, San Jose.
Connelly, Richard John, Long Beach.
Conner, Jack William, El Monte.
Coppernoll, David William, San Diego.
Corona, Frank Rodriguez, Reedley.
Cox, Richard Paul, Rialto.
Crowe, Carl Wayne, Granada Hills.
Culver, Robert Wayne, Eureka.
Cunningham, Joseph W., Jr., Oceanside.
Cusson, Thomas Lee, Essex.
Daniels, Harlan Eugene, Redding.
Daniels, Larry Phillip, Santa Ana.
Davis, Danny Craig, Rio Linda.
Davis, James Mike, Whittier.
Davis, Jeffery Lynn, Pleasanton.
Day, Douglas Wayne, Hacienda Heights.
Deeble, James Frederick, Nevaca City.
Delgado, Francisco Pena, Coachella.
Dervishian, Sarkis, Los Angeles.
Diorio, Mark Steven, Salinas.
Donahe, Warren Lee, Milpitas.
Dotson, Dennis William, El Centro.
Downing, John Frederick, Redwood City.
Duffy, Vincent Edward, Arcadia.
Eckenrode, Daniel Edney, Downey.
Farr, David Earl, Thousand Oaks.
Figueroa, Frank Nunez, Santa Ana.
Flores, Daniel, San Diego.
Folsom, Terence J., Rancho Cordova.
Fox, Thomas Joseph, Jr., Sacramento.
Frey, Dean Lee, Oceanside.
Frey, Jesse Clifford, Bell Flower.
Garcia-Garay, Juan, Downey.
Garza, Arnold Garza, McFarland.
Garza, John Angel, Porterville.
Gear, Gary Wayne, Fairfield.
Geiser, David Jerome, San Diego.
Gilbertson, Carl Louis, El Monte.
Giles, James, Los Angeles.
Gilmore, Peter Warren, San Diego.
Golsh, Stephen Arthur, La Crescenta.
Gomes, Michael Charles, Redding.
Gonzales, Jose Alberto, Norwalk.
Gray, Kenneth Mervin, San Francisco.
Green, Clifford Newton, Pittsburg.
Greenway, Roger Kenneth, Los Angeles.
Gribbin, James Michael, Navato.
Griffin, Gerald Lee, Jr., Covina.
Griffith, Mickey Eugene, San Gabriel.
Guerrero, Frank Robert, Los Angeles.
Gullari, Sammy Manuel, Los Angeles.
Guzman, Peter David, Los Angeles.
Haakinson, William H. III, Santa Cruz.
Harding, David Lee, Rohnert.
Harley, John Lewis, San Jose.
Haslet, Thomas Earl, Redondo Beach.
Hayes, Dennis Leo, Lakewood.
Heimark, Don Ray, Lomita.
Henderson, Garlin Jeris, Jr., Rialto.
Herndon, Robert Edward, Cudahy.
Herrera, Larry, Chino.
Hirokaia, Rocky Yukio, Gardena.
Hobbs, Gary Lee, Lemoore.
Hults, Phillip Frank, Stanton.
Hunter, Dennis Wayne, Santa Ana.
Jackson, Michael Charles, Simi.
Jenewein, Mark Ardell, Garden Grove.
Johnson, Daniel Cope, Garden Grove.
Jojola, Harry Daniel, Santa Clara.
Jones, Griffith Alfred, Marysville.
Joseph, Jeffrey Joel, Paicines.
Joy, Dennis Earl, Imperial.
Juarez, Jesse Gomez, Wasco.
Ketter, Terry Lee, Exeter.
Kimmel, Stanley Regan, Summit City.
Klinger, Henry Chester, Saugus.
Lamborn, Kenneth Howard, Auburn.
Le Bars, Steven, Hayward.
Lewter, Donald Eugene, La Puente.
Lockhorst, John Eldon, Jr., Lodi.
Long, John Wade, Jr., Salinas.
Lopez, John Edward, Jr., San Jose.
Loprino, Terry Steven, North Hollywood.
Lord, Neal Alexander, Jr., Whittier.
Lugo, Anthony Santana, Torrence.
Mariani, John Roy, Stockton.
Marquez, John, Fresno.
Marsh, Herbert Lynn, Lancaster.
Martinez, John Anthony, San Francisco.
Masseth, Robert Eugene, Norwalk.
McAndrew, Robert Charles, Tarzana.
McCarty, Kenneth Leon, Hanford.
McCauley, Stephen Arthur, Pomona.
McConnaghy, William P., Sepulveda.
McGuire, James William, Cucamonga.
Meehan, Dale Patrick, Santa Maria.
Meza, Jesus James, San Bernardino.
Miles, Mark Scott, Brea.
Miller, Cleve Davis, Altadena.
Miller, Richard Hershel, Lakewood.
Mincey, Robert Earle, Meadow Vista.
Mitton, William James, San Gabriel.
Montana, Jimmy Carlus, Lamont.
Monterrubio, Armando, Glendale.
Morford, Larry Howard, Carmichael.
Munoz, David, Sunnyvale.
Murphy, Michael Patrick, San Diego.
Nichols, Rande Lee, Hermosa Beach.
Norris, Weiland Clyde, Rolling Hills.
O'Connor, Robert Lee, Los Angeles.
Ogden, David Ellis, Paramount.
Orwig, Michael John, Whittier.
Palmer, David Leslie, North Highlands.
Partridge, Alan Brian, Los Angeles.
Patterson, George Francis, Pacificia.
Pearson, Robert Leon, Porterville.
Percomo, Kris Mitchell, Newport Beach.
Petersen, Lawrence Lee, Eldridge.
Petrie, James Allan, Carlsbad.
Pohlman, John Howard, North Edwards.
Poole, Thomas Lynn, Inglewood.
Prieto, Trinidad Gutierrez, Azusa.
Pullen, Melbin Lewis, Felton.
Pursell, Charles Alan, Fresno.
Ramey, Joe Don, Arroyo Grande.
Rasmusson, Michael Alfred, Antioch.
Ratcliff, Terry Ward, Oceanside.
Reid, David Stirling, San Pedro.
Reyes, Edward Thomas, San Leandro.
Richardson, Charles A., Atwater.
Rick, John Scott, Fullerton.
Rivera, Silvestre Martinez, Kerman.
Robinson, Gus Blakely, Hemet.
Rodgers, John Thomas, Los Angeles.
Rodriguez, Oscar Francisco, Los Angeles.
Rose, Paul Warren, La Mesa.
Salmon, Larry Anthony, Lakeside.
Sandlin, Steven Ray, Chowchilla.
Santa-Cruz, David Frank, San Jose.
Saunders, Nicholas Gabriel, Glendora.
Scott, Buster Leroy, Pacoima.
Sherman, John Calvin, Seaside.
Silbas, Rosendo Flores, San Jose.
Silva, Thomas Joseph, Napa.
Skeins, Rodrick Allan, Oakland.
Smith, Wayne Keith, Venice.
Snee, Francis Joseph, Jr., Torrance.

Souza, Raymond Joseph, San Leandro.
Steele, Steven Patrick, Lake View Terrace.
Stefanski, Steven Russell, San Diego.
Stelzer, Curtis Edwin, Lodi.
Stone, Harry James, Anaheim.
Street, Brent Anthony, Inglewood.
Stribling, Victor Bernard, Los Angeles.
Sullivan, Thomas Howard, Los Angeles.
Supnet, Emilio Cabrera, Jr., Stockton.
Swanson, Donald Lloyd, Millbrae.
Thomas, Kenneth Ben, Ontario.
Thomas, Richard Alan, Fresno.
Tovar, Atilano Uriegas, Wasco.
Tuff, Michael Stephen, Anaheim.
Van Horn, Charles Albert, Rialto.
Vaughan, Daniel Joseph, Lompoc.
Vrooman, Nicholas Whittier, Spring Valley.
Wall, Robert Albert, Jessup.
Ward, Dennis Charles, Baldwin Park.
Warf, Lawrence Robert, Visalia.
Watson, Leslie James, Los Angeles.
Watson, Thomas Edward, Los Angeles.
Weber, David Gerald, Chino.
Wedlow, Kenneth Edwin, Compton.
White, William Joseph, Jr., Orange.
Whiteman, Richard Lee, Pasadena.
Whitlow, Thomas James, Jr., Palos Verdes Penin.
Willey, John James, West Covina.
Williams, Brian John, San Bernardino.
Williams, Thomas John, North Hollywood.
Wimer, Floyd Daniel, Visalia.
Yamashita, Shojiro, Berkeley.
Yochum, Lawrence Wayne, Burney.
Young, John Edward, Santa Clara.
Young, Larry Clayton, Sunnyvale.
Zaragoza, Victor, Holtville.

Air Force

Cowell, Richard John, Lemoore.
Dean, Michael Frank, La Piente.
Jaeger, Julius Patrick, Fairfield.
Shinn, William Charles, Woodland.

Marine Corps

Annis, Charles Douglas, Bell.
Bell, Henry Daniel, Jr., Daly City.
Biemeret, Arthur Thomas, Maywood.
Brace, Bruce Wayne, Roseville.
Castle, Robert Edward, Santa Ana.
Chaney, Thomas Clifford, Greenfield.
Cortez, Albert Romero, Los Angeles.
De Roo, Lance Aaron, Colma.
Dickson, Thomas George, Norwalk.
Ferguson, Warren John, Jr., Fullerton.
Fleischmann, Dale Frank, Jr., Huntington Beach.
Frey, Daniel Alan, Altadena.
Gonzalez, David, Ventura.
Green, Charles Vernon, Santa Monica.
Herrin, Delmar Joyce, Jr., Santa Ana.
Hiatt, Barry Clinton, Fremont.
Hinton, Charles Coleman, Jr., Fremont.
Mildner, Robert Marc, Santa Ana.
Morales, Angelo Raymond, San Jose.
Murphy, Vincent Patrick, Jr., San Francisco.
Nyberg, Leonard Eric, Cucamonga.
Parsons, Henry Bennett III, Fairfield.
Pullam, James Lee, Oakland.
Quinn, Melvin Daryl, Merced.
Ragsdale, Gary Wayne, Kerman.
Rivera, Ernest Arballo, Jr., Los Angeles.
Smith, Donald Bruce, Bakersfield.
Thornburg, Vincent Robert, Los Angeles.
Thornley, Rex Edwin, Bell Gardens.
Valenzuela, Carlos, Selma.
Wade, Donald James, San Jose.
Ward, George Warren, San Diego.
Whitmore, Richard Allen, Hawthorne.
Whitson, Jimmy Alan, San Bernardino.
Young, William Gary, Woodland Hills.

Navy

Barton, Jere Alan, San Diego.
Cariveau, William Joseph, Santa Maria.
Copp, Thomas Elliott, Northridge.
Duessent, Charles Paul, Elmonte.
Giovannelli, Gary Lee, San Leandro.
Hobbs, Douglas Ernest, Bakersfield.
Mitchell, James Carroll, Jr., Torrance.
Wootten, Carl Dee, Ontario.

COLORADO

Army

Aguirre, Raymond, Gardner.
Barela, Bartolo Amador, Jr., Denver.
Benjamin, Jeffrey James, Keenesburg.
Bowell, Terrance Lee, Littleton.
Burton, James Edward, Jr., Colorado Springs.
Chavarria, John Marez, Lamar.
Chavez, Gregory Anton, Colorado Springs.
Davis, Dudley, Antonito.
Fitzhugh, Robert Paul, Collbran.
Geiger, Lawrence Raymond, Colorado Springs.
Gray, Gerald Dan, Commerce City.
Greene, Ellis Davis, Denver.
Hobson, Christopher Mark, Colorado Springs.
Ketels, Floyd Dale, Loveland.
Liddell, Robert Morgan, Mancos.
McConnell, William C., IV, Denver.
Miller, William Angus, Colorado Springs.
Munson, Allen Arthur, Commerce City.
Peery, Norman Douglas, Golden.
Racey, Bradford Greg, Denver.
Ruybal, Danny Gilbert, Avondale.
Shields, Russell Allen, Lamar.
Smilie, Blaine Patrick, Ft. Collins.
Snover, David Darrell, Pueblo.
Vigil, David Lorenzo, Granada.
Welch, David Russell, Grand Junction.

Air Force

Hackett, Charles K., Jr., Denver.

Marine Corps

Hawkins, Mickey Lee, Lyons.
McVey, Lavoy Don, Lamar.
Montano, Jose Clemente, Pueblo.
Pfeifer, Dennis Wayne, Littleton.

Navy

Doronzo, Paul Frank, Denver.

CONNECTICUT

Army

Bailey, Loring M., Jr., Stonington.
Burke, David Moy, Jr., New Canaan.
Ciesielski, Stanley M., New Britain.
Contino, Raymond Frank, Haddam.
De Carlo, James Anthony, Windsor.
Del Greco, Victor, Jr., Manchester.
Desillier, Richard Gill, Pawcatuck.
Dunning, William Martin, Bridgeport.
Gaidis, Alfred James, Bristol.
Hines, Jonny, Bridgeport.
Illingworth, John James, New Haven.
Lavoie, Clarence, Rosaire, Hartford.
Pastore, James Joseph, Jr., Stamford.
Pendergast, Robert Lee, Norwich.
Reitwiesner, John Charles, New Fairfield.
Rines, Everett Edward, Manchester.
Rogers, David Alan, Waterford.
Tighe, Thomas Daniel, Milford.
Vagnone, Michael John, Stamford.

Marine Corps

Brooks, William Francis, Hadlyme.
Cooley, Robert Karl, New London.
Geer, Stephen James, Bolton.
Lilienthal, Mark Allen, Meriden.
Marks, John, East Hartford.
Pealer, Elias Benson, Jr., Newington.

DELAWARE

Army

Aikin, George Lee, Wilmington.
Bowman, Richard Alan, Newark.
Bunting, William Joseph, Frankford.
Dadisman, Michael Raymond, Newark.
Dempsey, Gary Lee, Yorklyn.
Gaworski, Francis Xavier, New Castle.
Murphy, William Joseph, New Castle.
Protack, Thomas John, Wilmington.
Webb, Earl Ray, Jr., Newark.
Wilson, Rodney Wayne, Georgetown.

Marine Corps

Di Pascuantonio, Michael, Wilmington.

Navy

Miller, Glenn Willard, Wilmington.

DISTRICT OF COLUMBIA

Army

Croom, Marion, Jr., Washington.
Gardner, Richard George, Washington.
Garnett, Leon, Jr., Washington.
Kolb, Ronald Victor, Washington.
Ruffin, Charles Nathaniel, Washington.
Square, Gregory, Washington.

Air Force

Smith, Robert Wilbur, Washington.

Marine Corps

Scott, Robert Eugene, Washington.

FLORIDA

Army

Beckwith, Walter Lee, Jr., Deerfield Beach.
Birdwell, George Alfred, De Land.
Brady, James Homer, Merritt Island.
Bright, Ralph North, Doctors Inlet.
Brown, Gary Wayne, Treasure Island.
Cobb, Roy William, Avon Park.
Connell, Charles Anthony, Mango.
Copas, Ardie Ray, Fort Pierce.
Cummings, James Edward, Pierson.
Dornellas, Richard Allison, Pensacola.
Fletcher, Donnith Howard, West Hollywood.
Floyd, Robert Gene, Fort Myers.
Fonseca-Vargas, Horacio A., Key West.
Forte, Frederick C., Jr., Fort Myers.
Gallion, David Andrew, Jacksonville.
Garcia, Miguel Ramos, Auburndale.
Gardner, James Dale, Daytona Beach.
Ginn, Michael Patrick, St. Petersburg.
Gorske, Robert Edward, Jacksonville.
Haile, Richard Gustave Jr., De Funiak Springs.
Heide, Henry Nicholas II, West Palm Beach.
Howell, James Laurence, Babson Park.
Jackson, Gerald Arthur, Jacksonville.
James, Paul Joseph, Miramar.
Landersheim, Larrie John, Jacksonville.
Lawrence, Billy Everett, Jacksonville.
Levins, Frederick Richard, Naples.
Lovell, Patrick Darren, Winter Haven.
Lutz, Joseph Patrick, Deerfield.
Maslinski, Dwight Andrew, West Palm Beach.
McCurley, Timothy Lewis, Hollywood.
McKinney, Ivory Lee, Pompano Beach.
Millender, Robert Clifford, Carrabelle.
Miller, Edward Martin, St. Petersburg.
Nails, Eddie Lee, Jr., Lakeland.
Newman, Ronald Ellis, Starke.
Olson, James Robert, Miami.
Partin, Daniel Ross, Christmas.
Pilk, Robert Harrison, Wewahitchka.
Pirkle, William Ithel, Hollywood.
Pritchard, Robert Bruce, Jacksonville.
Rabren, Larry Wayne, Valparaiso.
Rembert, Leslie Eugene, Gainesville.
Riley, Don Robert, Eau Gallie.
Rogers, Roy James, Jacksonville.
Ruiz, Pastor Francisco, Fort Pierce.
Russ, James Alvin, Panama City.
Sheldon, Kimball Hayes, Boca Raton.
Smith, Barney McCoy, Holly Hill.
Smith, William, Satellite Beach.
Speer, Richard Michael, Plant City.
Stafford, Ronald Wade, Lake Monroe.
Stephens, Willie Douglas, Marianna.
Stokes, James Michael, Hialeah.
Teal, Raymond Wilson, Haines City.
Vaughn, John Carl, Satellite Beach.
Wallace, Leroy, Jacksonville.
Welch, David, Oakland.
Whiddon, Tommy Leon, Elgin AFB.
White, John Arthur, Miami.
Wiggins, Aubrey Alan, Orlando.
Wiggins, Vernon Mikell, Ocala.
Williams, Robert Earl, West Hollywood.
Wolfe, Jack Lee, Jacksonville.
Wright, Henry Bertram, Hawthorne.

Air Force

Meacham, Richard W., Miami.
Suprenant, Charles E., Jr., Tampa.
Sutton, William Carl, Fort Walton Beach.

Marine Corps

Bowens, Frank, Miami.
Dominique, Gary Mark, West Palm Beach.

Hewitt, Charles Glen, Lake Park.
Kelley, Mahlon Lewis, Orlando.
Ladner, Jay Wesly, Juniper.
Leffler, Richard John, Miami.
Martin, Steve Lail, Ocala.
Nelson, Jan Houston, Clearwater.
Overton, Danny Wayne, Brooksville.
Walden, James Larry, Opa Locka.

Navy

Hagerich, William Clyde, Opa Locka.
Scott, Don Russell, Green Grove Spring.

GEORGIA

Army

Arnold, Philip Fred, Columbus.
Barber, Mannie Alfred, Lenox.
Barnes, Tommy Lee, La Grange.
Barrett, Donald, Dalton.
Barrett, John Harold, Ft. Valley.
Bell, John Darvin, Ludowici.
Bishop, Edgar Lee, Decatur.
Blanks, Thomas Lee, Riverdale.
Brinson, Hubert F., Statesboro.
Brock, Daniel Lee, Forest Park.
Byrd, William Larry, Rossville.
Chasin, Stephen C., Decatur.
Cline, William Louis, Decatur.
Cook, Charles, Columbus.
Croy, Willard Winston, Gainesville.
Dowd, Carter Wayne, Lilburn.
Duncan, Glenn Christie, Tucker.
Everest, Robert K. III, College Park.
Floyd, Alvin Winslow, Augusta.
Fowler, James Robert, Winder.
Fox, James Darryl, Springfield.
Francis, Oscar Thomas, Brunswick.
Gay, William Ellis, Jr., Atlanta.
Giles, Claude Vernor, Clayton.
Glenn, Michael Robert, Smyrna.
Godowns, Roy Willard, Louisville.
Graves, Larry, Carrollton.
Green, Harold Alfred, Dalton.
Harrison, Larry Thomas, Atlanta.
Herren, Everett Delroy, Albany.
Higdon, Leonard Thomas, Ft. Benning.
High, Theodore W. IV, Augusta.
Hooks, Wiley Dean, Metter.
Hughie, Warner Prater, Newnan.
Kimbrell, Gordon T., Jr., Athens.
King, Charles Ray, Millwood.
Lamb, Donald Carol, Jr., Savannah.
Lamb, Larry Nesbit, Gibson.
Lance, Samuel Stephen, Chickamauga.
Lee, Homer Virgil, Rockmart.
Mattox, John Richard, Stephens.
McCarley, Charles D., Jr., East Point.
McCranie, David Carroll, Conley.
McDowell, Gerald Lee, Fortson.
Miller, J. D., Montrose.
Morris, Raymond Murphy, Austell.
Olson, Carl Andrew, Martinez.
Parham, John Holt III, Atlanta.
Penman, John Richard, Columbus.
Phillips, Robert Littleton, Oxford.
Phillips, William Leroy, Toccoa.
Poole, Earl Leroy, Acworth.
Porter, Robert Lee, Gordon.
Rabb, Robert Ira, Darien.
Rice, Donald Jerome, Gay.
Roberts, Lonnie Barry, East Point.
Roland, James Curtiss, Atlanta.
Rowell, Roger James, Hoboken.
Scarborough, George Thomas, Augusta.
Shuler, Harold William, Murrayville.
Smith, John Raymond, Columbus.
Smith, Thomas Clinton, Jr., Ludowici.
Spillefs, George Thomas, Chula.
Sprewell, John Spurgeon, Carrollton.
Staley, Ronald Alex, Atlanta.
Stokes, Guy Lynn, Jr., Commerce.
Swain, Tommy Herman, Dahlonega.
Thornton, Lynwood Keeton, Damascus.
Walden, David, Columbus.
Wall, George Robert, Wrens.
Wallace, William Thomas, Jr., Forest Park.
Wehunt, Billy Dean, Cartersville.
Wood, Robert Abbott, Savannah.
Young, Bobby Arthur, Nelson.

Air Force

McLamb, Harry Lawrence, Ludowici.

Marine Corps

Allen, Larry Michael, Decatur.
Arthur, William Prescott, Fitzgerald.
Brant, Richard F., Jr., Savannah.
Calhoun, Roderick Wesley, Atlanta.
Clark, Arthur, Atlanta.
Davis, Eligah Lamar, Cecil.
Fraley, Charles Albert, Milledgeville.
Hester, Steven Lewis, Chamblee.
Sharpless, John Paul, Macon.
Thomas, William Henry, Jr., Senoi.
Walker, Willie B., Jr., Cordele.
Willis, Glenn Lee, Macon.

Navy

Estes, Nedward Clyde, Jr., Hiram.

HAWAII

Army

Ban, Herman Halemanu, Halaula.
Brighter, Jerry Kaopua, Kaneohe.
Hedemann, Wayne Howard, Kealakekua.
Kalili, Melvyn Hamana, Hauwla.
Serain, Calvin Ernesto, Cokala.

Air Force

Lee, Glenn Hung Nin, Honolulu.

IDAHO

Army

Emery, Louis Craig, Parma.
Garcia, Albaro Quezada, Nampa.
Mackay, Neile Cooper, Weiser.
Moulton, Lester Neal, Victor.
Piva, James Edward, Challis.
Williams, Bill Gene, Hailey.

Marine Corps

Jones, David Samuel, Fernwood.
Merrell, Steven Dee, Pocatello.
Smart, Fred Steven, Meridian.

ILLINOIS

Army

Aquino, Raymond John, Chicago.
Armstrong, Barry Lee, Freeport.
Babb, Richard Clark, Jr., Chicago.
Bahl, Richard Howard, Jr., Chicago.
Barcon, Bruce Harold, Quincy.
Barker, Bobby Lee, Harvey.
Bauer, Carl Timothy, Rock Island.
Bauer, Craig Arlen, Waukegan.
Bazel, Michael George, Chicago.
Berner, Edgar Davidson, Marshall.
Bierbaum, Lawrence Anthony, Springfield.
Boyer, Larry Dean, Carmi.
Boyev, Peter Kestutis, Chicago.
Burgoyne, James Joseph, Alton.
Byrd, Eatterson, Jr., Sycamore.
Carrington, Fred Emery, Plainfield.
Clark, Henry Patrick, Chicago.
Clinch, Joseph Russle, Chicago.
Collins, Vernel, Blue Island.
Cowan, Harold Eugene, Cahokia.
Crawford, Lawrence Joe, Joy.
Daugherty, Dennis Michael, Roselle.
Dawson, Michael Dale, Fairfield.
Di Santis, William Richard, Aurora.
Didier, John Paul, Jr., Rockford.
Dimarzio, Martin John, Rockford.
Dolik, Paul Edward, Palatine.
Ericson, Gary Wayne, Galesburg.
Fike, Roger Wesley, Cambridge.
Flannery, Brian Michael, Chicago.
Fogleman, George Edward, Quincy.
Foht, Stephen Craig, East Dubuque.
Foster, Steen Bruce, Waukegan.
Fozzard, Robert Lee, Murphysboro.
Franta, Michael John, Chicago.
Gaus, Bradley Kent, Quincy.
Gilman, Frederick Eugene, Warrensburg.
Goethe, Spencer Alan, Chicago.
Goselin, Robert Martin, Bourbonnais.
Granati, John Edward, Jr., McHenry.
Hall, Delbert Eugene, Oregon.
Hardimon, Ernest, Jr., East Chicago Hts.
Harms, Frederick W., Jr., Peoria.
Hartl, Joseph Michael, Chicago.
Henningsen, Reid Charles, Shiller Park.
Hensey, Lawrence Louis, Jr., Springfield.
Housman, Robert Charles, Bradley.
Huntley, Edward Glenn, Du Quoin.
Huska, Martin Sam, Chicago.
Isaacson, Milford Don, Stronghurst.
Johnson, Marlin James, Decatur.
Johnson, Michael Arthur, Moline.
Kabara, Dennis Floyd, Aurora.
Kaugars, John, Chicago.
Kefer, Charles Henry, Jr., Chicago.
Kieselburg, Gary Robert, Harvard.
Kimble, Lester Wilson, Beardstown.
Knecht, Paul Herbert, Springfield.
Kos, John Joseph, Rockdale.
Kovarik, Fred George, Downers Grove.
Krueger, David Russel, Freeport.
Kuhn, Robert William, Chicago.
Kuropas, Michael Vincent, Chicago.
Ladd, Larry Robert, Havana.
Lassiter, William O., III, Arcola.
Leach, William Edward, Chicago.
Lisowski, Andrew Zbigniew, Evanston.
Lohenry, Robert Raymond, Chicago.
Lopez, Leopoldo Ayala, Chicago.
Lukens, Donald Glen, Moline.
Luttrell, John Walter, Lake Zurich.
Madden, Thomas Andrew, II, Chicago.
Majowski, Donald Henry, Chicago.
Manstis, Anthony Wayne, Chicago.
Martinez, Peter John, Jr., Chicago.
Matthews, Kent Douglas, Clinton.
McKay, Gerald Eugene, Grayslake.
McKee, Donald Wayne, Pleasant Hill.
Meyer, Val Gregory, Brighton.
Miller, Dennis Carl, Peru.
Miller, Robert Henry, West Chicago.
Myles, Anton Caesar, Chicago.
Nitzsche, Leonard Arthur, Ellisgrove.
O'Brien, Edward Terry, Barrington Hills.
Olsen, Olaf Thomas, Melrose Park.
Olson, William James, Chicago.
Padilla, Thomas, Chicago.
Paquette, Richard Walter, Chicago.
Pedersin, Clark Russel, Steger.
Perry, Kenneth Merle, Chicago.
Peyton, William Allen, Shipman.
Puetz, Michael Duane, Tonica.
Ramsden, Randall Edward, La Salle.
Rayborn, Danny Keith, Mt. Carmel.
Redmond, Joseph Vern, Savanna.
Rimmer, James Edward, Oregon.
Sachaschik, James Harry, Dolton.
Santellano, Luis Adrian, Chicago.
Sapp, Jon Charles, Ottawa.
Schell, Terry Lee, Chicago.
Schmidt, Ronald Eugene, Forrest.
Schultz, Dennis Melvin, Elgin.
Seargent, Robert Lee, Chicago.
Shaw, Gordon Allen, Auburn.
Shipman, Robert Duane, Danville.
Shukas, James Chris, Chicago.
Simmons, Randall Robert, Chicago.
Sipka, Ronald Wayne, Chicago.
Smith, Curtis, Chicago.
Smith, Donald Woodrow, Rantoul.
Smith, Robert Michael, Peoria.
Snodgrass, Dallas Ray, Brussels.
Stone, Edward Wilson, Manito.
Strother, Chatwin Arnold, Lockport.
Tapp, Newton Lee, Granite City.
Taylor, Donald Claude, Chenoa.
Tennis, Thomas Roy, Chicago.
Thoele, Nicholas Eugene, Teutopolis.
Troye, Daniel Robert, Sterling.
Wainwright, Michael Albert, Princeton.
Walls, Kenneth Marion, Jr., Georgetown.
Watts, Russell David, Cottage Hills.
Webster, Robert Lewis, Moline.
Wilkerson, George Oliver, East St. Louis.
Wilkerson, Richard Lee, Chana.
Willett, Robert Lee, Springfield.
Williams, Raymond Lewis, Neoga.
Williams, Russell Lowell, Harrisburg.
Wilson, Robert Lee, Chicago.
Witek, Edward Joseph, Chicago.
Zach, Wayne Steve, Brookfield.

Air Force

Anderson, Gregory Lee, Wheaton.
Gaylord, Gordon Manson, Harvard.
Schaneberg, Leroy Clyde, Ashton.
Wolf, Durwyn Lee, Forest Park.

Marine Corps

Beeler, Russell Richard, Cairo.
Bonilla, Herminio Amelio, Chicago.
Brown, Clyde Alvin, Chicago.

Copley, Henry Eugene Jr., Flora.
Foster, Mark Anthony, Rock Island.
Hemmingson, Nels Ivar, Geneseo.
Lackey, Keith Bernell, Stoy.
Lozano, Joseph Alfred, Chicago.
Mathews, Charles Leon, Chicago.
Peek, Dennis Lee, Carlyle.
Perry, Kenneth Edward, Chicago.
Richardson, Ossie, Chicago.
Rogus, Andrew Joseph Jr., Chicago.
Sirousa, Michael Angelo, Chicago.
Skibbe, David William, Des Plaines.
Spohn, John Scott, Chicago.
Terrell, Eddie Gean, Chicago.

Navy

Baker, Edward Jeffrey, Rapid City.
Braico, Nicholas John, Chicago.
Golz, John Bryan, Rock Island.
Jackson, Glen Alan III, Lockport.
Rogers, Rodney Robert, Kewanee.

INDIANA

Army

Arnett, Mahlon Ronnie, Indianapolis.
Blaskovich, Steve, Jr., Highland.
Boehne, Stephen Bruce, Evansville.
Borgman, Norris Ray, Greenfield.
Bundy, Park Stephen, Bedford.
Carey, Ronald Duane, Romney.
Carter, Michael Stephen, Beech Grove.
Castillo, Phillip, Gary.
Chappey, John Michael, Hammond.
Cole, Robert Kenneth, Richmond.
Covey, Charles Allen, Vincennes.
Crabtree, Randall Lewis, Muncie.
Dayton, John Emery, Washington.
Debolt, Willard Clinton, Warsaw.
Devaney, Brian John, Indianapolis.
Dills, Ronald Eugene, Valparaiso.
Farley, Michael Lee, Tipton.
Garrity, William Kenneth, Indianapolis.
Gordon, Lawrence Lee, Noblesville.
Gowers, Thomas Anthony, DePauw.
Hartwell, Patrick Alan, Anderson.
Heater, Daniel Neil, Gas City.
Hinson, Reggie Westel, Logansport.
Hockett, David Allen, Richmond.
Howell, Hancil Evert, Jr., Farmland.
Hurt, Ronald Wayne, Owensville.
Jefferson, Gary Donald, Muncie.
Johnson, Jimmie Lee, Anderson.
Johnson, Thomas Wayne, East Gary.
Kays, David Coleman, Indianapolis.
Kelly, Michael Eugene, Rolling Prairie.
Kendall, Kenneth Bruce, Mooreland.
Lakins, James Earl, Henryville.
Lambdin, Marvin Douglas, Fort Wayne.
Leaser, Roger Ray, Eckerty.
Littlepage, Thomas Earl, Princeton.
Lochner, Keith Alan, Marion.
Lundgren, Lawrence Emil, La Porte.
Luttel, Kenneth Bernard, Greensburg.
Moore, Allan John, La Porte.
Mueller, Joseph Bernard, West Bend.
Neeley, Marvin Eugene, Indianapolis.
Nemeth, Joseph Steven, South Bend.
Nunn, Joseph Loran, Rochester.
Nye, Avery Merrill, III, South Whitley.
Osborn, Lynn Arthur, Fort Wayne.
Padgett, Jon Leslie, Markleville.
Powell, James Richard, Greensburg.
Renner, Steven Ray, Wheatland.
Retseck, John D., Jr., Michigan City.
Rice, John Michael, Indianapolis.
Rigney, Larry James, Greenwood.
Rippe, Larry Allan, Chesterton.
Schmidt, Danny Ray, Evansville.
Schwuciow, Gerald Lee, Hobart.
Shelton, Robert Wayne, Noblesville.
Smith, David William, Lafayette.
Stopher, Gale, Jr., Fort Wayne.
Swango, James Ray, Connersville.
Treesh, James M., Kendallville.
Vandivier, John Daniel, Indianapolis.
Vaught, William H. III, Indianapolis.
Weisheit, Lonnie Harold, Lynnville.
Wiseman, Richard Lee, Elkhart.
Young, Jeffrey Jerome, Indianapolis.

Air Force

Asbury, Benton Francis, New Albany.
Pyle, Jerry William, Spencer.

Marine Corps

Bundy, Glenn Edward, Indianapolis.
De La Garza, Emilio A., Jr., East Chicago.
Gilbrech, Russell Earl, Plainfield.
Johnson, Thomas Eugene, Lynn.
Kinser, Arthur William, Indianapolis.
Pell, Randall Lee, Wabash.
Riley, Dennis Harlen, Tell City.
Worrel, Thomas Duane, Roanoke.

Navy

Kaufman, Wayne Eldon, Peru.
McIntosh, Donald Ray, La Porte.

IOWA

Army

Adams, Glenn Arthur, Indianola.
Atkinson, Gerald Thomas, Dubuque.
Borneman, Dean Allen, Dumont.
Bruns, Verlyn Carl, Waverly.
Buddi, Thomas Louis, Sioux City.
Carson, Paul David, Leland.
Clayton, Cecil Roger, Fairbank.
Coons, Gregory Mac, Sioux City.
Cozad, William Morris, Muscatine.
Crouch, Albert B., Numa.
Davis, Robert Roy, Mason City.
Defenbaugh, Kenneth Leroy, Woodward.
Earlywine, Gary James, Mondamin.
Edwards, Steven Frank, De Soto.
Embree, Ronald Eugene, Thurman.
Farnham, Robert Dale, Algona.
Frasher, Gary Dean, Worthington.
Giberson, Jerry Guy, Donnellson.
Goll, David Robert, Garner.
Green, Timothy Lee, Fort Dodge.
Gunderson, David Craig, Mason City.
Haines, Dennis Allen, Sioux City.
Haney, Robert Bruce, Jr., Fairfield.
Heitmann, Kenneth Harry, Victor.
Heller, Michael Leo, Dunlap.
Henrich, Myllin Gerald, Akron.
Hindman, Tommy Ivan, Cedar Rapids.
Janish, David William, Cedar Rapids.
Johnson, Danny Wayne, Lehigh.
Johnson, James Dean, Letts.
Koerner, Rodney Lee, Le Mars.
Kosanke, Paul Jon, Eldora.
La Dage, Dennis Allen, Cedar Rapids.
Ledlie, Donald Ralph, Des Moines.
Lonsdale, John David, Stuart.
Marlin, Earl William, Jr., Koekik.
Mast, Randy Lee, Marshalltown.
McDonald, Robert Wilfred, Des Moines.
Okland, Vernon Leo, Lake Mills.
Podnar, Robert John, Reinbeck.
Porter, Thomas Alan, Waverly.
Quinlan, Frank Joseph, Jr., Davenport.
Reilly, John Michael, Fairfax.
Ristinen, Armand Ervin, Burlington.
Ritter, Dennis Lee, Ankeny.
Rogers, Craig Ray, Waterloo.
Roth, La Roy Frederich, Wall Lake.
Sagers, Ronald Ray, Maqucketa.
Sams, John Wilbur, Jr., Knoxville.
Searles, Jeffrey Paul, Lamoni.
Shannon, Robert Joseph, Clinton
Smith, Jack Rae, Clarion.
Smith, Robert Carl, Earlham.
Staton, Frank Lynn, Winthrop.
Steele, Robert Franklin, Selma.
Stinn, John Richard, Panama.
Stoltz, Steven Ray, Hampton.
Torrey, Steven Michael, Guttenberg.
Vergamini, Douglas Silvic, Council Bluffs.
Webb, Donald Ray, Des Moines.
Wutzke, Wayne Gary, Vinton.
Zimmerman, Gordon F., Sioux City.

Marine Corps

Carter, John E., Jr., Des Moines.
Gardner, Gerald Lee, Cedar Rapids.
Schrader, Franklin Daniel, Newton.
Wilson, Jeffrey Lynn, Waterloo.

Navy

Anderson, Wayne Richard, Bettendorf.
Pena, Jesse Joseph, Davenport.

KANSAS

Army

Anderson, Lannie Ray, Lincoln.
Barnett, Gary Joe, Mission.
Burgess, Lawrence Dean, Ottawa.
Calvin, Stanley Dean, El Dorado.
Canady, Troy Veral, Kansas City.
Craig, Edward Lee, Liberal.
Dilorenzo, Raymond John, Edna.
Embrey, Ralph Curtis II, Virgil.
Guillen, John David, Wichita.
Harbour, Dexter Duane, Ulysses.
Hassett, James Peter, Shawnee.
Haug, Ronald Lee, Wichita.
Nicks, Benjamin Arnold III, Shawnee.
O'Connor, Gerald Francis, Herington.
Oatney, Allen Eugene, Waterville.
Petersen, Danny John, Atchison.
Reynolds, William Lawrence, Winfield.
Schulz, Ronald Douglas, Hunter.
Shue, Russell Dale, Oswego.
Taylor, Walter Lee Jr., El Dorado.

Air Force

Mather, Alvin Eugene, Topeka.

Marine Corps

Badway, Victor Wolf Jr., Wichita.
Ruckle, Clinton Gean, Wichita.
Wilson, Billie Joe, Valley Center.

Navy

Case, Daniel Charles, Wichita.

KENTUCKY

Army

Ash Paul, English, Jr., Louisville.
Batterton, Troy Hillis, Pleasureville.
Brewer, William Jackson, Jr., Erlanger.
Burton, Harold Ray, Louisville.
Campbell, Ronald Edward, Richmond.
Collett, Robert Lee, Jr., Ages.
Creech, Phillip Gene, London.
Davis, Marcus Raymond, Evarts.
Dobson, Cecil Lee, Lexington.
Fuller, Floyd Edward, Jr., Lexington.
Furgerson, James Murphy, Evarts.
Hall, Chester Gene, Robinson.
Hawkins, William Edward, Madisonville.
Helton, Gleason Cay, Rockholds.
Hines, George McDonald, Somerset.
Horsman, Joseph Bernard, Louisville.
Kaufman, Thomas Jay, Lexington.
Kays, Jerry Allan, Sulphur.
Kidd, Rhea Marshall, Munfordville.
Lucas, Billy Ray, Maysville.
Marshall, Jimmie Ray, Louisville.
Mattingly, Osborne, Jr., California.
McIntosh, Estill R., Booneville.
Medley, Charles Michael, Springfield.
Miller, Leon Abner, Louisville.
Moon, Lowell Edwin, Anchorage.
Parker, Billy Ray, Owenton.
Phipps, Robert Earl, Hopkinsville.
Portwood, James, Jr., Lexington.
Powell, Bobby Wayne, Robards.
Roberts, Theodore Irwin, Valley Station.
Rutherford, Larry Scott, Horse Cave.
Rutherford, Melvin Neal, Nicholasville.
Sargent, Billy Ray, Williamsburg.
Schoborg, Gary Allen, Covington.
Sebastian, Billy Joe, Lancaster.
Smith, Carrell, Manchester.
Smith, Patrick Leroy, Louisville.
Stepp, William Howard, Inez.
Stevenson, Charles Royce, Louisville.
Stringer, Roy Lee, West Somerset.
Taulbee, Danny Joe, Lee City.
Terry, Ancel James, Watergap.
Thomas, Michael Francis, Louisville.
Trainer, Dorris Wayne, Hopkinsville.
Washington, Lawrence O., Henderson.
Wells, Gene Gordon, Pulaski.
Wells, Richard Arthur, West Van Lear.
Wells, Tinsley, Jack, Jr., London.
Williams, Billy Joe, Marion.
Woosley, Perry Lee, Louisville.

Marine Corps

Berning, Thomas Joseph, Newport.
Carroll, Douglas, Anneta.
Hopson, Roe, Jr., Milo.
Jones, Otis Robert, Donerail.
Walters, David Morgan, Sadieville.

Navy

Johns, Joseph Darryl, Louisville.

LOUISIANA

Army

Abbott, James Edward, Shreveport.
Baldini, Michael Louis, New Orleans.
Benaim, Gilbert Albert, New Orleans.
Benoit, Garland Dave, Lake Arthur.
Blanchard, Andrus James, Church Point.
Buford, Ralph Joseph, St. Martinville.
Cambas, Victor Byron, New Orleans.
Coleman, Joshua, Winnsboro.
Davis, Melvin Ernest, Saline.
Dillard, John Albert B., Jr., Lake Charles.
Flashner, Kenneth Michael, New Orleans.
Flint, Troy Lee, Dunn.
Foreman, Robert Jr., Lake Charles.
Halbert, Patrick Henry, Poydras.
Hampton, Ralph Lamar, Arcadia
Hester, Charles Richard, Shreveport.
Johnson, McArthur, Baton Rouge.
Knieper, Philip George Jr., Slidell.
Le Leaux, Michael James, Westwego.
Loncon, Larry Joseph, New Iberia.
Manning, Ronald, Calhoun.
Martin, Donald Lawrence, Jackson.
McMahan, Charles Darnell, Larose.
Onishea, Jesse James, Pelican.
Pellegrin, O'Neil J, Jr., Gretna.
Ragland, Mason Erwin, Harahan.
Richard, Byron Matthew, New Orleans.
Rogers, Robert Lee, Cut Off.
Roussell, Ralph S. Jr., Bogalusa.
Sanchez, Herman Paul, Belle Rose.
Santinac, Lawrence Harold, New Orleans.
Sistrunk, Donald Wayne, Eunice.
Smith, Winston John, Lake Charles.
Stutes, James Ronald, Lafayette.
Taylor, John Lewis, New Orleans.
White, Auldon Keith, Baton Rouge.
Wolfe, Thurman William, Robeline.
Young, Herman Deal, White Castle.

Air Force

Belcher, Robert Arthur, Baton Rouge.
Fehrenbach, Theron Carl, II, Lake Charles.
Follon, William Ellyn, Everly.

Marine Corps

Anderson, Von Steven, Tioga.
Bergeron, Roy Louis, New Roads.
Carter, Shelby M., Cry Prong.
Goldman, Sammy Wayne, Metairie.
La Coste, Thomas Emile, Morgan City.

Navy

Hughens, Frederick Edward, Shreveport.

MARYLAND

Army

Armentrout, Charles F., Baltimore.
Atchison, James Mitchell, Frederick.
Aud, Francis Matthew, Great Mills.
Barthelme, Albert Lewis Jr., Towson.
Bond, William Ross, Relay.
Brown, Michael Francis, Baltimore.
Burrier, Paul Thomas, Catonsville.
Capasso, John Alan, Rockville.
Cole, Rainer Louis, Gambrills.
Cunningham, Richard Savage, Spencerville.
Dastoli, Joseph Peter, Chillum.
Dixon, William Allen, Accident.
Doss, Luther James Jr., Glen Burnie.
Drake, Timothy Calvin, Riverdale.
Dunsmore, Frank Melvin Jr., Lanham.
Gardner, Robert Wayne, Wheaton.
Heard, James Benedict, Hollywood.
Hill, Jimmy Arnold, Bladensburg.
Humphrey, Richard David, East Riverdale.
Krantz, Franklin Joshua Jr., Frederick.
Lamm, Jonathan Lee, Mayo.
Las, Hermes Phillippe Luc, Annapolis.
Lorber, Donn Michael, Baltimore.
Muir, Thomas Wayne, Baltimore.
Noetzel, William Wesley, Lutherville.
O'Connell, Robert Gene, Camp Springs.
Parker, James Allen, Prince Frederick.
Pinkney, Harvey Tyrone, Lothian.
Pritt, Thomas Eugene, Aberdeen.
Pruitt, Francis John J., Baltimore.
Randolph, Michael James, Cumberland.
Ratliff, Everett Duel, Baltimore.
Roberts, John Wilson III, Baltimore.
Ronnebirg, Hugh Julius, Hagerstown.
Shaller, William Howard, Baltimore.
Sochurek, Ferdinand J. III, Baltimore.
Turowski, Joseph Marion Jr., Baltimore.
Umstot, Clarence Edward, Cumberland.
Walker, Linwood Alferonia, Baltimore.
Zumbrun, James Henry, Manchester.

Air Force

Kieffer, William Lewis Jr., Greenbelt.

Marine Corps

Blend, Clifford Craig Jr., Brandywine.
Dorsey, Gardener, Crownsville.
Dyer, Larry Eugene, Oxon Hill.
Green, Larry, Baltimore.
Jones, Kenneth Roland, Lansdowne.
Russell, Bernard, Baltimore.
Stamps, Oliver Clifton, Baltimore.
Yeager, Michael Joseph, Baltimore.

MAINE

Army

Buner, Brian Leroy, Albion.
Childs, Christopher J., III, Augusta.
Drew, Theodore Glenn, Freedom.
Gagnon, Percy Charles, Caribou.
Higgins, Kenneth Lee, Fort Fairfield.
Hurd, Colin Plummer, Lovell.
Lovley, Thomas Grant, Presque Isle.
Manchester, Gary Oral C., Farmington.
O'Reilley, Tarry Thomas, Plymouth.
Pelkey, Raymond Nelson, Presque Isle.
Pickles, Michael Richard, Sanford.
Savoy, Clayton Edward, Crono.
Smiley, Ronald Owen, Bethel.
Wills, Robert Emery, Hollis Center.

Air Force

Sanders, William Stephen, Winthrop.

Marine Corps

Fogg, David Bruce, Bangor.
Hutchinson, Allen Melvin, Auburn.

MASSACHUSETTS

Army

Aaron, Charles Edward, Forge Village.
Alamed, William Robert, Jr., Southwick.
Barry, George Francis, Jr., Dorchester.
Berry, Alan Wayne, Palmer.
Blake, Dale Adams, Holden.
Bond, Francis Arthur, Westminster.
Bouchard, Michael Philip, Fairview.
Bridgman, Cleaveland Floyd, South Dartmouth.
Chaves, John Clifford, Belmont.
Cook, Peter Allan, North Adams.
Daigle, James Charles, Hull.
Delmont, James Loves, Revere.
Dolan, James Edwin, Scituate.
Dowds, Robert Raoul, Chicopee.
Emery, Stephen Bradford, Winchester.
Favuzza, Louis Anthony, Somerville.
Fell, George Francis, Jr., North Quincy.
Frink, Paul Joseph, Billerica.
Hazard, James Joseph, Lynn.
Hodge, William John, Lowell.
Hussey, George Ellery, Swampscott.
Itri, Douglas John, South Boston.
Johnson, Alan Paul, Medford.
Keenan, John Scott, Lowell.
Keller, James Mason, Rockland.
Lane, Stephen Leslie, Gloucester.
Loughlin, Edmund Michael, Auburn.
Magrass, Joel Michael, West Roxbury.
Marcin, Paul John, Framingham.
Moran, Paul Robert, Stoneham.
Moreau, John Alfred, Roxbury.
Morrill, Dennis Leroy, Jamaica Plain.
Nolan, Peter Francis, Springfield.
O'Reilly, Francis Joseph, Hyde Park.
Peixoto, Gilbert Cora, Falls River.
Pennucci, Peter James, Lynn.
Rivest, Mark Henry, Springfield.
Rodrigues, Richard, Fall River.
Rohr, John Willard, New Bedford.
Sas, Theodore Francis, Springfield.
Schultz, George Clifton, Jr., Stoneham.
Spiers, Stephen Arthur, Lexington.
Steel, John Allen, Hopedale.
Wirth, Joseph William, Hanson.

Air Force

Shea, Harold Joseph, South Hadley Falls.

Marine Corps

Allen, Francis Monroe, Jr., Worcester.
Dufault, Paul, Fall River.
Guzzetti, Michael T., Jr., Cambridge.
Leonard, William, Marlborough.
Martin, Bruce Edward, Brockton.
Moore, Thomas Richard, Jr., Malden.
Ociorne, George Alfred, Lynn.
Rhodes, Robert David, Scituate.
St. Lawrence, Albert Alfred, Mansfield.

Navy

Tuller, Eric Lawrence, Buzzards Bay.

MICHIGAN

Army

Adams, Paul Vernon, Detroit.
Ade, Dwight I., Owosso.
Aeschliman, David Keith, Camden.
Airlie William Clark, Detroit.
Alfredson William Richard, Menominee.
Anders, John Royle, Flint.
Baker, Harry E., Jr., Plymouth.
Barber, Richard Joseph, Warren.
Barnes, James Alan, Detroit.
Barrus, David William, Charlotte.
Bebo, Wayne Richard, Menominee.
Beebe, Larry Dwayne, Cresco.
Bennett, Kenneth Devon, White Pigeon.
Blondin, Michael Anthony, Westland.
Bloomfield, Michael Lee, Flint.
Boeskool, Robert Ray, Holland.
Borrousch, Dean Walter, Hawks.
Bosowski, Michael Alan, Grand Rapids.
Bovan, Paul Clayton, Farwell.
Bowers, Danny Ward, Card.
Bowman, Paul Barkley, Newaygo.
Brda, Justin Paul, Detroit.
Brocks Everett Lewis, Detroit.
Brueck, Richard Allen, Berrien Springs.
Busse, Donald Gene, Pontiac.
Butler, Gerald Thomas, Kalamazoo.
Campbell, David Graham, Southfield.
Clark, William Howard, Jr., Parchment.
Colatruglio, Robert F., Warren.
Comis, Larry Melvin, Garden City.
Conklin, Michael Lee, Midland.
Cook, James John, Gladstone.
Copeland, Jerry Don, Detroit.
Craft, Harold Glen, Stockbridge.
Crull, Raymond H., Marshall.
Darling, John Edward, Jr., Fremont.
Davis, James Leonard, Dearborn.
DeBoer, Lawrence Neil, Grand Rapids.
Demorow, Alan George, Allen Park.
Dewey, Danny Lee, Tipton.
Dixon, Carl Dean, Niles.
Duszynski, Andrew Joseph, Munith.
Elliott Phillip Allen, Alpena.
Erickson, Joseph Frank, Central Lake.
Falk, David John, Warren.
Fern, John Charles, Detroit.
Ferrell, Billy, Ypsilanti.
Fillion, William Henry, Escanaba.
Giusta, Joseph Michael, Westland.
Goosen, Robert Henry, Muskegon.
Gross, Alan Harry, Warren.
Guinn, Robert George, Lincoln Park.
Hahn, Bruce Edward, Ossineke.
Haney, Bobby Gene, Ft. Wayne.
Harris, Philip Anthony, Detroit.
Hatfield, Michael James, Grayling.
Hayes, Neil Burgess, Jr., Grosse Pointe Farm.
Herrington, Richard Lee, Jr., St. Clair Shores.
Hill, Robert Hardy, Jr., Grand Rapids.
Hodge, Ronald Ellsworth, Pontiac.
Holston, Arvell Bernard, Inkster.
Howe, John Allan, Mt. Plesant.
Hunter, Michael Woodrow, Ann Arbor.
Jarrett, James, Flint.
Johnson, David Keith, Flint.
Kangas, Arthur Nelson, Detroit.
Kelly, John Williams S. G., Detroit.
Kimzey, John Albert, Melvindale.
Kitrilakis, John Andrew, Detroit.
Koning, Douglas Lee, Holland.
Kuzilla, Donald G., Detroit.
La Rocca, Vincent Michael, Petersburg.
Largent, John Alyn, Rochester.
Lindemann, James William, Bridgman.

Loisel, James Lee, Swartz Creek.
Maidens, Michael Robert, Detroit.
Maniere, Michael John, Roseville.
McCarthy, Brian Edward, Detroit.
McDaid, John Murl, Ithaca.
McPherson, Michael Lee, Roseville.
Mead, Lenus Edward, Flint.
Meehan, Michael Allen, Cafter.
Miller, Eugene Stuart, Warren.
Mills, Rodney Kenneth, Alma.
Molnar, Nicholas Michael, Flint.
Moore, Ernest Lawrence, Spring Lake.
Mussin, Robert James, Detroit.
Neeson, Bruce Robert, Kalamazoo.
Noon, Jack Alden, Lowell.
Parks, Alan Hugh, Bronson.
Patterson, Michael Richard, Dearborn.
Petela, Thomas Joseph, Warren.
Plumb, Charles Donald, Jr., Jackson.
Pollack, John Joseph, Battle Creek.
Pontius, Mark Durwood, Coral.
Potas, Alexander Frank, Detroit.
Preuss, Carl John, Detroit.
Rich, Jon William, Menominee.
Richmond, Robert Stanley, Marcellus
Rockey, Michael Craig, Muskegon.
Rowley, Donald Albert, Dearborn.
Russ, James Erwin, Grayling.
Selman, Charles George, Farmington.
Sharpe, Charles Dennis, Almont.
Sheeler, Gregory William, St. Clair Shores.
Sloat, Benny David, Ovid.
Spencer, Arlie Jr., Westland.
Steffler, Charles Ervin, Clio.
Stephens, Dennis Arthur, Pontiac.
Thomas, Melvin Ray, Ada.
Tomlinson, Gerald Douglas, Traverse City.
Topolinski, Dennis Michael, Mount Morris.
Utrialnen, Gary Albert, Warren.
Van Benkering, Ronald Dale, Kalamazoo.
Van De Walker, Richard L., Eau Claire.
Van Haitsma, Randall Craig, Ada.
Van Wieren, Jack Alan, Holland.
Weid, Richard George, Jr., Monroe.
West, Charles Robert, Detroit.
West, Jerald Dale, Bloomingdale.
Widmer, Richard James, Temperance.
William, Ronald Wayne, Hoxie.
Wilson, Thomas Edward, Mount Morris.
Wishon, Donald Ray, Berkley.
Wortman, Douglas Frederick, Linden.

Marine Corps

Angel, Tommie Ray, Dearborn.
Brown, Syres Mattson, Midland.
Carter, Terry Alfred, Marquette.
Collins, Sylvester, Detroit.
Creager, Ronald Lee, Grand Rapids.
Dorse, Robert Edward Jr., Waterford.
Genitti, Charles Thomas, Detroit.
Jesse, Clifford Earl, Saginaw.
Lacost, Regnold Joseph, Ironwood.
Markey, Christopher Hugh, Birmingham.
Murphy, Donald Joseph, Owosso.
Nixon, Len Everett, Wayne.
Nowak, John Thomas, Ferndale.
Rodriguez, Roman Duran, Flint.
Scott, Richard Lee, Jackson.
Walker, Frank Mark, Flushing.
Wilderspin, Dean Allyn, Flint.
Williams, Richard Warren, Detroit.
Zoodsma, Jack Allen, Grand Rapids.

Navy

Ackerman, Leonard Michael, Fraser.
Blandino, Howard, Warren.
Cuthbert, George Richard, Detroit.

MINNESOTA

Army

Anderson, Gordon Guy, Minneapolis.
Bernier, Roger Jerome, Plummer.
Besch, Robert Dean, Thief River Falls.
Biegert, Ronald Lee, Minneapolis.
Burgess, Richard Albert, Tower.
Burns, Robert Allen, Minneapolis.
Cawley, Patrick Francis, Prior Lake.
Christopherson, David Lyn, St. Cloud.
Clickner, Michael Duane, Wabasha.
Dehn, Arthur Andrew, Anoka.
Donahue, John Thomas, Minneapolis.
Fleming, Michael John, St. Paul.
Graham, Donald Terry, Minneapolis.
Green, Steven Lynn, Albert Lea.
Gunhus, Gordon Marlo, Kenyon.
Hall, Warren Stuart, New Brighton.
Hanson, Darrell Wayne, Detroit Lakes.
Hennen, Patrick Ernest, Watkins.
Holler, Roger Emil, Long Prairie.
Huberty, David Jerome, Minneapolis.
Jenniges, Ronald Arthur, Wanda.
Jenson, Michael Gregory, Fergus Falls.
Kaiser Frank Melvin, Madison.
Kalis, Gerald Leonard, Little Falls.
Kiger, Dennis Delmar, Minneapolis.
Klancke, Charles William, St. Paul.
Krebsbach, Ronald Alphonse, St. Paul.
Lally, Michael John, Red Wing.
Larson, Duane Clifford, Fridley.
Lorimer, William IV, St. Cloud.
Lundequam, David James, St. Paul.
Lundy, Gerald Vernon, Anoka.
Marthaler, Robert Frank, Sauk Centre.
Matheis, Richard Alan, Adams.
McInerny, Roger James, Jr., Richfield.
Neudahl, Michael Lloyd, St. Paul.
Notermann, Michael William, Victoria.
Olson, Gene John, Minneapolis.
Ordner, John Albert, Rush City.
Parsons, Gregory Allen, Ada.
Peterson, Duane A., Isanti.
Peterson, Marlin Trent, Williams.
Riles, Donald Eugene, Austin.
Ringhofer, Curtis Edward, Owatonna.
Ringoen, Marvin Lee, Glenville.
Russell, Jerry William, Bigelow.
Saba, Lester Paul, Minneapolis.
Schmitt, Phillip Nicholas, St. Cloud.
Seeman, Steven Carl, New Ulm.
Shanor, Gerald Delmar, Minneapolis.
Shortley, Douglas Lyle, Mound.
Shurr, Robert James, Ellsworth.
Sullivan, Timothy Emmett, New Ulm.
Thorson, Ernest Leroy, Minneapolis.
Widen, John George, Owatonna.
Wilson, Daniel Keith, Elkton.

Marine Corps

Benson, Martin Joseph, Wayzata.
Hartung, Charles Leonard, Cologne.

MISSISSIPPI

Army

Allen, Danny Ray, Gulfport.
Beckley, George Edward, Potts Camp.
Carlisle, Billy Pat, Pelahatchie.
Cofer, Everette Earl, Water Valley.
Crosby, Robert Barry, Greenville.
Donald, Harmon Odell, Jr., Meridian.
Douglas, Leslie Forrest, Jr., Verona.
Ellis, Sylvester, Columbus.
Fulmer, Ronnie Dale, Lakesville.
Grafton, James Calvin, Laurel.
Grantham, Ely, Jr., Magee.
Green, Robert Earl, Purvis.
Greene, Raymond Miller, Gulfport.
Greer, Harry Charles, Louisville.
Hand, Larry Edward, Saltillo.
Harlow, David Hugh, Amory.
Hayes, Willie James, Greenville.
Horst, Phillip Metz, Jackson.
Howard, Chester Theo, Jr., Winona.
Howell, William Eray, Lucedale.
Jennings, James Dale, Brandon.
Layton, Calvin Jerome, Greenville.
Lofton, Jerry Wayne, Natchez.
Magee, Boyd, Bogalusa.
Mauney, Gerald Clinton, Baldwyn.
McCarthy, Timothy Clay, Biloxi.
Melton, Charles Earl, Clarksdale.
Miller, Lawrence Scott, Biloxi.
Moore, Herman, Jr., Pickens.
Palmer, James Hester, Meridian.
Rawson, James Hilton, Daleville.
Roberson, Jimmy Darrell, Flora.
Ross, Harvey Turner, Jr., Clarksdale.
Shumpert, Charles McClame, New Albany.
Sistrunk, Creighton Wayne, Monticello.
Smith, Spencer, Charleston.
Smith, William Eugene, Gautier.
Swain, Milton Truman, Carthage.
Terry, Cornelius, West Point.
Walker, Winston Charles, Stovall.
Walters, Charles Allen, Moss.
Wells, John Elmore, Pascagoula.
Witt, Danny Keith, Pontotoc.
Wozencraft, Warren Lynn, Lucedale.
Wright, Charles Henry, Gulfport.

Air Force

Lehecka, John Arthur, Macon.
Wall, George Michael, Houston.

Marine Corps

Andrews, William Larry, McComb.
Brown, John Wayne, Bruce.
Cummings, Harold Van, Jr., Jackson.
Easley, David Roy, Brookhaven.
Smith, Dennis Gerald, Columbus.

MISSOURI

Army

Aspey, Darrell Wayne, Belton.
Baker, Gary Paul, Monroe City.
Ballay, James Vincent, Monett.
Bax, Bernard Herman, Dixon.
Bruton, Carl Leon, Seligman.
Buffington, Larry Daniel, St. Louis.
Bullerdick, Gary Allen, Arnold.
Caffery, Howard Eugene, St. Louis.
Carnett, Dennie Lynn, Kennett.
Cheshire, Gary Allen, St. Louis.
Claggett, John Allen, Union.
Clarkson, Jay Owen, Creve Coeur.
Coffman, Clyde Lee, Warrensburg.
Corp, Jerry Marsh, Tecumseh.
Crook, Cren Lee, Coniphan.
Cross, Thomas John, Bevier.
Davis, Clifford Morris, Jr., Raytown.
Davis, Michael De-Wayne, Independence.
Dicus, Richard Lee, Steelville.
Dougan, Charles Garvin, Graham.
Finke, Stephen Paul, St. Louis.
Franklin, Floyd Stanley, Braggadocio.
Gaither, Curtis, St. Louis.
Gray, Roy Virgil, Milan.
Harper, George Dale, St. Clair.
Harris, Harold Ray, Poplar Bluff.
Helsel, Rodney Glenn, St. Joseph.
Holmes, James Robert, Hannibal.
Keith, Richard Henry, St. Louis.
Kethe, Henry James, Lancaster.
King, David Michael, St. Louis.
Klein, James Morton, Creve Coeur.
Lollar, Thomas Arthur, Kansas City.
Mann, Nathan James, Warsaw.
Marco, Jerry Roy, Ferguson.
Mayberry, Michael Joseph, St. Louis.
McCluskey, John David, Bernie.
McFall, Robert Dale, Cape Girardeau.
McGuire, Michael Joseph, Chesterfield.
Moore, Charles Thomas, Memphis.
Petrechko, Edmund A., Jr., Richmond.
Pollard, Gerald Ray, Jr., Florissant.
Quick, Ralph Richard, Jr., Gerald.
Rathbun, Craig, Grandview.
Riden, Frank Lee, Kansas City.
Roberson, Samuel Louis, Bland.
Rutherford, Richard Eugene, Montgomery City.
Siegler, Bobby Truman, Gideon.
Smith, Kenneth Raymond, Pelbyville.
Spiers, Randolph, Maysville.
Stacey, Gary Ross, Ridgedale.
Starks, Warner, St. Louis.
Stemmons, Birch Udell, Columbia.
Templeton, Clarence Wayne, Sikeston.
Tharp, Earl Watson, Jr., Cape Girardeau.
Young, Dennis Lee, St. Louis.

Air Force

Chorlins, Richard David, University City.
Davenport, Robert Dean. Jefferson City.
Goeglein, John Winfred, Kirkwood.
Hults, Gary Dean, St. Louis.
Voris, Russel Earl, Jefferson City.

Marine Corps

Batts, Percill, St. Louis.
Campbell, William L., Jr., Kansas City.
Carrico, Chester Calvin, Jr., Joplin.
Garner, Gary Harold, Chillicothe.
Gudishwitz, Eugene Richard, Ferguson.
Hill, Alan, Jr., Sikeston.
Livingston, Leslie E., III, Eureka.
McCoy, Peter Joseph, Berkeley.
Pryor, Larry Roy, St. Louis.
Stoddard, Russell Merrill, Kansas City.
Waterfield, Richard F., Kansas City.

Navy

Brown, Howard Eugene, Jr., Lebanon.

MONTANA

Army

Bercier, Kenneth Sanford, Butte.
Cech, Leroy Charles, Harve.
Ehnes, Richard Lee, Great Falls.
Fasching, Leroy James, Wibaux.
Johnson, Calvin Lee, Fairview.
Kultgen, Alan Joseph, Cut Bank.
Milne, Ronald James, Terry.
Robertson, Raymond L., Jr., Butte.
Tanner, Ronald Russell, Missoula.
Volk, Barclay Leonard, Billings.

Marine Corps

Little, William Gregory, Kalispell.
Mattocks, George Eli, Miles City.
Taylor, William Eugene, Billings.

NEBRASKA

Army

Barnett, Carl Eugene, Grant.
Cozad, Jerry Lee, Lincoln.
Dangberg, Robert Lee, Winside.
Doolittle, John Hiliare, Omaha.
Dugan, Edward Michael, St. Paul.
Farrell, Timothy Charles, Omaha.
Fisher, Carl Nelson, Jr., Tilden.
Keller, Kenneth Lavern, Omaha.
Knippel, Larry Don, Lincoln.
Kotrous, Eudell Leo, Verdigre.
Matson, Willmer Arden, Loomis.
Meirose, David Allen, Bloomfield.
Nachtigall, David Joseph, Omaha.
Novak, Clarence Joseph, Dwight.
Ohm, Eric George, Ashland.
Orr, Merlin George, Lexington.
Pearson, Mickey Don, Wausa.
Spencer, Frank III, Omaha.
Strube, Steven Drew, Norfolk.
Taylor, Lester Keith, Jr., North Platte.
Thompson, Robert Charles, Lincoln.

Marine Corps

Carpenter, Donald Eugene, Scottsbluff.
Keith, Miguel, Omaha.
Robinson, Larry Warren, Randolph.

Navy

Warnick, Leonard Charles, Polk.

NEVADA

Army

Davis, Thomas Joseph, Las Vegas.
Draken, Otto James, Las Vegas.
Evans, Ray Francis, Reno.
Hammond, Frank Dale, Eureka.
Jackson, Lloyd Wilner, Austin.
Kirk, Robert Lee, Las Vegas.
Parker, Larry, Winnemucca.
Perkins, Stephen John, Overton.

Marine Corps

Hutchins, Dale Eugene, Minden.

NEW HAMPSHIRE

Army

Davis, Ronald Charles, New Boston.
Geister, Michael Lewis, Rye.
Howard, Ralph Arthur, Hillsboro.
La Fave, Russell Thomas, Manchester.
O'Neil, William Wayne, Chesterfield.
Paradis, Raymond Louis, Nashua.
Schunemann, James Edward, Manchester.

Marine Corps

Clough, Arthur Edward, Grantham.
Cummings, Ralph Ronald, Portsmouth.
O'Neill, Thomas Philip, Dover.
Vezeau, Thomas Joseph, Derry.

NEW JERSEY

Army

Abbatemarco, John Benjamin, Hackensack.
Battel, Anthony Brian, Oradell.
Bedrock, Alan, Fords.
Bezega, Michael Stephen, Rahway.
Borden, Timothy Zane, Trenton.
Brady, Edward Francis, III, Newark.
Branch, William Anderson, Belleville.
Brewster, Glenn Richard, Newark.
Colon-Santos, Rafael, Hamilton.
Delikat, Edward John, Jr., Bayonne.
Dell, Alena Richard M., Egg Harbor.
Diduryk, Myron, Somerville.
Ford, Richard Edward, Surf City.
Gasko, Robert John, Jr., Mays Landing.
Gatti, Dennis Joseph, Keyport.
Godfrey, Charles Fairchild, Toms River.
Gray, Robert Lee, Cologne.
Heck, Ronald David, Grenloch.
Henry, John Patrick, Paramus.
Keller, Francis Joseph, Bayonne.
Keller, Leonard, Bayonne.
Kirby, James Kent, Glen Ridge.
Klingaman, Bruce David, Elizabeth.
Knaus, John Richard, Newark.
Kozak, David Michael, Hackensack.
Lawlor, Patrick Eugene, Oakland.
Le Blanc, Fred Joseph, Bayonne.
Lebron, Luis Angel, Newark.
Marter, Ezra Budd, Burlington.
Martin, Dennis Phillip, Swedesboro.
McCarthy, John Joseph, Collingswood.
Meister, William Alfred, Morris.
Miller, Stanley Joseph, Jr., Elizabeth.
Moorhouse, William Curtis, Maple Shade.
Nash, David Robertson, Mountain Lakes.
Pippenbach, Joseph, Pleasantville.
Reddick, William Carl, Paterson.
Robinson, Mitchell, Newark.
Scatuorchio, Dominic, N., Jr., Spring Lake.
Sheppard, Robert Porter, Lebanon.
Stefko, William Charles, Bayonne.
Tetkoski, Leon Anthony, Roebling.
Vohringer, William Thomas, Vincentown.
Walker, Lawrence Percell, Newark.
Worthington, Robert Ward, Trenton.

Marine Corps

Comly, William Alvin, Collingswood.
Giegel, James Lloyd, Wycoff.
Hagelstein, James David, Glassboro.
Handerian, Paul Wayne, Fords.
Osenfeld, Otto John, Linden.
Torstello, Wayne Louis, Union.

NEW MEXICO

Army

Andler, Marion Bryan, Albuquerque.
Chaves, David Cruz, Las Cruces.
Cisneros, Charles Castulo, Cerro.
Defoor, Freddie Carvial, Tatum.
Demarco, Billy Joe, Las Cruces.
Foley, Charles Daniel, Hobbs.
Garcia, David Jose, Santa Fe.
Garcia, Isidro, Albuquerque.
Keffalos, Chris Albert, Bloomfield.
Lovato, Rudolph Daniel, Albuquerque.
Madrid, Frank Dodge, Puerto De Luna.
Nabours, Jimmie Floyd, Deming.
Platero, Raymond, Canoncito.
Romero, Timoteo Fred, Taos.
Salazar, Mel Ernest, Jr., Albuquerque.

Air Force

Keller, George Richard, Farmington.

NEW YORK

Army

Adams, George Hartwell, Binghamton.
Aldag, William Arthur, Tully.
Allison, Darrell Gene, Byron.
Antwine, Ronald Michael, New York.
Bailey, Kenneth Norman, Jr., Binghamton.
Berger, Robert Francis, Rock Tavern.
Bigelow, Lawrence Carroll, Lake View.
Bigelow, Ralph William, Celevan.
Blackmon, James Arthur, New York.
Blottenberger, Michael J., New York.
Bray, Bernard, New York.
Bridge, William David, New York.
Brown, Steven Merle, New York.
Burke, Thomas Charles, Bayport.
Burns, John James, Jr., Buffalo.
Cain, Robert Emmett, Levittown.
Caines, Frederick Alfred, New York.
Callaghan, Dennis Patrick, Hamburg.
Cameron, Darrell Alden, Marathon.
Caraballo, Hector Luis, New York.
Carvajal, Francisco Teroni, New York.
Cerio, Joseph Anthony, Cortland.
Chamberlain, Michael John, Waverly.
Chisolm, Ronald, Hollis.
Cole, Patrick Lerville, New York.
Conners, Lee Alexander, Kennedy.
Cooney, James, New York.
Coons, Robert Wayne, Johnstown.
Correa, Michael Steven, New York.
D'Angellico, Joseph M., Ft. Edward.
De Himer, Martin James, Rome.
Dee, Kenneth Samuel, New York.
DiGregorio, Joseph, Niagara Falls.
Dockery, Roosevelt George, Buffalo.
Dodge, Jeffrey Bruns, Yonkers.
Drum, Thomas, Johnson City.
Duffner, William Frank, Cohoes.
Durant, Richard Henry, Vernon.
Eisert, Harold Bernard, Jr., Lawrence.
Elliott, Richard, Elmira.
Forte, Richard Michael, East Northport.
Franklin, Keith Koy, Salamanca.
Garcia, Benjamin, New York.
Gardelis, Nicholas Lewis, New York.
Gary, Cye, New York.
Giardina, Stefano, Buffalo.
Gibbons, John Michael, Sayville.
Graver, Raymond Charles, Jr., Wantagh.
Grifasi, James Anthony, Tonawanda.
Grouf, Jack Steven, East Northport.
Hannigan, William Francis, New York.
Heinz, Dennis Ralph, Springville.
Heitner, Dennis Edward, Syracuse.
Hogenboom, Dennis Norman, Schoharie.
Hopson, Frederick Wayne, Islip.
Hovey, Vernon Fletcher, III, Schenectady.
Ingleston, Staret John, Martville.
Inslee, Raymond Stephen, Levittown.
Jackowski, Dennis Eugene, Inwood.
Janoska, John Jay, Jr., Plainview.
Jennings, John Michael, Utica.
Johnson, Alan Howard, South Ozone Park.
Jones, John Monroe, Jr., Selden.
Kastencieck, William Peter, Lindenhurst.
Keogh, Martin Jerome, Mamaroneck.
Kernan, Michael Robert, Pearl River.
Kester, Richard Lee, Angola.
Knight, Bryan Theotis, Buffalo.
Komarowski, Peter Mark, Barker.
Ladouceur, Lanny Guy, Rensselaer.
Lagodzinski, Roger Thomas, Buffalo.
Lasher, Ernest Reginald, Jr., Germantown.
Lassen, David Henry, Clarence.
Less, Reuben Anthony, New York.
Lowe, Thomas Michael, Rodman.
Luther, Robert Benjamin, Grand Island.
Lyons, John Joseph, Yonkers.
MacNeil, Douglas Gerald, Queens Village.
Magruder, David Byron, Utica.
Maley, Charles Thomas, Glendale.
McCagg, Carlton F., Jr., Chatham.
McDonald, Harold J., New York.
Moden, Richard Sheldon, Bliss.
Montagie, William Joseph, Valley.
Moore, Charles Edward, Jr., Rensselaer.
Mullens, Robert Joseph, Jr., New York.
Murray, Robert Charles, Tuckahoe.
Nelson, Dennis Wayne, Flushing.
Olivo, Rafael, New York.
Olsen, George Thomas, New York.
Orlandi, Joseph Elisio, Jr., New York.
Ouellette, Lewis Charles, Albany.
Palladino, Thomas Arthur, East Patchogue.
Patterson, Richard Alan, Levittown.
Perez-Rivera, Milton, New York.
Perry, Frank Michael, Jr., Patchogue.
Pickens, Johnnie, Jr., New York.
Porter, William Roy, Oneida.
Postiglione, Joseph John, Utica.
Pulaski, Peter, Jr., Howard Beach.
Quinones, Jose Luis, New York.
Rappaport, Harold Kenneth, New York.
Rarrick, John Edward, Beaver Dams.
Ringholm, John Azel, Middletown.
Rizzo, John Michael, Jr., Oceanside.
Robbins, Arnold Lee, Salamanca.
Robinson, John, Jamaica.
Roche, Matthew Peter, Jr., New York.
Russ, Paul Edward, Niagra Falls.
Salter, James William, Westbury.
Sanceverino, Gary Anthony, New York.
Schmidt, Richard Carl, Johnson City.
Shaffer, John Andrew, Syracuse.
Slayton Charles Dewann, Huntington.
Snyder, Roy Harrison, Fabius.
Solis, Felix, New York.
Spear, Michael Sheldon, Niagara Falls.

Spence, Alex, Jr., Tonawanda.
Spisto, Justin Richard, Patchogue.
Stemper, Philip Jon, Lockport.
Stieve, William John, Leonardsville.
Susi, Andrew Paul, Saint Johnsville.
Swartz William Joseph, Seaford.
Tarbell, Clifford Lawrence, Bombay.
Tatarski, Leslie Miles, Buffalo.
Taylor, Eric Wyckoff, New York.
Thomas, Nathaniel, Elmira.
Tinney, Donald Warren, Jr., New York.
Underdown, George Michael, Medina.
Ward, Richard Henry, Philadelphia.
Washington, Robert, New York.
Watson, James Thomas, New York.
Westphal, James Francis, North Merrick.
Wheeler, James Christopher, Oneonta.
Wiesneifski, Peter Robert, New York.
Wilenski, Stanley, Jr., Hicksville.
Wilkinson, James Joseph, Jr., New York.
Wrobel, Robert Joseph, Syracuse.
Wynne, Thomas Edward, Bay Shore.
Yontz, Stephen Leo, Horseheads.
Zimpfer, Fred Charles, Buffalo.

Air Force

Justice, William Paul, Niagra Falls.
Lesser, Leonard Charles, Floral Park.
Reese, Gomer David, III, Scarsdale.

Marine Corps

Barry, Craig Nicholas, Yorktown Heights.
Beattie, Erick Walter, New York.
Brown Edward Frederick, Jr., Plattsburgh.
Brown, William Anthony, Hudson.
Burns, Rocky August, Rochester.
Carlin, James Cook, Binghamton.
Devlin, Joseph William, Merrick.
Fitzgerald, Robert Michael, Yonkers.
Grace, Dennis Frederick, Niagara Falls.
Harrison, Robert Alan, Delevan.
Hoyt, Lawrence William, Cato.
Jacobs, Christopher, New York.
Koch, Kenneth Edwin, Macedon.
Lewis, Eric Oakley, Buffalo.
Mandraccia, Paul Scott, Holley.
Mangual, Jose Manuel, New York.
McClurg, James Walter, New York.
Muntz, Giraud Domenico, Haverstraw.
Oddo, Anthony Phillip, Commack.
Ortiz, Eugenio, New York.
Partington, William Jay, Marlboro.
Richards, Daniel Paul, Syracuse.
Rozell, Edward Arnold, West Seneca.
Soto, Ismael, New York.
Surette, William Warren, Jr., Endicott.
Wakulich, Gregory Paul, Smithtown.

Navy

Day, Oscar Alfred, Hermon.
Jacarueo, Frank, Spring Valley.

NORTH CAROLINA

Army

Barnes, William Edward, Rocky Mount.
Bethea, Charles Duncan, Fayetteville.
Boney, Allen Lewis, Warsaw.
Brown, Clarence F., Jr., Seagrove.
Bryson, Terry Adam, Greensboro.
Bulla, Robert Franklin, Jr., Asheboro.
Cahoon, Morgan Lane, Fairfield.
Carter, Eugene, Warrenton.
Cearnel, Harry Lee, Creedmoor.
Colglazier, Donald Robert, Havelock.
Cranford, Charles Rya, King.
Dawson, Robert Clark, Garner.
De Vaney, James Price, Goldsboro.
Debrew, James Edward, Whitakers.
Duncan, Joseph Willie, Millers Creek.
Eatmon, Eddie Ray, Micro.
Eaton, Gary Clifton, Belew Creek.
Fesperman, Harold Philip, Albemarle.
Ford, Jackie Lewis, High Point.
Foster, Larry Austin, Gastonia.
Franklin, Garry Lynn, Greensboro.
Franks, Warren Gamaliel, Jr., Pollocksville.
Gammons, Harlan Kenneth, Jr., Mt. Airy.
Garrett, Robert Junior, Grifton.
Gee, Eugene Paul, Oxford.
Godwin, Kenneth Ray, Chadbourn.
Graves, William Ralph, Jr., Murphy.
Green, Phillip William, Jr., Tryon.
Grieme, Richard Joseph, Raleigh.
Griffin, Thomas Dwain, Mayodan.
Haithcox, Richard Allen, Statesville.
Henderson, Robert Lee, Spring Lake.
Herring, Pedro, Cofield.
Jackson, Edward, Jr., Durham.
Jackson, Paul Nash, St. Pauls.
Jones, Bobby Eugene, Tarboro.
Kelly, George Thomas, III, High Point.
Leonard, Ronald Fred, Lexington.
Locklear, Foster, Shannon.
Lyne, Michael William, Fayetteville.
Martin, Ray Thomas, Winston-Salem.
McEachern, Leo, St. Pauls.
Melton, Wesley Eugene, Black Mountain.
Menscer, William David, Statesville.
Miller, Jeff, Todd.
Morrison, Sammy Ray, Grover.
O'Ham, Rocky Pearson, Kinston.
Pickard, Harry Davis, Greensboro.
Plattenburger, Sidney E., Charlotte.
Reagan, Dickie Walter, Lumberton.
Robinson, Ronald Eugene, Mooresville.
Rufty, Joe Hearne, Salisbury.
Scarboro, Thomas Allen, Asheville.
Sigmon, William Spencer, Jr., Lincolnton.
Smith, William Henry, Jr., Charlotte.
Soldato, Shane Nunzio, Fayetteville.
Stepp, Paul Robert, Jr., Flat Rock.
Stone, Larry Evans, East Laurinburg.
Stout, Mitchell William, Sanford.
Tannenbaum, Donald Charles, Fayetteville.
Waddell, William Thomas, Rockingham.
Willard, Charles R., Jr., Charlotte.
Williamson, William N., Wendell.
Wilson, Richard Herbert, Marble.
Womble, David Lee, Bear Creek.
Wray, Van Thomas, Stoneville.

Marine Corps

Bowers, James Richard, Jr., Lenoir.
Lineberry, Jerry Eugene, Wadesboro.
Lowder, Ricky Norman, China Grove.
Morse Ansel Wendell, Charlotte.
Propst, Richard Hugh, China Grove.
Rhea, Scotty Henry, Granite Falls.
Yarboro, Donald Ray, Laurinburg.

NORTH DAKOTA

Army

Berger, Carl Stephen, Jr., Mandan.
Crary, Joseph William, Fargo.
Emineth, Norman Anthony, Baldwin.
Hardmeyer, Lowell George, Mott.
Johnson, David Francis, West Fargo.
Larson, David Allen, Belcourt.
Lundin, John Charles, Sentinel Butte.
Wold, Bruce Lloyd, Minot.

OHIO

Army

Baner, Donald Allen, Harrison.
Ball, Dwight Herbert, Sardis.
Bartek Donald Eugene, Vienna.
Bartley, Walter Charles, Jr., Akron.
Beasley, Roy Claude, Bellevue.
Bobanich, Joseph A., Jr., Westerville.
Braggs, Roosevelt Junior, Painesville.
Brassfield, Andrew Thomas, Sylvania.
Brockmeier, Thomas Michael, Marietta.
Brown, Gary Lee, Warren.
Butcher, David Austin, Marion.
Chambers, Donald Edward, Kimbolton.
Chambliss, Jimmy Lee, Springfield.
Charlesworth, James W., Jr., Girard
Chase, Michael Lyn, Cleves.
Clark, James Roger, Wadsworth.
Cline, Ronald Greer, Columbus.
Coffman, Roger Leroy, Columbus.
Coplin, Scott Rondal, Marietta.
Corlett, Gerald Ernest, Oregon.
Dasen, Gerald Randal, III, Toledo.
Denkins, Fred Jr., Cincinnati.
Devers, David Ronald, Sr., Paulding.
Dice, Robert Floyd, Akron.
Ealy Carl, Cleveland.
Eicheler, Gary Ernest, Seville.
Endress, William James, Geneva.
Fisher, Darreld Edward, Fremont.
Fleck, Gary Lee, Niles.
Flores, Ramon, Jr., Cleveland.
Fosnaugh, Carey Allen, Willshire.
Foutz, Kenneth Lee, Dennison.
Freeman, Jeffrey Alexander, Lakewood.
Gibson, James Val, Columbus.
Greavu, Billy Joel, Canton.
Gronsky, Dale Andre, Wakeman.
Hainley, William Robert, Sandusky.
Hall, Donald Dale, Urbana.
Hamilton, Ronald Joaquine, Cleveland.
Hammack, Orla Daniel, Columbus.
Hann, Charles Edward, Northfield.
Hay, Gerald Wayne, Cincinnati.
Heintz, Ned Richard, De Graff.
Hill, Robert Allen, Lowell.
Hurley, Jerry Lee, New Concord.
Janeda, Steven Michael, New Matamoras.
Keaton, Everett Dennis, Waverly.
Kesterson, David Michael, Port Clinton.
Kettering, Robert Paul, Canton.
Kitchen, Orville Eugene, Jr., Dayton.
Klug, Herbert Wheeler, Dayton.
Knapp, Richard Charles, Warren.
Koon, Charles Marion, Piqua.
Kos, John James, Canfield.
Kotora, John Lewis, Vermilion.
Kriegel, Paul Henry, Cleveland.
Layfield, Donald Edward, Leavittsburg.
Lees, Paul Eric, Cuyahoga Falls.
Lovett, Glenn Alan, West Liberty.
Lowe Robert Ernest, Ostrander.
Mabee, Douglas Craiglow, Mansfield.
Mader, Richard Michael, Cleveland.
Malcolm, William Edward, Jr., Toledo.
Marheka, Duane Joseph, Kensington.
Martin, Alan David, Maple Heights.
Maynard, Gregory John, South Point.
Maze, David Lee, Pataskala.
McCord, Harold Raymond Jr., New Lexington.
McDonald, Thomas Michael, Brewster.
McKiddy, Gary Lee, Miamsburg.
McMahan, Daniel Jackson, Cleveland.
Merriman, Thomas Bruce, Paulding.
Morris, Gary William, Lancaster.
Neaves, Clayton Willard, Dayton.
Oen, Michael Lynn, Wapakoneta.
Parker, Lester Eugene, Urbana.
Parsons, Ronald Neal, Wapakoneta.
Peacock, Thomas Edward F., McArthur.
Petty, Roy Andrew Jr., Akron.
Phipps, Roy Lester, Zanesville.
Proctor, Daniel Vaughn, Cleveland.
Purdon, Gerald Wayne, Cincinnati.
Reed, Ralph Eugene, Lexington.
Reising, Dale, Dayton.
Roberts, Wallace, Piketon.
Rogers, Kenneth Faulkner, Cincinnati.
Rohler, Sidney Earl, Wadsworth.
Root, Clyde Dean, Canton.
Schalk, Thomas Michael Sr., Cincinnati.
Semple, William Eugene, Winchester.
Skala, David Francis, Canton.
Smith, James Delvin, Circleville.
Smith, Phillip Joe, Toledo.
Smith, Stephen Jay, Convoy.
Snelson, John William, Cleveland.
Snider, Marvin Dale, Tiltonsville.
Snyder, Gary Foster, Toledo.
Sombati, Robert Stephen, Akron.
Staats, Gerald Martin, Dayton.
Still, Richard Louis, Mt. Vernon.
Stoppelwerth, David Henry, West Chester.
Sweet, David Arthur, Dayton.
Taylor, Gary Lynn, Cincinnati.
Taylor, Henry Luscious, Dayton.
Theis, Lawrence William, New Riegel.
Tonti, Mark Edward, Columbus.
Triplett, Ralph Morgan, Portland.
Tucker, Barry Glenn, Pioneer.
Urbassik, Robert John, Cleveland.
Ussery Michael Monroe, Brook Park.
Valentine, Frank Michael, Litchfield.
Van Hock, Randolph Martin, Dayton.
Vardy, Alex Victor, Cleveland.
Vaspory, William Louis, Dayton.
Vinciguerra, James Vincent, Akron.
Vore, Kenneth Stephen, Casstown.
Walker, Martin Jr. Masury.
Ware, Francis Louis III, Youngstown.
Waulk, James Harold Jr., Washington Court H.
Weaver, Barry Kent, Solon.
Whatley, Charles, Cleveland.
Whitcher, Clayton Donald, Cuyahoga Falls.
Wilcox, Rick Alan, Marion.

Williams, Dale Edward, Attica.
Wilson, John Stephenson, Bedford Heights.
Winder, David Francis, Mansfield.
Wood, William Lee, Newark.
Wood, William Wayne, Alliance.
Young, Ronald Eugene, Fremon.
Ziegenfelder, Frederick P., St. Marys.
Zonar, Frank Charles Jr., Cleveland.

Air Force

Cross, James Emory, Warren.
Dilley, Dana Allen, Duncan Falls.
Drake, Carl Wilson, Roseville.
Enderle, Clyde Wilson, Port Clinton.

Marine Corps

Burke, James Edward, Middletown.
Cravens, Thomas Lloyd, Cincinnati.
Dawson, Frank William, Cleveland.
Francis, Carris Michael, Elyria.
Hargreaves, John James, Brook Park.
Highland, Forest G., Jr., Massillon.
Hughes, Lewis Eugene, II, Bellefontaine.
Justice, Edward James, Cincinnati.
Lundell, Jackie Linn, Norwalk.
Mattingly, John Eugene, Dresden.
Moorhead, Michael Eugene, North Baltimore.
Morgan, Ronald Curtis, Cleveland.
Neal, Robert Eugene, Marion.
Turner, William Brent, Cedarville.
Underwood, Thomas Wayne, Zanesville.
Varansky, James Nelson, Magnolia.
Whitmer, Kenneth Eugene, Somerset.
Williamson, Larry Gail, Columbus.
Wilson, Roy Lee, Lyons.

Navy

Baumer, James Charles, Huron.

OKLAHOMA

Army

Antle, Michael Louis, Tulsa.
Avera, John Adams, Tulsa.
Ballew, Chester Lloyd, Thomas.
Baxter, Terry Don, Tulsa.
Bogle, Dennis Dean, Oklahoma City.
Byrns, Gerald Winston, Jr., Duncan.
Caldwell, Larry Eugene, Bristow.
Campbell, Jimmy Lee, Wagoner.
Casey, Michael Dale, Sallisaw.
Coleman, Robert Lewis, Oklahoma City.
Cox, Lewis Earl, Ponca City.
Davis, John Louis, Tulsa.
Fry, Nash, Oklahoma City.
Garrett, Allen Matthew, Edmond.
Gilmore, William F., Jr., Wagoner.
Henderson, Robert Knapp, Jr., Oklahoma City.
Henshaw, Larry Roy, Sapulpa.
Hope, Michael Clint, Oklahoma City.
Ishmael, Johnnie Leroy, Laverne.
Johnson, Dennis Van, Ada.
Johnson, Ronnie Lloyd, Meeker.
Kipp, Raymond Sidney, Oklahoma City.
Lauinger, Joseph Mark, Tulsa.
Lawrence, Clyde Wesley, Jr., Oklahoma City.
Leopard, Jack David, Tulsa.
Linam, Maxie Dean, Tulsa.
Mason, George Arden, Ringwood.
McIntire, Don Ray, Bennington.
McMillan, James M., Jr., Vinita.
Morgan, Larry Gene, Norman.
Moyers, Murl Alvin, Pauls Valley.
Phillips, Randall Scott, Sand Springs.
Pulliam, Edgar Russell, Jr., Broken Arrow.
Pulse, Doyle Gean, Stigler.
Ragsdale, Donald Ray O., Dewey.
Sanders, Jimmy Doyle, Del City.
Sloat, Donald Paul, Coweta.
Stedman, Lee Allen, Lawton.
Steward, Steve Lee, Oklahoma City.
Stizza, John Bonat, McAlester.
Sumter, Forrest Darryl, Oklahoma City.
Tyner, James Anthony, Pawhuska.
Wade, Boyd Lee, Ringling.
White, Allen Thomas, Choctaw.
Williams, Mark Everett, Oklahoma City.
Wright, Robert Carrol, Elk City.

Air Force

Hudgens, Edward Monroe, Tulsa.

Marine Corps

Blackfox, Robert Lee, Talequah.
Briseno, Johnny Charles, Waynoka.
Brown, Larry Lee, Sand Springs.
Burnes, Robert Wayne, Edmond.
Yancey, Craig Martin, Tulsa.

OREGON

Army

Anderson, Dale Arthur, Portland.
Arneson, Keith Sam, Portland.
Britton, Gary William, Newport.
Brown, Timothy John, Myrtle Point.
Dafler, Dean Blain, Portland.
Davis, William Wesley, Brookings.
Foutz, Michael George, Roseburg.
Frost, Robert Dean, Duncan.
Fulton, Johnny Lee, Medford.
Gassner, Larry Michael, Blodgett.
Gray, Carlton Coe, Eugene.
Jensen, William Norman Jr., Grants Pass.
Judy, David Leroy, Bend.
Kolb, Calvin William, Hubbard.
Le Clerc, Perry Andre, Central Point.
Mambretti, Daniel Irvin, Milwaukie.
Mathes, Edward Arthur, Roseburg.
Meade, David Ernest, Portland.
Moreland, Terry Lee, Portland.
Muth, James Ray, Coos Bay.
Popp, David Fred, Milwaukie.
Rava, Henry Tony, Mount Angel.
Schneider, Dennis Patrick, Mehama.
Schrock, Vernon Earl, Corvallis.
Sherry, Thomas, Beaverton.
Smith, Philip Edwin Jr., Waldport.
Sutton, Lawrence Edwin, Portland.
Thompson, Robert Noel, Mt. Vernon.
Trussell, Larry Hugh, Forest Grove.
Ulm, Douglas Raymond, Lebanon.
Williams, Steven James, Portland.
Wilson, Brian Lyle, Amity.
Wiseman, Lane Wayne, Roseburg.
Wood, Darrell George, Jr., Corvallis.

Marine Corps

Ellefson, David John, North Bend.
Temple, Kirk Irwin, Portland.

PENNSYLVANIA

Army

Addis, Francis Ray, Connellsville.
Alnasy, Robert, Corapolis.
Anderson, James Gerald, Schuylkill Haven.
Antonelli, Joseph Paul, Bobtown.
Bartholomew, William H., Jr. Catasauqua.
Basehore, Harold Edward, Jr., Cornwall.
Bischoff, Edward Allen, Beaver.
Booth, William Douglas, Ivyland.
Bowers, Jerome Edward, Jr., Ridgeway.
Boyle, William, Watrous.
Bracken, Alan Lee, Bethlehem.
Brown, James Brent, York.
Bucka, Walter Herbert, Jr., Ambridge.
Businda, Charles Arthur, Orrtanna.
Byerly, Jay Martin, Conestoga.
Chisko, Joseph John, Dallas.
Clough, Tony, Philadelphia.
Combs, David John, York.
Connell, Michael Joseph, Upper Darby.
Cook, Robert Emery, Honesdale.
Di Santi, Raymond James, Verona.
Diamond, Charles Edward, Philadelphia.
Dile, Steven Orlando, Chambersburg.
Diller, Jay Thomas, Chambersburg.
Doering, Robert, Clairton.
Dragosavac, David George, Meadville.
Dupell, Robert Joseph, Jr., Philadelphia.
Enos, Blaine Wilbert, Jr., Latrobe.
Erkes, William James, Jr., Upper Black Eddy.
Feeser, John Raymond, Philadelphia.
Fennell, Robert Harry, Ebensburg.
Flannery, James Kenneth, Pittsburgh.
Forsythe, Dale Richard, Nescopeck.
Frank, Timothy George, Dubois.
Garstkiewicz, Walter J., Jr., Philadelphia.
Gates, Monte Leroy, Corry.
Golaszewski, Walter, Philadelphia.
Griffith, Larry Donald, Somerset.
Hampton, Robert Post, Jr., Levittown.
Hawley, Richard A., Jr., Devon.
Held, Keith Arthur, Mount Morris.
Henry, Terry Lynn, Clarion.
Hensel, David William, Pittsburgh.
Honan, Joseph Paul, Scranton.
Hopper, Barry Vorrath, Montrose.
Jenerson, Ralph Matthew, Philadelphia.
Jones, David Lawrence, Pittsburgh.
Jurich, William Agner, Industry.
Keesler, Stephen Joseph, Hazel Hurst.
Knight, Claude Arthur, Pittsburgh.
Koehler, Robert Thomas, Philadelphia.
Kulikowski, Edward Joseph, Simpson.
La Chance, Arthur Elvin, Chester.
Laughlin, Thomas John, Philadelphia.
Leopold, Frederick Eric, Norwood.
Lewis, Frank Frederick, Affton.
Lownes, Charles David, Newtown.
Ludwig, Galen George, New Holland.
Lynch, Gerald James, Donora.
Maloney, Charles Deo, Altoona.
McDaniel, Patrick Elswood, Easton.
McMahen, Raymond Paul, Cushore.
McMinn, Richard Lee, Marietta.
Mebs, Frank Martin, Newtown.
Merrill, Charles Le Roy, Jr., Jersey Shore.
Miller, Jeffrey Harold, Hanover.
Miller, Ted Roger, Boyertown.
Millineaux, Barry Thomas, Ambler.
Mohr, Richard Allen, Barto.
Molettiere, Barry Alan, Hatfield.
Moore, Dennis Wesley, Bodines.
Mose, Terry Lee, Barto.
Moylan, David John, Bryn Mawr.
Murphy, Ralph Oliver, III, Grove City.
Nichols, Bruce Joseph, Lower Burrell.
Nierer, John Edward, Slattington.
Nolt, Calvin Eugene, Mount Joy.
Novak, Walter Mark, Nanticoke.
Palmer, Larry Dale, Greensburg.
Parkhill, Francis Edwin, Jr., Upper Darby.
Peluso, Paul Renato, Jr., New Castle.
Plank, James Duane, Westfield.
Prentice, David Gray, Pittsburgh.
Reinhardt, James Michael, Philadelphia.
Rickert, Glenn Dale, Souderton.
Rockower, Henry Neill, Merion Station.
Ropchock, Theodore Mattaiw, Philipsburg.
Rovinsky, Richard Michael, Kingston.
Sabo, Leslie Halasz, Jr., Ellwood City.
Sciarretti, Vinture, Pittsburgh.
Shrader, James Gaylord, Pittsburgh.
Slagle, Larry Ray, Johnstown.
Smeltzer, Charles E., III., York.
Sprenkle, Dennis Allen, York.
Stewart, James Wesley, Philadelphia.
Swartz, Gary Lee, Erie.
Swift, James Thealbeart, Jr., Philadelphia.
Thomas, Gregory Joseph, Upper Darby
Unruh, James Howard, Stevens.
Verlihay, Frank T., Jr., Pittsburgh.
Waddle, William Samuel, Blairsville.
Wanto, John Paul, Hibbs.
Weiss, William Conrad, Jr., Hershey.
Wharton, Thomas Michael, Dunmore.
Williams, Duane Gregory, Philadelphia.
Williams, Richard C., Langhorne.
Wink, Melvin Ralph, Lititz.
Winter, Edwin Thomas, Erie.
Witycyak, Glen Robert, Reading.
Yadock, Daniel Joseph, Philadelphia.
Yapsuga, Edward F., Jr., Northampton.
Yinger, Wayne Leroy, Jr., Mechanicsburg.
Zerr, Kent Martin, Sinking Spring.

Air Force

Hartzel, Gerald Lester, Graters Ford.
Terla, Lothar Gustav T., Scranton.

Marine Corps

Angert, Paul Edward, Butler.
Burton, Samuel Nurrell, Philadelphia.
Bush, Frank Kenneth, York.
Chapman, Ronald James, Hazelton.
Coons, Richard William, Honesdale.
Cronrath, Steven Mark, Lansdowne.
Evans, Gordon Edward, Philadelphia.
Fuhrman, James Michael, York.
Gober, Clarence, Jr., Philadelphia.
Greene, Bruce Gregory, Leetsdale.
Lecrone, Paul Albert, Hanover.
Morris, Robert Dean, Eldred.
Myers, Daniel Leroy, Lock Haven.

Persely, Ricky Edward, Masontown.
Phillips, Andrew Mark, Lansdale.
Pierce, Donald James, Jr., Aliquippa.
Rathmell, Henry Porter, Muncy.
Savage, Daniel, Philadelphia.
Schuler, Harold Richard, Wilmerding.
Sexton, Richard Jarrett, II, Easton.
Smoyer, Joseph Ronald, Pottstown.
Swartz, James Albert, Jr., Elliottsburg.
Vancosky, Michael Anthony, Scranton.
Williams, Thomas Albert, Wilkes-Barre.

Navy

Bachman, Albert Carl, Jr., Turtlepoint.
Hartzell, Donald F., Jr., Bethlehem.

RHODE ISLAND

Army

Adams, Carroll Edward, Jr., Pawtucket.
Alsup, Stephen John, Rumford.
Brule, Richard Charles, Warren.
Dyer, Richard, Pawtucket.
Evans, David Paul, Lincoln.
Haslam, Albert William, Central Falls.
La Scola, Valentino J., Jr., Pawtucket.
Maloney, John Francis, Jr., Pawtucket.
Moretti, Antonio Louis, West Kingston.
O'Neill, John Joseph, Jr., Providence.
Smith, Andrew David, III, Wakefield.
Taylor, Robert Thomas, Pawtucket.
Vaillancourt, Edward John, Pawtucket.

SOUTH CAROLINA

Army

Bowers, Grover Coleman, Jr., Westville.
Bowman, Melvin, Iva.
Burton, Henry Lee, Lydia.
Chandler, Thomas Leroy, Mrytle Beach.
Chastain, Donnie Ray, Greer.
Chestnut, Leland McLane, Conway.
Davis, Fandy Mayo, Bishopville.
Davis, Wilson, Winnsboro.
Ellis, Raymond Dean, Columbia.
Frierson, Kenneth, Alcolu.
Garrett, Alonzo, Belvedere.
Golson, Anthony, Salley.
Hill, Ralph Owen, Columbia.
Huggins, Eugene, Conway.
Hunter, Leroy, Orangeburg.
Jackson, Benjamin Franklin, Darlington.
Johnson, Cleveland Osborne, Mullins.
Johnson, Willie, Walhalla.
Lazicki, Joseph Charles, Charleston Heights.
Magaha, Danny Roy, Greenwood.
McCullough, Billy Ray, Lowndesville.
Messer, Jack William, Inman.
Norwood, Thomas Lee, Jr., Abbeville.
Peagler, Wayne Donald, Charleston.
Phillias, Charles W., Jr., Charleston.
Quick, George Dewey, Jr., Bennettsville.
Schaffer, Billy Joe, North Charleston.
Schoper, Gregory Carlylle, Greenwood.
Scott, Randolph, Anderson.
Staton, David Walden, Travelers Rest.
Stewart, Dan Rogers, Florence.
Truesdale, Charles Kenneth, Columbia.
Williams, Calvin, Belvedere.
Yedell, David, Greenwood.
Young, Clarence, Columbia.

Air Force

Anthony, Paul Wayne, Fort Mill.
Tucker, Joe Nathan, Mount Carmel.

Marine Corps

Blas, Frank, Charleston.
Howe, James Donnie, Liberty.
Kilburn, William Hunter, Aiken.
McKinney, Thomas Alan, Cayce.
Norwood, William Arnold, Darlington.
Pogue, Joseph Donald, Cayce.
Smith, William Harry, Greenville.

SOUTH DAKOTA

Army

Horner, Mark Roland, Watertown.
Jorgensen, Samuel Joseph, Pukwana.
Kuster, Steven Mark, Rapid City.
Larson, Fred Duane, Pollock.
Olilla, Donald Warren, Sturgis.
Zimprich, Denis James, Watertown.

Navy

Porter, Roger Lee, Huron.

TENNESSEE

Army

Arms, Willie Dewitt, Columbia.
Armstreng, Bruce Ellis, Chattanooga.
Asher, Samuel Earl, Oak Ridge.
Barnett, David William, Bristol.
Batchelor, Charles Edward, Jackson.
Branam, Larry Anthony, Cleveland.
Childress, Benjamin V., Jr., Knoxville.
Childress, Robert, Jr., Nashville.
Chitwood, Harold Lynn, Newbern.
Cliburn, Halqua Dale, Lafayette.
Coggins, William Ray, Memphis.
Creekmore, Jesse Carl, Alamo.
Darnell, Michael Edward, Woodlawn.
Davis, Richard Harold, Memphis.
Dougherty, Lon, Jr., Nashville.
Dumas, Samuel Alexander, McKenzie.
Edwards, Gary Lee, Oliver Springs.
Floyd, Charles Grady, Nashville.
Gentry, Lennis Clyde, Powell.
Gilbert, Carl Edward, Cookeville.
Grissom, Harold Glenn, Spring Creek.
Guthrie, Robert Eldridge, Red Bank.
Harrison, Billy Gerald, Memphis.
Hodge, Kenneth Ray, Johnson City.
Horner, Herbert David, Kingsport.
Horton, Donnie Edward, Lutts.
Huddleston, Robert Joseph, La Follette.
Huffman, Walter Lee, Memphis.
Hylmon, James Edward, Jonesboro.
Jones, Danny Lee, Memphis.
Keasling, Elmer Leo, Hillsboro.
Lamb, Floyd Watsel, Jr., Chuckey.
Lane, Robert Harrison, Jr., Concord.
Lemons, Bobby Joe, Dyersburg.
Long, Bill Brooks, La Follette.
Marine, David Harlon, Knoxville.
Marlow, Donald Ray, Memphis.
Metcalf, Tom Andrew, Memphis.
Nelms, Daniel Earnest, Hixson.
Newman, Larry Edward, Memphis.
Patten, Carl Eugene, Memphis.
Perry, Randall Earl, Dayton.
Rauiston, Charles Allen, South Pittsburg.
Reed, Wilbert, Knoxville.
Richardson, Darek N., Clarksville.
Roberts, Danny Ray, Etowah.
Rutledge, James Robert, Jr., Memphis.
Scott, William Henry, Knoxville.
Sensine, John Leslie, Clarksville.
Shell, Marvin, Johnson City.
Shiller, Martin Sully, Jr., Memphis.
Smalling, Charles Lee, Lafayette.
Smith, Boyd Wayne, Knoxville.
Smith, Jerry Lynn, Knoxville.
Standley, Thomas Gary, Nashville.
Stephens, Thomas Allen, Signal Mountain.
Straub, Mark Alan, Memphis.
Swatsell, Donnie Jay, Greeneville.
Vickery, Michel Clarence, Gatlinburg.
Warfield, Phillip Ray, Erin.
Wilson, John William, Loudon.
Worley, Garry Lee, Bristol.

Air Force

Conner, Michael Ray, Knoxville.
Cotten, Larry William, Nashville.
Davis, Luther Eugene, Oak Ridge.

Marine Corps

Adams, Frank Houston, Nashville.
Beckman, Kenneth Bryant, Shelbyville.
Blakely, Bruce William, Knoxville.
Boyd, John Joseph, Jr., Nashville.
Crawford, James David, Memphis.
Glass, Billy Wayne, Covington.
Haggard, William Elmer, Powell.
Martin, Kenneth Wayne, Manchester.
McCormick, Ronnie Leon, Middleton.
Mullins, Larry Eugene, Shelbyville.
West, John Edward, Jr., Johnson City.

Navy

Crabtree, George Ronald, Jamestown.

TEXAS

Army

Aalund, James Downing, Houston.
Adame, Arthur Pina, San Antonio.
Aguilar, Nick Alfred, Jr., Houston.
Alaniz, Luis Angel, Endinburg.
Alexander, Sammie Edward, Milton.
Allbright, Ronald Harrison, Trinity.
Arrants, Michael Lorrell, Austin.
Baird, Michael Harry, San Antonio.
Barns, Lawrence Ray, Denton.
Baxter, Roger Bruce, Junction.
Bennett, George Willy, Jr., Dallas.
Berrier, Danny Clarence, Grand Prairie.
Beyer, Edward Hugo, Schulenburg.
Blue, Ronald Michael, Corsicana.
Bonifazi, Gerard Rex, Bryan.
Bovio, Richard Steven, Galveston.
Bow, Michael Wayne, Whitewright.
Bradley, Larry Alan, Verhalen.
Brewer, Richard Dennis, Big Spring.
Brooks, James Edward, Corpus Christi.
Cardenas, Paul H., Jr., San Antonio.
Carrizales, Dionisio G., Normanna.
Christian, Peter Karl J., Richardson.
Clay, Herman Allen, Jr., Richmond.
Cobb, Charles Michael, Dallas.
Conn, James Douglas, Houston.
Currie, Anthony Eugene, Bryan.
Curry, Douglas Ray, Dallas.
Davis, Richard Bouche, Jr., Dallas.
De La Cruz, Fernando, Harlingen.
De Leon, Jesus Hernandez, San Antonio.
De Los Rios, Pablo G. P., Jr., Knox City.
Denton, Robert Anthony, Wichita Falls.
Dulak, Raymond Robert, Jr., Corpus Christi.
Duran, Salvador Gutierrez, Fort Stockton.
Elsenburg, Willie Edward, Waco.
Evans, Edward Louis, Fort Worth.
Fellers, Roger Wayne, Quanah.
Garcia, Carlos Hill, San Antonio.
Garcia, Raul, Jr., Donna.
Gomez, Oscar Joe, D'Hanis.
Gomez, Valentine Bermea, Jr., Dallas.
Gonsalez, Mario, San Angelo.
Gonzales, Oscar Joseph, Hidalgo.
Greenlee, Steven Joseph, El Paso.
Hardin, James Richard, Pasadena.
Heath, Richard Farley, Goldthwaite.
Henderson, Willie, Dallas.
Herrington, Carwain L., Kilgore.
Hibbler, Richard Wayne, Rosenberg.
Higginbotham, Michael Joe, Lancaster.
Holt, Ronald Walter, Jacinto City.
House, John Lee, Houston.
Howard, James George, Jr., Nederland.
Howe, Olan Joseph, Houston.
Hughes, John Raymond, III, Houston.
Hughes, John Scarborough J., Fort Worth.
Johnson, Robert Henry, College Station.
Johnston, Gary Clarence, Archer City.
Kaiser, Larry Kurt, Bay City.
Kirkland, Larry James, Dallas.
Knoblock, Glen Lester, Lolita.
Lewis, Tedd McClune, Dallas.
Locket, Robert, Jr., Houston.
Lockhart, Floyd Barney, Jr., Fort Worth.
Lopez, Arturo, Jr., El Paso.
Luna, Armanco Cervera, Crystal City.
Macomber, Clifford F., Jr., Cotulla.
Maddox, Marcus Wayne, Converse.
Mareck, Raymond Donald, Deer Park.
Martin, Ralph, Burleson.
May, Larry Allan, White Deer.
Mays, Raymond, Jasper.
McCorkle, Douglas P., Jr., Abilene.
Meacor, Phillip Wayne, Fort Worth.
Milburn, Albert, Houston.
Mitcheltree, Robert G., Jr., Longview.
Montana, Rosendo, Big Springs.
Moore, Eldon Wayne, Oklaunion.
Morton, William Ace Billy, Sweetwater.
Mossner, David Campbell, Austin.
Myers, Donald Wayne, Houston.
Pace, James Taylor, Richardson.
Palmore, Robert Duane, Houston.
Pannell, Phillip Randall, Plainview.
Patrick, Derek Wilkerson, Houston.
Pike, Nixon Dewayne, Houston.
Poe, Clifford Earl, Jr., Kempner.
Ponce Benito Andrade, Crystal City.
Reed, William Val., Laredo.
Richards, Paul Allen, San Antonio.

Richardson, Robert Earl, Douglassville.
Richardson, William F., Waskom.
Riddle, Charles Lloyd, Dallas.
Risinger, Jerry Leroy, Seagoville.
Rivas, Jose Luis, Los Fresnos.
Rivera, Joe Lewis, Kermit.
Roberts, Billy Jack, Mesqlite.
Rodriguez, Robert, Wichita Falls.
Roy, David Paul, Pampa.
Ruelas, Mateo, Alice.
Sanchez, Joseph Sebastian, Von Ormy.
Sanders, Clyde Douglas, Rosharon.
Serenil, Ricardo, Galveston.
Sharp, Preston Douglas, Orange.
Slough, Russell Eugene, Dimmitt.
Smith, Albert Charles, Belton.
Solis, Oscar Abrego, Harlingen.
Sowder, Bernard Allen, Potter.
Spieker, Gary Lynn, Ballinger.
Steindam, Russell Albert, Plano.
Stephens, William F., Jr., Bellaire.
Stout, Kevin Arley, Higgins.
Swanson, Bobby Gene, Jr., Houston.
Thornton, Charles Edward, Bryan.
Tidwell, Earl Carl E., Jr., Arlington.
Tom, George William, Stanton.
Turner, Clarence S., III, Sweetwater.
Uberman, Rodney Ray, Dallas.
Valusek, Dennis Wayne, Galveston.
Vassaur, Frankie Carl, Tyler.
Voigt, Arno Joseph, New Braunfels.
Wilbanks, James Hardy, Grand Saline.
Wortmann, Frederick Edward, El Paso.

Air Force

Bell, Holly Gene, Beaumont.
Bonner, John Sidney, Jr., McAllen.
Estrada, Carlos Albert, Jr., Brownsville.
Greenwood, James William, Pasadena.

Marine Corps

Allen, John Doss, Mercedes.
Baker, Billy Ray, Leesville.
Bishop, Ted Jason, Lufkin.
Boegli, Steven Warren, Dallas.
Borrego, Ruiz Francisco J., Harlingen.
Bradshaw, Robert S., III, Lufkin.
Cantu, Adam, Fort Worth.
Emmons, John Warren, Jr., Wichita Falls.
Gonzalez, Guadalupe, Alice.
Griffis, William A., III, San Angelo.
Grimes, Gary Lynn, Amarillo.
Haley, Clifford Eugene, Beaumont.
Hammonds, Roy Lee, Waxahachie.
Higginbotham, John Bill, San Saba.
Jergenson, Rickey Layne, Carrouzett.
Kersey, Arden Ellsworth, Jr., Abilene.
Ledesma, Encarnacion, Corpus Christi.
Little, Norman Earl, San Angelo.
McLendon, Kenneth Hayes, Dripping Springs.
Mendiola, Ricardo, San Antonio.
Moya, Ramon, Jr., Kingsville.
Padilla, Gilberto, Corpus Christi.
Perez, Ascension Rosales, San Antonio.
Peters, Beryl Gene, Fort Worth.
Pohl, Ehrhard Konrad, Denison.
Rodrigeuz, Julian Robles, San Benito.
Smith, Clifton Thomas, Houston.
Vance, James Sidney, San Antonio.
Webber, Floyd Dean, Conroe.
Wilson, Harry Truman, Grand Prairie.
Ybarra, Samuel Garcia, Austin.

Navy

Athanasiou, Ronald S., Jacksonville.
Brooks, Charles Edward, Athens.
Gage, Norman Glenn, Pampa.

UTAH

Army

Ackerman, Bill R., Salt Lake City.
Brock, Robert Lee, Montezuma Creek.
Brown, Michael Dean, Kearns.
Carpenter, Bill Duayne, Salt Lake City.
Day, Jefrold Bernell, Salt Lake City.
Everts, Jack Charles, Ogden.
Fielding, Craig Pyper, Salt Lake City.
Gardiner, Roy William, Vernal.
Lamkin, Stuart Bassett, Salt Lake City.
Mace, James Doyle, Deseret.
Maxwell, Ken Swain, Glendale.
Moon, Raymond Ross, Salt Lake City.
Mower, Gary Ruel, Fairview.
Richardson, Roy Lee, Salt Lake City.
Tafoya, Victor Arnaldo, Tooele.
Tippets, Lenny Maurice, Ogden.
Ufford, Robert Lynn, Vernal.
Vincent, Mark Dee, Provo.
Walker, Kurtess Howard, Parowan.
Young, Robert Francis, Hooper.

Air Force

Christensen, Dale Elling, Murray.

Navy

Snyder, Frederick Don, Moab.

VIRGINIA

Army

Barone, Sandro Nicholas, Falls Church.
Carter, Richard Thomas, Charlottesville.
Cole, Fred Vincent, Fort Belvoir.
Cooley, Dickey Larue, Galax.
Cordle, Charles Linwood, Richmond.
Earnhardt, Clifford Jerry, Hillsville.
Emmans, William Robert, Virginia Beach.
Fentress, Leon Aubrey, Norfolk.
Fletcher, Lawrence Eugene, Winchester.
Francis, Larry Edward, Lynchburg.
Graham, Bruce Elliot, Alexandria.
Hamilton, Charles Henry, Woodbridge.
Harrison, Daniel Wallace, Arlington.
Hawkins, Johnny Lee, Fairfax.
Helm, David Franklin, Sterling.
Hill, John Edwin, Buchanan.
Hudnall, William Leon, Richmond.
Hurt, Vassar William III, Roanoke.
Johnson, Charles Edward, Newport News.
Jones, Ronald Wayne, Chesapeake.
Kendrick, Richard Smith, Clintwood.
Kidwell, Roger Gene, Front Royal.
Kuykendall, Richard Wayne, Richmond.
Leichliter, Vyrl Eugene Jr., McLean.
Lester, Grady Rudolph Jr., Wicomico Church.
Lewis Robert Raymond, Annandale.
Long, Phillip Michael, Radford.
Lowe, Ronald Sidney, Norfolk.
Mashburn, Tschann Scott, Alexandria.
McCarron, Michael Joseph, Alexandria.
McNulty, Charles Richard, McLean.
McRay, Wayne Dabney, Charlottesville.
Meekins, Raymond C., Chesapeake.
Millner, Carlton Brandard, Keeling.
Moles, Thomas Harry, Richmond.
O'Callaghan, Brian Joseph, Alexandria.
Overbay, Clarence M., Jr., Alexandria.
Pardee, Scott Kenton, Springfield.
Richardson, Harold Owen, Palmyra.
Riek, Jeffry Randal, Falls Church.
Samuels, Donald Ray, Fredericksburg.
Sayers, Paul Frederick, Tazewell.
Scanlan, Warren Lee, Jr., Exmore.
Schlieben, Klaus Dieter, Richmond.
Smith, Winfred Lee, Greenville.
Spencer, Buford Ronald, Swords Creek.
Sullivan Michael Nelson, Fairfax.
Sumner, Buford Ellis, Richmond.
Sweat, Loran Edgar, Jr., Virginia Beach.
Sybert, Roscoe, Jonesville.
Waller, Casey Owen, Cumberland.
Wheelhouse, Clifton J., Jr., Virginia Beach.
White, Eddy Eugene, Roanoke.
Woodward, Douglas Morris, Berryville.

Air Force

Clement, James Wilfred, Coeburn.
Pruett, William David, Bluefield.

Marine Corps

Blakey, Howell Frank, Free Union.
Gosselin, Robert Joseph, Fairfax.
Harrell, Raymond Dale, Fribs.
Hoagland, Jeffrey Kay, Arlington.
Holland, Kermit W., Jr., Alexandria.
Hopkins, Michael Wayne, Wise.
Jones, Paul Elden, Kinsale.
Lowery, William Lee, Norfolk.
Wood, Daniel Lewis, Culpeper.

WASHINGTON

Army

Alura, Rudolfo Resta, Tacoma.
Ator, Richard Dennis, Moses Lake.
Bartlett, Larry Paul, Tacoma.
Bloomer, Donald Hugh, Kelso.
Burns, Carrell Edward, Everett.
Busby, Stephen Lee, Arlington.
Clark, John James, Spokane.
Dailey, David Leon, Vader.
DeVere, Monte Raoul, Nordland.
Denny, Jerry David, Spokane.
Farren, Mark, Tacoma.
Fisher, James Ted, Okanogan.
Fitzgerald, Ronald Eugene, Auburn.
Flieger, Harry Gregg, Pasco.
Flynn, Daniel Leopold, Seattle.
Fox, Craig James, Seattle.
Fulton, Ronald Joe, Walla Walla.
Hesketo, Bruce William, Spokane.
Hibler, Russell Cranston, Anacortes.
Hicks, Jimmy Ishmael, Bremerton.
Hopkins, Ronald Frank, Puyallup.
Howley, Wesley Charles, Jr., Ft. Lewis.
Jones, Douglas Robert, Yakima.
Kellogg, Peter Patrick W., Seattle.
Kinne, Allen Gene, Mesa.
Kittleson, Randy Gene, Seattle.
Klein, Stephen Louis, Seattle.
Kulm, Gerald Albert, Ritzville.
McCurdy, Robert Lowell, Tekoa.
Neal, Dennis Wade, Wenatchee.
Nelson, Richard Dean, Richland.
Pipkin, Dennis Newman, Cashmere.
Pompella, Patrick Owen, Arlington.
Powers, John Roger, Chehalis.
Shriner, Thomas John, Royal City.
Silvesan, Dennis Ray, Longview.
Slye, George Dale, Tacoma.
Smith, David Walter, Everett.
Strength, Norman Howard, Spokane.
Sutherland, Scott Eugene, Bremerton.
Taylor, Thomas Eugene, Richland.
Thode, Lawrence Gregory, Seattle.
Waalen, John Howard, Seattle.
Wainwright, Michael James, Vancouver.
Wall, William Penn, III, Tekoa.
Walmsley, William Morris, Walla Walla.
Weightman, Greg Eugene, Tekoa.
Wimmer, James Allen, Spokane.
Wright, Michael Lee, Tacoma.

Marine Corps

Adair, William Michael, Bellevue.
Ayers, Carrell Eugene, Alderwood Manor.
Dunbar, Robert Sidney, Outlook.
Kadow, Patrick Dennis, Vancouver.
Schwintz, Bobbitt, Tacoma.
Smith, Richard Deane, Bellevue.
Smith, William Thomas, Port Townsend.

WEST VIRGINIA

Army

Ankrom, Everett Lee, Pennsboro.
Boggs, Robert Sidney, Frankford.
Bunner, Lester Earl, Parkersburg.
Collins, Robert Orville, Eskdale.
Craig, Roger Gene, Clear Fork.
Dailey, Larry Eugene, Vienna.
Dailey, Paul Marion, Parkersburg.
Gill, Kenneth Lee, Triadelphia.
Goodson, Carl Bradford, Cedar Grove.
Haynes, Michael Wayne, Charleston.
Hess, Thomas G., Elkins.
Holt, Merril, Matoaka.
King, Jay William, Newhall.
Lemons, Robert Lee, War.
Lockett, James Edward, Ansted.
Lowther, Larry Joseph, Volga.
McCormick, Ronald Lee, Clarksburg.
Miller, James Calvin, Martinsburg.
Mosgrove, Robert Boyd, Wellsburg.
Smith, Billy Jake, Gassaway.
Thonen, James Leo, Wheeling.
Weekly, Gary Wayne, Middlebourne.

Air Force

Brown, Wendell Lee, Keyser.
Rexroad, Loel Franklin, Clarksburg.
Sklug, Paul Francis, Grafton.

Marine Corps

Boward, Kenneth William, Martinsburg.
Bragg, Raymond Dale, Stanford.
Legg, Rodger Dale, Charlston.
McDonald, James Matthew, Harrisville.

Mollett, Chester Aubrey, Peytona.
Olson, Charles Robert, Wheeling.
Tucker, George Leslie, Jr., Wheeling.

WISCONSIN

Army

Bauer, Leonard William, Durand.
Becker, John Paul, Kenosha.
Bohrman, Michael Dennis, Celafield.
Borzych, David Russell, Pulaski.
Brantmeier, Bernard George, Kewaunee.
Chamberlin, Dennis Dean, Elkhorn.
Cotter, Kenneth James, Milwaukee.
Diedrich, James Nicholas, Hilbert.
Erdman, Dale Arthur, Augusta.
Foreman, Terry William, Ft. Madison.
Garski, Kenneth James, Stevens Point.
Gauthier, Gerald Alan, Manitowoc.
Gillett, Jerry Cecil, Cornell.
Gorges, Richard John, New London.
Hansen, Stanley Raymond, West Bend.
Hauswirth, Gerald Richard, Greendale.
Hessing, James William, Bayfield.
Kalhagen, Philip Alfred, Madison.
Klaves, Jeffrey John, Wauwatosa.
Kleppin, Kenneth Thomas, Milwaukee.
Klever, Mark Edward, Milwaukee.
Krebs, John Thomas, Jr., Browntown.
Kurth, James Peter, Darlington.
Longmire, Kent William, Walworth.
Ludvigsen, Leo John, Jr., Sheldon.
Mesich, Michael Stephen, Milwaukee.
Mousel, Wayne Charles, Eau Claire.
Murphy, Thomas Joseph, River Falls.
Norman, Timothy John, Beloit.
Overbeck, Philip Morey, Sturgeon Bay.
Pavlacky, Louis A., Jr., Delavan.
Peat, Gary Laverne, Rewey.
Pickart, Ronald Ernest, Fond du Lac.
Rids, Severiano, Oak Creek.
Rogalske, Paul Frank, Kewaunee.
Rudolf, Mark Phillip, Milwaukee.
Ruenger, Carl Dennis, North Prairie.
Schachtner, James Aloysius, Somerset.
Seversen, Thomas Eugene, New Richmond.
Smith, Jack Russell, Mequon.
Smith, Kenneth Eugene, Woodville.
Smith, William Thomas, Marshfield.
Swager, Gene Stanley, Balsam Lake.
Taylor, Andrew James, Milwaukee.
Uthemann, Robert Erick, Milwaukee.
Valdez, Francis Pedro, Oshkosh.
Veser, Edward, Milwaukee.
Wagner, Michael James, Watertown.
Warden, Richard John, Sheboygan.
Wasson, Steven Edward, Spring Valley.
Webb, Johnny Lee, Milwaukee.
Zydzik, Frank, Jr., Phillips.

Marine Corps

Delaat, David William, Burlington.
Dobosz, David George, Clear Lake.
Guelig, Paul Joseph, Glenbeulah.
Hackett, James Francis, Jr., Milwaukee.
Libersky, Willilam Bertram, Bloomer.
Peterson, Darwin Stuart, Pleasant Prairie.
Webber, James Thomas, Eau Claire.

Navy

Daane, Douglas Jack, Oostburg.
Kanaman, Kenneth Harvey, New London.

WYOMING

Army

Balland, Ernest Claude, Cheyenne.
Green, Joe Worth, Buffalo.
McCormick, William T., Thermopolis.
Scott, Roger Lee, Powell.
Snyder, Roy Jasper, Ft. Washakie.
Stewart Ronald Richard, Glenrock.

Marine Corps

Dykes, Lonnie Allen, Buffalo.
Haggerty, Edward Charles, Riverton.

AMERICAN SAMOA

Marine Corps

Levi, Lane Fatutoa, Fagatogo.

GUAM

Army

Escano, Juanito Maiquez, Agana.
Esteves, Fernando Barcinas, Merigo Village.
San Nicolas, Victor P., Inarajan.
Santos, Rafael Salas, Agana.

PUERTO RICO

Army

Barbosa-Oyola, Eugenio, Bayamon.
Colon-Diaz, Juan, Comerio.
Colon-Rodriguez, Golguis, Juan Diaz.
Concepcion-Nieves, David, Arecibo.
Cuevas-Rivera, Ernesto, Ponce.
Davila-Torres, Maximiliano, San Juan.
De Jesus-Rosa, Raul, Juncos.
Encarnacion-Colon, Jesus M., Bayamon.
Fret-Camacho, Juan Alberto, Vega Baja.
Galvez-Pastrana, Manuel, San Juan.
Maldonado-Lluberas, Albert, Santurce.
Ramos-Lopez, Roberto, Mayaguez.
Rios-Maldonado, Fernando, Ponce.
Santiago, Martinez Andres, Aguada.
Santiago-Castillo, R., Jr., Mayaguez.
Santos-Lopez, Jose Luis, Ceiba.
Torres, Arcadio, Villalba.
Vazquez, Jose Gilberto, Santurce.

Air Force

Ortiz, Jose Hector, Rolling Hills.

U.S. VIRGIN ISLANDS

Army

Wheatlby, John Albion, St. Thomas.

REVIEW OF PROGRESS MADE IN VETERANS AFFAIRS DURING 91ST CONGRESS

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. TEAGUE) is recognized for 30 minutes.

Mr. TEAGUE of California. Mr. Speaker, the 91st Congress will soon be history. Although we will return to Washington after a recess of a month to finish out our second session I think it would be well to review the progress that has been made in veterans affairs during the period of the 91st Congress.

The principal purpose of such a review should be to report to the people. And to be meaningful our report should be submitted to the people at this time, in advance of the coming elections.

The 91st Congress has been notable to me and to my colleagues on this side of the aisle because it was the first Congress in 8 years to have had the opportunity to work with a Republican President. We are proud of the record of that Republican administration and gratified that in the area of veterans affairs much has been accomplished by the Congress and the administration in improving medical care and other benefits for our veterans.

On occasion I have seen comments to the effect that the men who are becoming veterans today are in large part forgotten. There is no question but that our veterans of Vietnam are not returning home to the tune of blaring bands and patriotic fanfare. I am certain, however, that the fine young men who have carried the burden of fighting, and who have had to live with the extra burden of disagreement and dissention on the home front over Vietnam, have not been forgotten by the Members of this Congress and the administration.

The membership of the House can look back on the past 2 years with a tremendous sense of accomplishment. From the opening day of the 91st Congress we here in the House were prepared to consider and approve new legislation necessary for our returning war veterans and for veterans of other wars. There was a natural marking of time until the incoming administration made its appointments and adjusted its sights on its goals for veterans. As they were developed, the administration's goals were farsighted and generous and very much to the point.

The Republican administration's concern with our Vietnam veteran was made immediately apparent with the appointment of Don Johnson as Veterans' Administrator. Coincident with that appointment he was also appointed Chairman of the President's Committee on the Vietnam Veteran. The work of that Committee has since been translated into legislative recommendations that are in the process of becoming law. While this has been going on, Don Johnson in his capacity as Administrator of Veterans' Affairs has seen that the needs of Vietnam veterans as established by the commission are being administratively met by his dedicated team of VA employees.

During the period this constructive effort was going on there was a good deal of attention given here in the Congress, and in the press, to alleged deficiencies in medical care being provided veterans in VA hospitals. I would point out that it was clearly established in a hearing of the House Veterans' Affairs Committee that the problems that Don Johnson has had to deal with in the medical program of the VA were clearly inherited by him at the time of his appointment. Neither he nor those of us who have given him our unequivocal support have attempted to point any finger of blame. It is a great credit to Don Johnson he was not concerned in looking back when he took office. His attitude was forward looking and the results of that attitude are already evident.

Don Johnson's concern has been to improve an essentially sound medical program—a program, however, that had developed problems. Solving those problems was not strictly a matter of more money. Washington has more than its share of so-called problem solvers who have a single answer to any difficulty—spend more money. It so happens that the VA under Don Johnson has programed more funds for the VA medical program than had his predecessors. It was necessary to obtain these added funds because salaries and wages have increased over the years in order to permit Federal employees to cope with the inroads of the long inflationary period prior to the Nixon years in the Presidency. The cost of medical equipment and construction also skyrocketed during the pre-Nixon period and it must be said that medical technology has advanced so tremendously that the cost of providing veterans with the finest in medical care has risen precipitously. So while Don Johnson has seen that his administration needed more dollars and provided them as a partial solution to the problems he faced. He has also made administrative changes and improvements so that each of those dollars will be used to the best advantage.

All of us who have a primary concern with veterans matters are very dollar conscious as my colleagues well know.

The major expenditure of dollars on veterans matters is payable to the many veterans receiving service-connected compensation or pension. These dollars are placed directly into the hands of our veterans or their survivors. Here, also, the inroads of inflation were severe. The Nixon administration has fought diligently to end the inflationary spiral and the effect of its efforts is becoming clear.

Any objective appraisal of the administration's efforts in the field of veterans affairs clearly establishes that progress has been made.

The constituency, as it were, of the House Veterans' Affairs Committee, the Congress itself, and the Veterans' Administration is some 27,692,000 veterans. Add to this figure the eligible members of their families and we have a total of almost half of the population of the United States.

The agency established by the Congress to administer veterans benefit laws is the largest independent agency of the Federal Government and third largest of all U.S. Government agencies. It operates the largest hospital network in the world with 166 hospitals and is staffed by 5,100 doctors and 15,000 nurses. It provides treatment each year to well over 800,000 veterans in these hospitals and in non-VA hospitals under contract. It processes nearly 7 million visits each year by veterans to VA outpatient clinics and to fee basis physicians.

Total appropriations requested for VA's fiscal year 1971 operations is $8.9 billion—the highest sum in the history of veterans affairs.

Included in the fiscal year 1971 budget is more than $1.7 billion for medical care, an increase of $69 million over fiscal year 1970 and $228 million over fiscal year 1969.

At the request of VA Administrator Donald E. Johnson, President Nixon approved an additional $15 million in fiscal year 1970 and $50 million more in fiscal year 1971 to improve medical care.

Shifting to another field, VA which has helped more than 7 million veterans of previous wars to own their homes through the GI loan program, has aided more than 230,000 veterans purchase homes through the VA program in the last fiscal year alone.

VA, with the distinction of being the third largest ordinary life insurance company in the world, conducts five insurance programs with about 5.6 million policyholders and oversees the administration of a sixth program involving insurance for present and future members of the U.S. armed services.

VA pays nearly $6 billion a year in benefits to almost 5 million veterans and dependents, involving compensation for veterans with service-connected disabilities, pensions for veterans—whose disabilities are not due to military service—or payments to their survivors.

The overall magnitude of the VA operation can be seen from the fact that VA replies to 2 million letters a year, answers 60,000 telephone calls a month and meets with 10,300 veterans every day. VA's voice is heard on 3,500 radio stations each week and on 650 TV stations, while its informative news releases are used by 1,800 daily and 7,000 weekly newspapers.

Not waiting until the present group of young men in military service actually reaches discharge date and becomes veterans, the VA, through its representatives, has assisted and advised more than 1.3 million combat soldiers, sailors, marines, and airmen in Vietnam.

Back in the States, VA contact representatives in the past 1½ years have made some 20,000 visits to military hospitals and conducted more than 300,000 interviews with wounded and disabled servicemen, urging them to complete their education with VA financial assistance if they have not already done so.

More than 11,000,000 veterans, from World War II to Korea and Vietnam, have taken advantage of the GI bill education programs administered by the VA. During 1970 alone, the VA will provide education and rehabilitative assistance to 1.3 million veterans, 45,700 children of deceased and disabled veterans, and 14,500 wives and widows of deceased and disabled veterans at a total cost of $958 million.

The Outreach program, a massive effort to reach returning Vietnam era veterans, to inform them of their benefits and to persuade them to use their education and training benefits, has developed during the past year into one of the major efforts of the Veterans' Administration. It not only holds great hope for the welfare of the individual veteran but will serve to better the living conditions of their families, their communities, and the Nation as a whole.

I have hardly touched upon the VA's program of medical care. In addition to its 166 hospitals the VA is now operating 63 nursing home care units, 16 domiciliaries, 200 outpatient clinics, and six restoration centers.

Half of VA's hospitals now contain intensive care units for the watchful care of patients with coronary and other severe medical and surgical conditions, compared with only 64 such units a year ago.

There is much more to report in the way of progress. Perhaps one more example will suffice to provide a measure of the progress that has been made under the present administration.

Through the personal concern of President Nixon and with his approval the VA under Donald E. Johnson has started adding 5,700 additional medical employees in this fiscal year, which will bring full time medical employment in the VA to nearly 138,000—the biggest work force in the history of VA's Department of Medicine and Surgery.

I think it can be said that the executive branch of the Government is faithfully discharging its responsibilities for administering the laws approved by the Congress to meet the needs of our veterans. I think acknowledging this confidence in the administration is a necessary preliminary to a review of what the 91st Congress has done for veterans. We have looked at the administration of laws. What of the Congress?

Over the same period of time the Congress has enacted and the President has approved major legislation of significant impact on veterans. I think it is important that this major legislation be carefully reviewed for I believe that such a review provides the clearest possible insight into the concern which this Congress has for the veterans of America. Therefore I submit, Mr. Speaker, summaries of the major public laws enacted in the 91st Congress of interest to veterans:

SUMMARIES

PUBLIC LAW 91–22. SPECIAL HOUSING FOR PARAPLEGICS

Extends the program of assistance to severely disabled veterans in acquiring homes equipped with special facilities made necessary because of the nature of their disabilities to those veterans suffering from the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair.

Increases the amount of the paraplegic housing grant from $10,000 to $12,500.

Increases the amount of the direct loan program for an individual home from $17,500 to $21,000.

Relaxes the first lien requirements for guaranteed home loans to permit guaranty of homes for veterans where basic financing requires first lien security for monthly charges to home purchasers for development of community, municipal and recreational facilities. Approved June 6, 1969.

PUBLIC LAW 91–32. PROTECTION OF DISABILITY RATING

Prohibits the reduction of a veteran's statutory disability award which has been continuously in effect for 20 years. Approved June 23, 1969.

PUBLIC LAW 91–96. DEPENDENCY AND INDEMNITY COMPENSATION

Establishes a new concept for payment of D.I.C. to widows of servicemen and veterans whose death was service-related. In lieu of the present formula of $120 per month plus 12 percent of the basic pay of the deceased veteran, there would be a specified dollar rate of D.I.C. based on the pay grade of the veteran, ranging from $167 monthly for the widow of a veteran in grade E–1 to $426 for widow of a veteran in grade 0–10.

Allows an additional $20 monthly for each minor child.

Also, awards an additional monthly benefit of $50 to a widow receiving D.I.C. or death compensation who is a patient in a nursing home or in need of regular aid and attendance. Approved October 27, 1969.

PUBLIC LAW 91–101. NURSING HOME CARE FOR SERVICE-CONNECTED VETERANS

Authorizes community nursing home care at VA expense for veterans whose hospitalization was primarily for a service-connected disability without limitation as to the length of time such care may be provided. Approved October 30, 1969.

PUBLIC LAW 91–102. OUTPATIENT CARE FOR CERTAIN SERVICE-CONNECTED VETERANS

To make available to any war veteran who has a permanent total disability resulting from a service-connected condition, complete medical services for a non-service-connected disability. Approved October 30, 1969.

PUBLIC LAW 91–219. VETERANS EDUCATION AND TRAINING AMENDMENTS ACT OF 1970

Increases the benefit rates by approximately 34.6 percent for veterans who are receiving institutional, flight, cooperative, farm cooperative, correspondence course, apprenticeship or other on-the-job training, for servicemen pursuing a program of education while on active duty, for wives, widows and children pursuing programs of education under the war orphans' and widows' educa-

tional assistance program, and for those eligible persons pursuing full-time courses of special restorative training. Increases the subsistence rate by approximately 22.7 percent for veterans receiving vocational rehabilitation. (Effective February 1, 1970)

Provides new programs of special assistance for educationally disadvantaged veterans. The purposes of the new programs are (1) to encourage and assist veterans who have academic deficiencies to attain a high school education or its equivalent and to qualify for and pursue courses of higher education, (2) to assist eligible veterans to pursue post-secondary education through tutorial assistance where required, and (3) to encourage educational institutions to develop programs which provide special tutorial, remedial, preparatory, or other educational or supplementary assistance to such veterans.

Provides a new program to be known as the Predischarge Education Program (PREP). The purpose of this program is to encourage and assist servicemen with more than 180 days of service, in preparing for their future education, training, or vocation by providing them with the opportunity to enroll in and pursue a program of education or training prior to their discharge or release from active duty with the Armed Forces.

Provides an expanded program of outreach services for the purpose of insuring that all veterans, especially those who have been recently discharged or released and who do not have a high school diploma and those who are eligible for readjustment or other benefits and services under laws administered by the Veterans' Administration are provided timely and appropriate assistance to aid them in applying for and obtaining such benefits and services. Further provides that the outreach services program is for the purpose of charging the Veterans Administration with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services. Specifically, the VA is to advise each veteran at time of discharge, by letter and if possible by personal interview, of benefits to which he is entitled, and render assistance in making application for such benefits. The VA is authorized to establish veterans' assistance offices at such places as are deemed necessary to carry out the purposes of this expanded outreach services program, and is to work with other Federal, State or local governmental agencies, or national or other organizations in utilizing services available from those agencies or organizations, particularly with the Department of Labor and State employment services, to render assistance in obtaining employment for veterans. Authorizes the Administrator to utilize special telephone service for the purpose of making these outreach services as widely available as possible.

Provides that a program of education may include more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a veterans' single career field.

Permits veterans' education and training at the elementary school level.

Provides that a veteran's academic high school course, requiring 16 units for a full course, shall be considered a full-time course when a minimum of 4 units per year are required.

Allows the Administrator, in the case of veterans enrolled in courses in educational institutions not leading to a standard college degree, to make the initial payment of the educational assistance allowance (not to exceed one full month) upon receipt of a certificate of enrollment.

Permits the payment of educational assistance allowance to certain veterans pursuing courses on a less than half-time basis, or servicemen while on active duty, in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received from the educational institution that the veteran or serviceman has enrolled in and is pursuing a program at such institution.

Eliminates the hour equivalency requirement as prerequisite for flight training, thus would require a private pilot's license before a veteran could pursue flight training. Authorizes flight training when generally recognized as ancillary to the pursuit of some other vocational endeavor.

Authorizes the approval of a program of training on-the-job when such training is based upon skills learned through organized and supervised training conducted by a qualified instructor.

Reduces the minimum number of college undergraduate semester hours that veterans and dependents will need to qualify for full-time educational assistance allowance. It accords maximum flexibility to the educational institution concerned in defining a full-time course of study. Permits counting of certain non-credit courses necessary to correct an educational deficiency toward the minimum number of semester hours required for payment of the educational assistance allowance.

Specifically prohibits, as to both eligible veterans and dependents the approval of bartending and personality development courses, or sales or sales management courses which do not provide specialized training within a specific vocational field unless certain justification is received.

Permits the pursuit of an educational program under the war orphans' and widows' educational assistance program on less than half-time basis. (Effective February 1, 1970)

Requires the Administrator to notify the parent or guardian of each eligible child of the educational assistance available to such person under the war orphans assistance program.

Provides for computation of educational assistance allowance for an eligible dependent of a veteran pursuing a program of education at an institution in the Republic of the Philippines, at a rate in Philippine pesos equivalent to $0.50 for each dollar.

Provides that in the case of a child of a veteran the period of eligibility would run from whichever last occurs—the date the Administrator first finds total service-connected disability, permanent in nature, or date of death, whichever is more advantageous to the eligible person—and would define the term "first finds" in the case of a child or wife of such a veteran to mean the effective date of the rating or notification, whichever is more advantageous to the eligible person.

In the case of programs of apprenticeship where the training establishment is a carrier directly engaged in interstate commerce providing training in more than one State, authorizes the Administrator to act as a State approving agency.

Modifies the educational benefit nonduplication bar by having it apply only to certain persons receiving training while on active military or Public Health Service duty and Federal employees receiving their full salaries while training. Repeals two statutes made obsolete by the revision of the nonduplication bar (Sec. 504, Public Law 90–574 and Sec. 506, Public Law 90–575). Approved March 26, 1970.

PUBLIC LAW 91–241. RECOUPMENT OF DISABILITY SEVERANCE PAY

Provides that the recoupment of disability severance pay from disability compensation shall be at a monthly rate not in excess of the compensation to which the veteran would be entitled based on the degree of disability as determined on the initial VA rating. Approved May 7, 1970.

PUBLIC LAW 91–262. DEFINITION OF ADOPTED CHILD

Permits the recognition of an adopted child of a veteran as a dependent from the date of issuance of an interlocutory decree and authorizes benefits on behalf of such child from the date of that decree, if otherwise eligible.

Increases by 10 percent the monthly payments to children where there is no widow entitled to receive dependency and indemnity compensation, and to certain children age 18 and over. Approved May 21, 1970.

PUBLIC LAW 91–291. SERVICEMEN'S GROUP LIFE INSURANCE

Increase from $10,000 to $15,000 the maximum amount of insurance authorized under the servicemen's group life insurance (SGLI) program.

Extends coverage to all reservists, members of the National Guard, and ROTC members while engaged in authorized training duty and while traveling to and from such duty.

Provides an extension of SGLI coverage for members who are rendered uninsurable, or die, within 90 days after assuming an obligation to perform (for less than 31 days) authorized duty.

Provides that the insurance coverage would terminate (1) 120 days after discharge or release from active duty of 31 days or more unless the member is totally disabled in which event coverage would continue for one year; (2) at the end of the 31st day of AWOL, or confinement by civilian authorities, or confinement by military authorities involving total forfeiture of pay and allowances; coverage would be automatically restored on return to duty; (3) at midnight of the last day of active duty or active duty for training of less than 31 days unless the member is suffering from a service-connected disability which results in his death or renders him uninsurable within 90 days after such date; or (4) at the end of an inactive duty training period unless the member is suffering from a service-connected disability which results in his death or renders him uninsurable within 90 days after such date.

Provides for conversion of SGLI for members on active duty for 31 days or more at the end of the 120-day period or if totally disabled at the termination of such disability or one year, whichever is the earlier.

Permits the conversion of SGLI for members on active duty or active duty for training for less than 31 days or on inactive duty training if they are rendered uninsurable in which event they would have 90 days to convert.

Provides for the collection of premiums other than on a monthly basis from members on active duty for training of less than 31 days and from members performing inactive duty training.

Provides a new formula for determining the costs of SGLI traceable to the extra hazard of active duty to assure that the Government will bear all such costs. Effective date of this provision January 1, 1970.

Authorizes payments of SGLI directly to a minor widow or widower.

Specifically exempts SGLI from taxation and claims of creditors on the same basis as is now provided for NSLI.

Adds the Secretary of Transportation to the Advisory Council on SGLI.

Authorizes, in every case, reinstatement and renewal of NSLI and USGLI term policies within 5 years from the date of lapse.

Prevents stale claims for NSLI dividends declared prior to January 1, 1952.

Authorizes settlement of the cash values and matured endowment contracts of NSLI and USGLI in monthly installments or as a refund life income. This provision would take effect as of the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act.

Permits the beneficiary to receive the higher dependency and indemnity compensation payment, where the veteran died with NSLI or USGLI under an in-service waiver of premiums, in those cases where the amount paid under the policy and any amounts paid as death compensation is equal to or less than the total amount which would have been payable as dependency and indemnity compensation but for the in-service waiver. To receive dependency and indemnity compensation an election by the beneficiary is required and such election shall be final. Approved June 25, 1970.

PUBLIC LAW 91-376. VETERANS' COMPENSATION

Increases the rates of compensation payable to veterans whose disabilities are rated at 10 to 40 percent disabling by approximately 8-percent, 50 to 90 percent disabling by approximately 10-percent, and for the totally disabled and above total by approximately 12-percent. Increases by approximately 11-percent the additional compensation for veterans with dependents. These increases become effective July 1, 1970.

Provides that a veteran held as a prisoner of war for six months or more during World War II, the Korean conflict, or the Vietnam era and who suffered from dietary deficiencies, forced labor, or inhumane treatment (prisoners of war of Japan, Germany, North Korea, North Vietnam or the Vietcong are presumed to have suffered from these conditions) with a presumption of service-connection for certain diseases and an extension of the presumption for service-connected psychosis to two years.

Removes the bar to benefits in the case of a remarried widow upon termination of the remarriage by death or divorce; and removes similar bars, past and present, based on marital or adulterous conduct of a widow where such conduct has been terminated, effective January 1, 1971.

Restates the statutory provisions excluding from judicial review determinations with respect to benefits of a noncontractual nature provided for veterans and their dependents and survivors so as to clarify the law that on and after October 17, 1940, no official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise.

Prohibits the payment of dependency and indemnity compensation, death compensation, or death pension which, because of a widow's relationship with another man before enactment of Public Law 87-674 (September 19, 1962), would not have been payable by the Veterans Administration under the standard for determining remarriage applied by the agency before that enactment. Approved August 12, 1970.

Our work is not yet done despite all the progress that has been made. We must move quickly to further assist the VA in providing needed benefits for our veterans. One area in which we must act is to provide the VA with additional flexibility so that it may further improve medical care and treatment of veterans. I would hope that when we return in November we can give consideration to this matter.

I commend my colleagues in the House for the accomplishments of the 91st Congress in the field of veterans affairs. I particularly commend the distinguished chairman of the House Veterans' Affairs Committee, Congressman OLIN E. TEAGUE of Texas, and the other members of the House Veterans' Affairs Committee. I look forward to having the opportunity to serve with them again and to accept the challenges of the new Congress.

REPORT ON THE 91ST CONGRESS

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAMS) is recognized for 10 minutes.

PEACE EFFORTS

Mr. WILLIAMS. Mr. Speaker, President Nixon has kept his promises to withdraw U.S. troops from Vietnam on an orderly, scheduled basis. He kept his promise to withdraw 110,000 by April 15, 1970, and to withdraw another 50,000 by October 15, 1970. He is on schedule to keep his promise to have another 100,000 out of Vietnam by the end of May 1971. He kept his promise to withdraw all U.S. forces from the April-launched Cambodian "clean out" incursion of June 1970.

President Nixon's address to the Nation on October 7, 1970, just after he returned from his visit to the Middle East and Europe in the interest of peace, gave further dramatic evidence of this administration's dedication to a lasting peace. The President's proposal for an immediate "cease-fire in place," without conditions, indicates our dedication to achieving that peace. No thinking American can fault with the high purpose set forth in the concluding line of the President's message:

Let us give our children what we have not had in this century, a chance to enjoy a generation of peace.

The U.S. efforts for a lasting peace have been apparent in the Mideastern cease-fire proposed and achieved through our efforts. A full-scale Mideastern war undoubtedly was averted by the President's strong warnings to Soviet Russia and Syria when Syria was invading Jordan. After the diplomatic warning, the U.S. 6th Fleet was strengthened in the Mediterranean to show our determination to assure peace in the Middle East. It will be interesting to note the reaction of the Communist countries to our obvious efforts to assure a long-range peace.

CENSUS

The 1970 census by the U.S. Census Bureau was conducted by a mail survey instead of the personal, door-to-door enumerator interview system used in the 1960 census. The mail survey system resulted in numerous errors. For example, the borough of Bethel Park, Pa., had a 1960 census of 23,000; the 1970 census gave Bethel Park a population of 17,019. A recount gave Bethel Park a population of 32,218. The Montgomery County Planning Commission estimates that approximately 60,000 Montgomery County residents were not counted in the 1970 census. These errors are important; such things as certain Federal grants and liquid fuel tax payments by the State to municipalities are based on population. If you were not counted in the 1970 census, or if you know of anyone who was not counted, please forward this information to my Washington office.

CRIME CONTROL

The Organized Crime Control Act of 1970 (S. 30) passed the House October 7, 1970. It will give law enforcement officers the tools to deal with organized crime's highly sophisticated, diversified, widespread activities. These flagrantly illegal actions annually drain billions of dollars from the U.S. economy and victimize millions of our citizens. Needless to say, this much-needed legislation had my wholehearted support.

The House added an amendment which made it a Federal crime to commit bombings and arson by incendiary devices at colleges and universities receiving Federal aid. Virtually all of these institutions receive Federal aid in some form. In fact, an average of 85 percent of the total research budgets of these institutions comes from the Federal Government.

One of the most critical features of this amendment will permit the FBI to launch immediate investigations of bombings and arson at these federally aided schools. This means that some of the additional 1,000 FBI agents which the Crime Control Act authorized for overall FBI activities will be available for immediate service when such heinous campus actions occur. This should do much to stop the deadly violence by the few who are attempting to accomplish the anarchistic goal of destroying our higher educational system.

COMMISSION REPORTS

On September 26, 1970, the President's Commission on Campus Unrest published its report. On September 30, 1970, the President's Commission on Obscenity and Pornography published its report. The Commission on Obscenity and Pornography was appointed by President Johnson in January 1968. The Commission on Campus Unrest was appointed by President Nixon in June 1970.

The obscenity and pornography report recommends repeal of all laws prohibiting distribution of explicitly sexual materials to consenting adults. It claims to find no evidence that such matter plays a significant role in causing crime, deviancy, or emotional disturbance among youths or adults. This conclusion cannot be accepted; a high percentage of those apprehended for committing criminal and illegal acts have sexual material in their possession. Vice President AGNEW says the views of this report do not represent the thinking of the Nixon administration and so long as Richard Nixon is President, Main Street is not going to turn into smut alley.

While the campus unrest report is more precise and balanced, it places more blame on those assigned to quell riots than on those who foment them, and it calls on President Nixon to use his influence to stop campus riots. It is the responsibility of academic administrators to see that conditions that lead to riots and violence are not permitted. Vice President AGNEW says the campus unrest report is "sure to be taken as more pablum for the permissivists."

IMPORTANT LEGISLATION

With my support, the House passed a number of particularly important measures before recessing for the general election. These included: H.R. 11913, providing authorization for grants for communicable disease control; H.R. 18306, authorizing U.S. participation in increasing resources of certain international financial institutions for loans to developing countries; H.R. 14678, strengthen-

ing penalties for illegal fishing in U.S. territorial waters; H.R. 18583, the Comprehensive Drug Abuse Prevention and Control Act of 1970; H.R. 18585, providing long-term financing for expanded urban mass transportation programs; H.R. 19444, providing for armed guards on U.S. commercial aircraft.

The House also passed H. Res. 1220 to cite Arnold S. Johnson for refusing to be sworn and to take affirmation to testify regarding New Mobe activities, financing, and connections when he was subpenaed to appear before a subcommittee of the House Internal Security Committee on August 13, 1970. Mr. Johnson is the U.S. Communist Party's public relations director and a New Mobe steering committee member. He will now be prosecuted in the manner provided by law.

FINANCIAL PICTURE

In late September, major banks reduced their prime interest rate to 7½ percent from the 8 percent established March 25, 1970. The prime rate covers predominantly short-term loans. It is the interest banks charge preferred customers, mostly major corporations. This action is seen as the beginning of a general scaledown of interest rates which will benefit individual customers and small corporations. In is the paving of the way for restoring the home mortgage as an attractive investment and freeing long-term money for financing the commercial and industrial expansion which creates jobs.

The rate of inflation has decreased. Industrial commodity prices rose only two-tenths of 1 percent in September, the same as in August and July. From February through May these commodity prices increased three-tenths of 1 percent a month; a year ago they were increasing at the rate of four-tenths of 1 percent and one-half of 1 percent a month. This decrease in interest rates and inflation is an encouraging sign for our economy.

The Nixon budget for fiscal year 1971 allocated 41 percent for human resources and 37 percent for defense, whereas fiscal year 1968's budget allocated 44 percent for defense and only 34 percent for human resources. During this transition from a wartime to a peacetime economy, over 1 million people have been released from the armed services and defense plants. The slightly increased unemployment rate will decrease as more people are absorbed into human resource industry.

TAKE PRIDE IN AMERICA

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. Americans do care. Their increasing desire to help others is reflected in the fact that in 1950 $193 million was raised by United Fund campaigns compared to $755 million raised in 1969.

CONTROL TOWER

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, on Sunday, October 11, the Reverend James A. Gaiser, D.D., pastor of Elm Park United Methodist Church in Scranton, Pa., delivered a most moving and eloquent sermon in the Cadet Chapel at the U.S. Military Academy.

Dr. Gaiser's memorable address speaks for itself with more conviction and compassion and courage than any address I have ever read. Dr. and Mrs. Gaiser's son gave his life for the people of this Nation in the conflict in Vietnam. I commend this message to my colleagues in the Congress and to the people of our country:

CONTROL TOWER

"The name of the Lord is a strong tower; the righteous man runs into it and is safe." Proverbs 18:10.

This morning I come to you as a seeker after the truth. It is not my desire or intention to thunder out any proclamations saying "Thus saith the Lord." To the contrary I speak out of my own personal experience, and I want to share with you the theology which I learned from my contacts with West Point.

It all began that July morning in 1964 when we drove to West Point with our son who was a member of the incoming class of cadets. We entered by way of Washington Gate, made our way down Thayer Road to the parking lot which was reserved for parents of entering cadets. Then we walked the short distance to the walk that led past the cadet barracks in front of Washington Hall and then took a right hand turn to the gymnasium where the fledglings were to report. The sign dangling from the rope at the walk on Thayer Road informed us that visitors were not permitted beyond that point. We watched our son walk that lonely road, alone, carrying his one small suit-case. Later we were informed that near the hour of five p.m. we could watch the ceremonies of induction at Trophy Point. It was also made quite clear that we would have no opportunity to speak with our son. How can I explain to you what took place in this father's heart? As we drove back home across Pennsylvania that evening the words kept coming to my mind, "My God, my God, why hast Thou forsaken me?" For the first time in my life I began to have a faint understanding of the terrible loneliness which God must have felt when He sent His Son into the world. God must have watched His Son even as I watched mine. And God must have felt that He wanted to save His Son from the wrath of mankind, from the cruelty, from the pain and suffering; even as I wanted to carry my son's burden. But all I could feel was a vast sense of loneliness. To be separated from God, is for mankind, the same loneliness that parents feel when they watch a son walking down that lonely road to his first day at West Point.

But "beast barracks" come and go, and the routine of the regular academic year sets in. Then comes the Army-Navy game and a chance for a happy reunion. The spring semester seems to be the longest and the hardest. When the weather permits, outdoor inspection and parades begin again. This morning it was cold. It had been weeks since the inspection was out of doors. My son was almost cleared by the inspecting officer when a tear from his watering eyes dropped on his jacket. The tear was simply the result of the cold. The officer promptly said, "Spot on jacket, one demerit." Then just as he was to move on to the next man another tear dropped. The officer said, "Damn, Gaiser, your eyes sure water, one more demerit." What a letter I received from my son, telling me of this incident. As his father and also as his pastor I wrote a couple of typewritten pages in reply. I told him that he had learned more genuine theology in fifteen seconds than I learned in several years in a theological seminary. Then I went on to explain the difference between justice and mercy. Almighty God does not merely give us the justice which we deserve. If He did we would all be in trouble. God tempers His justice with a quality known as mercy. The officer had done what the rules called for him to do. This was correct, this was just. The officer had no reason to be concerned with mercy. But God is not like an officer, He is a merciful God.

Time has a way of moving on, and in June of 1968 the class of 1964 was graduated. To our home came a copy of THE HOWITZER and on the cover in gold letters were these words, "To My Loving Parents for 4 Years of Encouragement." When I saw this cover I suddenly felt the hot trickle of tears running across my cheeks. The many letters which had been written. The times when a trip to The Point seemed to be the needed thing. The many times when we wondered if he knew how deeply we cared. My mind could not keep out those words, "This is my beloved Son, in whom I am well pleased." It was not just that my son had been graduated from West Point. It was the fact that he had won a battle with himself, and he had recognized that even when we were separated from him we were with him all the way, and our love was his encouragement to continue and to succeed. How God must wonder at times if we are aware of the fact that He is constantly loving us, and that we have His support as we travel the pathway of life. Truly we are all His sons.

Where do we go from here? The assignment was Viet Nam. Our boy told his intimate associates that he was glad to be going where the action is, and the reason was that he was so well trained that he felt he could honestly help to save the lives of his comrades in arms. Well do I remember the day he took off in that plane. Across the United States and then out over the great Pacific. Some years before we had flown the same route as a family making a trip around the world. There was no apprehension on my part. My son was just following his assigned duty. Letters, pictures, plans for the future. Then that November night after an evening vesper service when a friendly Colonel called at our home. He never had to explain his mission, because I knew. My son had made the supreme sacrifice, he had given his life. It was then that I learned by greatest lesson in theology.

My mind went back to the time when our family had been invited to visit the control tower of the Miami International Airport. There in the dark of night we had watched as the man in that tower directed the planes to come in for a landing or to take off. That night I had discovered that there are directed flights and free flights. The directed flight pattern is one in which the plane is under constant radar surveillance from the time it takes off until it lands at another airport. Then there is the free flight pattern when an individual plane or a chartered plane may change its destination. Such a plane would radio in from a considerable distance asking for clearance. Regardless of the pattern each plane would eventually be picked up on the radar scope. The important thing, and that which I want you to see this morning is that regardless of the pattern the plane was flying the time always arrived when it sought clearance from the control tower.

After we had watched this operation for a couple of hours we went down to the radar room. There were three radar screens and two of them were manned while the third

operator took a break. Just as we entered the room a streak went down across the radar scope. Immediately one of the men picked up a phone and asked Cape Kennedy if they had just set off another rocket, or if a rocket could have just fallen into the ocean. But even as he was calling the voice of a pilot came over the radio saying that several miles to the south he had seen something crash and burst into flames. We heard the pilot's voice so clearly saying that he thought a plane had gone down. Immediately the plane that had radioed in was spotted on the radar screen. It was just a tiny spot of light, but they knew exactly where it was. It was over the Everglades. With this information the third man in the room called the Coast Guard, and helicopters were dispatched. Thus the lives of three army men were saved as they parachuted from their bomber which had subsequently crashed.

If this could happen in the control tower of a great airport, how much more could it happen in the great control tower of life where God looks after the flight of each one of our lives. My boy had died in Viet Nam, but his flight was directed by a good God in the control tower. Thus my faith was tested and tried. Shortly after his burial in the cemetery at West Point we attended another Army-Navy game. As the cadets moved out onto that football field at the beginning of the ceremonies I knew the meaning of the long gray line. Certainly I had heard about it before, but now I knew what it meant, and my son was part of it.

This summer we were in Germany. A woman who had heard about our loss came and expressed her sympathy. Then she said, "But didn't this cause you to lose faith in God?" I told her that to the contrary it had strengthened my faith. That night as I knelt beside my bed in a hotel in a German town, the woman's words kept coming through to me. As I prayed a note of bitterness crept into my prayers and I said, "God, why did you have to take my son?" Then just as clearly as if the words had been spoken aloud in that room I heard the voice of God say, "He is my son, too." So I finished my prayer by thanking God for our son.

In the week's time when we were notified of his death and the body was returned for burial I had a lot of time to think. In the confines of my study I took pen and paper and I wrote these words:

"LETTERS FROM MY SON

"I've been in the Viet Nam battle,
And heard the mortars explode,
And I've listened to armored tanks rattle
Down dust and mud mired road.

"I've seen the glorious sun rise
From out the horizon's rim,
I've seen it set in glory
And also on battles grim.

"I've seen strained looks on faces
When the battle was at its height,
And prayed God in heaven
To keep away the night.

"I've heard the CO's praises
And his shout from the Bunker, 'Well done'
And the cheers from the mud-splattered faces
When our battle was fought and won.

"I've fought in the terrible conflict
In times of rain and sun
Yes, I've been across the great Pacific
Through letters from my son."

Yes, I have come here today to simply share with you. I have come with the hope that I could leave you with a positive witness that "The name of the Lord is a strong tower; the righteous man runs into it and is safe."

EXPLANATION OF VOTE ON DEPARTMENT OF DEFENSE APPROPRIATIONS BILL

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN), is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, last Thursday, October 8, I was one of 31 Members of the House of Representatives who voted against the Department of Defense appropriations bill. My vote in no way was intended to denigrate the Appropriations Committee's efforts in paring $2 billion from the administration's budget request. Nor should it be construed as a blanket rejection of needed weapons systems.

Rather, I rejected H.R. 19590 on the grounds that approximately one-fourth of the funds authorized therein—over $15 billion—is allocated to our continuing Vietnam involvement.

As I stated on the House floor on December 8, 1969, in explaining my position on the 1970 fiscal year military appropriations measure, our Vietnam effort represents a tragic misallocation of resources, both human and financial. This war, whose purpose has never been defined, has cost more than 50,000 American lives, over 300,000 American wounded. It is the principal source of the inflation which has plagued our Nation since 1966—the Consumer Price Index has advanced 24 percent since January 1, 1966. Too, our Vietnam folly has materially weakened our strategic military posture. Like the father who fritters away the family's bread money at the racetrack, we have squandered much of our military resources in Vietnam.

My principal reason, however, in voting against H.R. 19590 was a personal one. I simply do not want on my conscience the responsibility for the needless deaths of several thousand additional Americans which the passage of this bill authorizes.

WE MUST ENACT LEGISLATION TO PROTECT OUR ENVIRONMENT

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. HARSHA), is recognized for 10 minutes.

Mr. HARSHA. Mr. Speaker, President Nixon in his message, "A Call for Cooperation," on September 14 said:

> The most neglected and the most rapidly deteriorating aspect of our national life is the environment in which we live.

I wholeheartedly agree as I am sure all of my colleagues on this side of the aisle do. From the rhetoric of my friends on the other side of the aisle, it would seem that they also agree. However, the Democratic leadership of the House of Representatives has totally ignored the President's legislative package which is designed to be more effective in preserving and enhancing our precious waters.

The administration's legislative proposals on water pollution control were outlined in the President's message on the environment on February 10, and set forth in specific proposals sent to the Congress on the same date.

In almost 8 months not even a single day's hearing has been scheduled. Valuable time has been and is continuing to be lost while our waters continue to deteriorate because present law is inadequate.

The President's proposals relate to four major areas of concern: Enforcement, financing, and State programs and research. Nearly one-third of the Members of the House cosponsored these legislative proposals before this House under bills numbered H.R. 15903, H.R. 15904, H.R. 15905, H.R. 15906, and numerous subsequent bill numbers. As of October 6, 1970, 121 Members have cosponsored H.R. 15903 or similar bills, while 155 Members have cosponsored H.R. 15904, the Clean Waters Financing Act, or similar bills; 143 Members have cosponsored H.R. 15905 or similar bills, and 141 Members have cosponsored H.R. 15906 or similar bills.

If these proposals had been enacted, tough new enforcement provisions would now be effective and would cover among other waters all navigable waters in addition to interstate waters. The major portion of our waters is not now subject to Federal water quality standards.

Water quality standards would be strengthened. New requirements would be established by the States, and the efforts to develop such requirements would now be underway so we could control these discharges. Enforcement procedures would be streamlined, and fines up to $10,000 per day of violation of water quality standards would be authorized.

Time-consuming and cumbersome enforcement procedures remain in the law. The need for the President's proposals to cover additional waters and to expedite enforcement becomes greater day by day.

The administration's second proposal would provide a 4-year Federal funding program of $4 billion for the cost of the construction of waste treatment facilities. The Federal Government would enter into "grant agreements" with the municipalities up to $1 billion a year for 4 years. These "grant agreements" would be obligations of the Federal Government to be satisfied as any other debt obligation. The problem of "reimbursables" would be solved, and local and regional authorities would be able to plan on a long-range basis. The allocation formula would be revised so the money could be used where it would do the most good in enhancing the quality of our waters.

Municipalities and regions are encountering increasing pressures for commitments for waste treatment facilities. Assurance of funds is necessary for adequate planning, and they still do not have the benefit of this assistance.

To assist local communities to participate in the Federal program, this program would be complemented by the Environmental Financing Authority, which would be established in the Treasury Department. EFA would have authority to purchase waste treatment bonds from municipalities which are unable to sell their bonds on the open market at a reasonable rate, provided such treatment

works qualify for Federal financial assistance under the $4 billion program.

Without EFA those communities which are financially strapped remain so, and thus are unable to go ahead with plans for waste treatment facilities even though the need grows daily.

The fourth proposal would provide additional financial assistance to State and interstate programs so that substantial improvements could be made. Funds for this purpose are now limited to $10 million. This amount would be tripled over a 5-year period.

Again, lack of funds resulting in lack of adequate resources hinders the development of State and interstate water pollution programs.

I cannot understand the Democratic leadership's apathy in a matter of such vital importance to each and every man, woman and child in our Nation, and to all future generations as well.

The demand for our water resources grows daily. Pollution of our waters is serious throughout the Nation and in many areas is crucial.

Despite the rhetoric and the urgent need for high priority consideration of the President's program to abate water pollution, the Democratic leadership has shelved it without any consideration whatsoever. At best, the battle not only to save our waters from further degradation but also to enhance their quality will be long and difficult. The President's programs are needed today—not tomorrow.

At the same time that the Democratic leadership has been giving lip service to the need for control of water pollution and patting themselves on the back for their "holier than thou" attitude, the President and those working for him have been attempting by administrative action to accomplish the cleanup of America's waterways. To illustrate this, I have a chronological list of the actions taken by the Nixon administration to clean up the waterways. This list fills five type-written pages and contains some approximately 30 actions taken by the Republican administration in the area of water pollution since last fall. Despite the diligence on the part of the Nixon administration and the Republican Members of this House, we have been unable to budge the leadership in obtaining hearings on these necessary and vital proposals. I would like to invite the attention of the Members of the House to the fact that both Representative WILLIAM C. CRAMER, the ranking minority member of the committee, and myself, have repeatedly requested these hearings both in person and by letter—yet no hearings have been scheduled.

I ask one question of this body and that is "How long?" How long are we to be ignored? How long are the conditions of the Nation's waterways to be neglected? How long are we to hide our heads in the sand and presume that legislation that was enacted by Congress has no need of revision; particularly when the wisdom gained by observation or experience, by reports from the General Accounting Office, and by our own eyes and even noses tell us that examination of our water pollution control programs is necessary? How long are we to ignore the advice of our experts—and that is not only the experts downtown in the administration, but the experts responsible to Congress in the General Accounting Office?

Mr. Speaker, I say that the Democratic leadership of this body has ignored this condition too long. It is time to act and to act swiftly. The situation that has been created by the willful disregard of the need for investigation of the President's suggestions has become intolerable. I say, Mr. Speaker, it must be ended now.

ESTABLISHING THE DWIGHT DAVID EISENHOWER SQUARE IN WASHINGTON, D.C.

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GOODLING), is recognized for 10 minutes.

Mr. GOODLING. Mr. Speaker, I am proud to make the announcement that I have today, on Dwight D. Eisenhower's birthday, introduced a joint resolution that would establish the Dwight David Eisenhower Square in Washington, D.C., generally located at the intersection of Connecticut Avenue and Kalorama Road, Ashmead Place and Belmont Road NW., and incorporating Federal Park Reservation 303A and B, consisting of 19 one-hundreths of an acre of U.S. park land as shown on the National Park Service location may for the District of Columbia.

Dwight D. Eisenhower was, as we are all so keenly aware, a remarkable individual who became an institution in his own lifetime.

Here was a man whose entire adult life was dedicated to the service of his country—first, as a soldier, culminating in his defense of human liberty as commanding general of the Allied Expeditionary Force in Europe during World War II; then, at home, as president of Columbia University; later, as the first supreme commander of the forces of the North Atlantic Treaty Organization; still later, as President of the United States for 8 years, between 1953 and 1961; and finally, in retirement, as author, elder statesman, and respected counselor to the Nation.

It is customary in France and other countries of Europe to name streets and squares after great countrymen. It is, indeed, ironic that no such designation has been effected in the Capital City of Washington, D.C., because here is a man who unquestionably left a mark of greatness on this city. My resolution is designed to correct this deficiency.

I feel it is proper for me to introduce such a resolution paying a modest tribute to Dwight D. Eisenhower because I had the high honor of having him as my constituent in the 19th Congressional District of Pennsylvania. Interestingly, too, the ancestors of Dwight D. Eisenhower sought refuge in the Commonwealth of Pennsylvania in 1732 from the recurring wars of Europe, having settled along the banks of the Susquehanna River in an area that is in my congressional district. These forebears remained in that area until 1878, when they left to settle in Kansas.

I would also like to report that my resolution provides for the erection of an appropriate statue in the Dwight David Eisenhower Square. Such a structure would provide a proper emphasis for this square.

I consider it a high honor to introduce this resolution that is designed to pay proper tribute to Dwight D. Eisenhower who, as one of seven sons of a mechanic in the Midwest, made a great contribution to all of mankind and who, in turn, won the respect and love of citizens throughout the world.

I sincerely hope the Congress extends this legislation the expeditious consideration it deserves.

EDUCATIONAL PROGRAMS

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 20 minutes.

Mr. HOGAN. Mr. Speaker, during the 91st Congress this body has been called upon twice to override vetoes on appropriation bills containing funds for assistance to the Nation's educational programs. My votes on both of these occasions represented very difficult decisions, inasmuch as I agree with President Nixon that we must cut Federal spending and maintain a balanced budget to curb inflation.

On the other hand, I place a high priority on the education of the children of this Nation. While we must cut spending, education is one area which most richly deserves generous funding. Providing education for our children is to give them the greatest gift of all: The means to make their own way in the world. Halfhearted backing of their education is no gift at all—but rather a denial of their future and that of our Nation.

For these and other reasons, I also supported the Joelson amendment to the fiscal year 1970 HEW appropriation bill which increased by $894.5 million the education funds in that bill for impact aid programs, school libraries, equipment, guidance and counseling, supplemental education centers, vocational education, undergraduate construction, and student loans.

When voting on these occasions, in addition to considering the best interests of the Nation as a whole, I weighed carefully the educational interests of the Fifth District of Maryland these funds and their appropriation to be of vital importance to Prince Georges and Charles Counties.

Because of the concentration of Federal facilities and jobs in close proximity to or within the Fifth District, the Prince Georges and Charles County school systems have regularly received large amounts of funds under the impact aid authority of the Elementary and Secondary Education Act. In supporting the Joelson amendment, I voted to increase to 90 percent the funding of the authori-

zation for impact aid, and to restore funds for category B students—children whose parents work but do not live on Federal property—which were completely eliminated from the appropriation bill. Since it is from this funding category that Prince Georges and Charles Counties derive the large majority of their funds, their deletion from the bill would have meant a loss of over $8.5 million for Prince Georges and Charles Counties.

I defended the funding of section B at that time by pointing out that the argument that no impact aid money should be given for those students whose parents pay real estate taxes to the local jurisdiction begs the question. The Federal facility which employs those parents pays no real estate taxes. On the contrary, these Federal installations occupy land which would usually be occupied by commercial or industrial taxpayers. To me, that argument is specious. The school systems, in Prince Georges and Charles Counties particularly, are under tremendous stress as a result of population growth which has required the construction, equipping, and staffing of new schools at an unprecedented rate. Because this population growth is due in large measure to growth of the facilities of the Federal Government where parents of so many of the children in our schools are employed, it seems inequitable for local school systems to shoulder the financing of this growth.

At the time President Nixon vetoed the fiscal year 1970 appropriation bill, our schools were already more than half way through the school year and both counties in my district had counted on having these funds for the 1970 school budget.

As the representative for a district which receives more than $12 million in impact aid funds, I feel that it would be irresponsible to pull the rug out from under the school systems by eliminating such a large dollar amount in one action. Gradual phasing-out of category B funds is a more realistic solution than immediate elimination of all such funds as the President's budget proposed. In my statement to the Education Subcommittee of the House Education and Labor Committee in connection with its hearings into impact aid reform, I stressed this point strongly.

With one exception—where the issue of busing students was involved—I have voted for all educational bills considered by the House during the 91st Congress. These included the following:

A 2-year extension of aid to elementary and secondary education programs at $5.3 billion per year.

Extension of financial aid for medical libraries through fiscal year 1973.

The Joelson amendment adding $894.5 million to the fiscal year 1970 education appropriation bill.

Pay raise bill for District of Columbia teachers.

Authorizing a National Center on Educational Media and Materials for the Handicapped.

Incentive payments up to 3 percent to lenders making guaranteed student loans at 7 percent.

Grants and assistance to education programs for talented and gifted children.

Remedial education programs and supportive services to help children with specific learning disabilities.

Special education programs and activities concerning the use of drugs.

National Commission on Libraries and Information Science.

To override President Nixon's veto of HEW fiscal 1970 appropriation bill.

Revised HEW fiscal 1970 appropriation bill.

To override President Nixon's veto of fiscal year 1971 education appropriation bill.

In regard to the exception, my "nay" vote was cast, not in opposition to funding or the basic provisions of the appropriations bill involved, but in protest against certain language relating to the buying of students to achieve artificial racial balance in the schools.

The fiscal year 1970 Labor-HEW appropriation bill passed the House on July 31, 1969, containing provisions which I supported to prohibit the use of funds to force busing of students, abolishment of any school, or assignment of any elementary or secondary school student against the students' or parents' choice, and forbidding busing as a condition precedent to obtaining funds.

When the conference report on this legislation returned to the House on December 22, however, it had been amended by the Senate so as to render ineffective the antibusing provisions which I supported. Therefore, I voted against this conference report. This was the bill later to be vetoed by President Nixon.

I have stated time and time again that while I am vigorously opposed to school segregation, I am also equally opposed to interfering with the education of children to artificially achieve integration through busing.

The long-term problem is the underlying social malignancy of racial prejudice. It makes absolutely no sense to mix the problem of education with the problem of racial prejudice. It is grossly unfair to the children to bus them from all-black neighborhoods to an all-white school for the purpose of bringing the races together, when, at the end of the school day, the Negro children are bused back into the all-black neighborhood.

We must solve the overriding societal problem of eradicating the all-black neighborhoods and the flight of whites deeper into suburbia, rather than gloss over this problem with a short-term school desegregation proposal. We must solve the problems of the communities, of housing, of job opportunities, as well as the problem of integrating our educational system.

Even in my work with the House District Committee I have had an opportunity to look into the problem of the District of Columbia school system and consider related legislation.

As a member of the District Committee I proposed and fought for legislation to increase the salaries of teachers, officers, and other employees of the Board of Education in the District of Columbia retroactive to September 1969. Although I was successful in securing approval of my pay scale by the subcommittee, it was knocked out on the floor of the House by a committee amendment. I felt it would have gone a long way toward eliminating or reducing the teacher turnover problem, particularly in the middle steps where turnover is the greatest. Unfortunately, the District of Columbia in the past has lost many valuable teachers because the pay scales for the District school system could not offset the attractive salaries and working conditions elsewhere. The pay scale I had proposed would have better enabled the District to compete with these other schools for the best teachers. I consider this a very necessary step toward curing the ills of the District schools. I strongly urged prompt enactment of the House-passed bill and supported it in conference and in the House.

In the further interests of the District of Columbia school program, I have cosponsored legislation to authorize the District of Columbia to enter into the interstate agreement on qualification of educational personnel, which will increase the availability of education resources and manpower for the District.

Also, I have cosponsored legislation making available certain properties in the district for use as a site for the Washington Technical Institute.

In May 1969, I joined 21 other Members of Congress in a study and discussion tour of over 50 college campuses across the country, obtaining firsthand information regarding the problems of our campuses and receiving a more enlightened understanding of the problem of unrest among our young people.

I personally came away from this study with a much greater sense of awareness—awareness, not only of the myriad problems on our campuses, but of the urgency of the problem. I was alarmed to discover that this problem is far deeper and far more urgent than most realize and that it goes far beyond the efforts of organized revolutionaries. At the same time, I was encouraged by the candor, sincerity, and basic decency of the vast majority of the students we met.

Those of us who are outside the university community have a vital stake in the effects of campus unrest on our society so we must keep open all channels of communication which are available to us.

I was most impressed with the widespread spectrum of alienation. The awesome finding is that the alienation does not affect only the vociferous, dissident 2 percent, but rather, our observation is that the so-called "apathetic" 98 percent are also becoming alienated from and disenchanted with the society which we are bequeathing to them. Even more frightening is the fact that many of these dedicated, bright students have not rejected completely the view that they should resort to violence. Unfortunately, they can point to some campuses where violence has produced results. The idea that campus violence comes from only a few is thus reduced to the realm of myth.

It is this finding which particularly underscores my repeated emphasis on increased communication because these young people are intelligent, and socially aware. The crux of our problem is that to a large extent they are an alienated generation.

Among the specific recommendations made by the group to President Nixon were: Lowering of the voting age to 18, draft reform, establishment of a Commission on Higher Education, open communication between Federal officials and the university community, encouragement of student participation in politics, expansion of opportunities for student-community involvement, and coordination of all present Federal youth programs through one central office. Many of these things have been accomplished since then.

Subsequent to the tour, I joined several of the participating Congressmen in introducing the Student Teacher Corps Act of 1969, thereby carrying out one of the recommendations of the Task Force. I and the other Members feel the student-teacher concept in concert with the Teacher Corps, can be a valuable tool to tap student potential and expand the learning opportunities for the disadvantaged.

President Nixon was also impressed by the Student Teacher Corps proposal, and in giving his endorsement he said:

> It represents the kind of helping hand needed across the Nation.

The one conclusion which received the overwhelming support of all the Congressmen who participated in that study mission, was that violence in any form, in any measure, under any circumstances, is not a legitimate means of protest or mode of expression. It can no more be tolerated in the educational community than in the community at large. If there is to be orderly progress and a redress of legitimate student grievances, student violence must be averted.

I repeat that lawlessness cannot be tolerated. Laws are the very fibers which hold a civilized society together and, while everyone has the right to try to change the laws through the prescribed legislative process, until they are changed they must be obeyed by all citizens.

It is my firm belief that there is no room on our college campuses for those who wish to protest through violence, destruction and injury. My disappointment with many college administrators is that they have not taken steps to deal with the disruptive element on the campuses. For this reason I supported an amendment to the HEW appropriation bill for 1970 which excluded any use of funds appropriated therein for a loan, loan guarantee, grant or salary for any individual at an institution of higher learning engaging in conduct involving the threat, use of, or assistance to, others in the use of force, or the seizure of college property to interfere with college curriculum, or to prevent college personnel from engaging in their duties or pursuing their studies. In addition, this amendment prohibited funds to any institution of higher learning not complying with existing law in regard to the treatment of campus disruption.

The damage done to our higher education system by the violent and disruptive minority is not limited to loss in dollars or even lives, but includes the irreparable loss of the support of the American people for education. This faith of the American public must be restored and to accomplish this, it will take the combined energies of the apathetic and concerned, law-abiding majority of our student bodies to make certain that order is maintained on our campuses.

I hope in the next Congress we can make more progress than we did in this one toward solving these problems.

OPERATION KEELHAUL, THE FREEDOM OF INFORMATION ACT AND THE CASE OF EPSTEIN AGAINST RESOR

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 60 minutes.

Mr. ASHBROOK. Mr. Speaker, the legal documents which follow these remarks include the briefs, memorandums, and decisions in the case of Epstein against Resor in which the appellant, Julius Epstein, an historian and now research associate at Stanford University's Hoover Institution on War, Revolution, and Peace, sought release of a U.S. Army file on the forced repatriation of Soviet citizens from German camps during and after World War II. The plaintiff's arguments were based on the Freedom of Information Act which went into effect on July 4, 1967, and which specified various classifications of information which could not be withheld from the public.

The case of Epstein against Resor deserves our consideration because it calls into question the workability of the Freedom of Information Act as now constructed. More important, Mr. Epstein estimates that between 2 and 5 million people in prison camps in Germany, Great Britain, Canada, and the United States were forcibly shipped back to the Soviet Union against their wishes to face death or concentration camps at the hands of the Soviet slavemasters. What American officials were responsible for the forced repatriation and what were the arguments used to justify this policy? Can such arguments be used today to repatriate against their wishes POW's from North Vietnam now in South Vietnamese camps? Or, which is more feasible can the North Vietnamese point to the fate of the Operation Keelhaul victims to discourage their own troops from defecting to the Americans and South Vietnamese?

On May 7, 1953, the late Gen. Dwight D. Eisenhower summarized what I believe are the feelings of most Americans on the policy of forced repatriation:

> People that have become our prisoners cannot by any manner of means be denied the right on which this country was founded . . . the right of political asylum against the kind of political persecution they fear . . . consequently, to force those people to go back to a life of terror and persecution is something that would violate every moral standard by which America lives. Therefore, it would be unacceptable in the American code, and it cannot be done.

Why, then, did the United States participate in such a program as outlined in the Operation Keelhaul file, and how was this episode in our history brought to public attention? I cannot, of course, answer the first question, but it was mainly through the efforts of Julius Epstein that Operation Keelhaul has received publicity.

Educated at the Universities of Jena and Leipzig in Germany, Mr. Epstein fled Nazi Germany in 1939 and later served with the Office of War Information as an editor. Still later, as a foreign correspondent he contributed articles to various publications, including the New York Herald Tribune, the Los Angeles Times, and National Review. In 1949 Mr. Epstein did battle with Soviet apologists in the United States when he charged in a series of articles that the Soviets and not the Nazis killed thousands of Poles in the Katyn Forest massacre. Elmer Davis, who had headed the Office of War Information during the war, and others held that the Germans perpetrated the butchery. When a select committee of the House of Representatives held extensive hearings on the massacre, they found that the Soviets had indeed committed the crime, confirming Mr. Epstein's claims. Because of his interest in immigration and refugee problems, he has testified before various congressional committees, and in 1959 was appointed by the Eisenhower administration as a member of the White House Conference on Refugees. It was in 1954 that Mr. Epstein by chance disscovered a reference to a file entitled "Operation Keelhaul" and since that time has sought unsuccessfully to review the file for his historic research. He will soon have published a book on this subject with the title "Operation Keelhaul—The Story of Forced Repatriation."

Due to the pending release of his book and because of the length of the following legal documents, a detailed account of the forced repatriation and the Epstein against Resor case is inadvisable. However, three recent insertions on the subject appear in the CONGRESSIONAL RECORD on July 22 at page 25505 September 24 at page 33720, and September 30 at page 34487.

The case of the Soviet nationals in German custody at the end of the war was unique. Many had fled to the Germans after June 1941, when Nazi Germany launched her attack against the Soviet Union. Stalin, upon learning of the large numbers who were surrendering, issued a top secret order in which he admitted that "on all fronts there were people given to panic, going over to the enemy and throwing away all their weapons." In a later order he declared that all Soviet soldiers who became German prisoners were judged to be traitors. Svetlana Alliluyeva in her book "20 Letters to a Friend" commented on the treatment of Russian soldiers taken by the Germans:

> Yakov's little girl Gulia was reunited with her mother, who had spent two years in prison under the statute providing for punishment of relatives of those who had been taken prisoner. (Everyone who was taken prisoner, even if they'd been wounded, Yakov was, was considered to have 'surrendered voluntarily to the enemy.')—Is it any wonder that when the war ended many of them didn't want to come home?

One large group of Soviet nationals who had additional reasons for not returning to the Soviet Union were the more than 2 million who had joined the

so-called Vlasov army, organized by Gen. Andrei Vlasov, who before his capture by the Germans in 1942, had been decorated by Stalin for his role in the successful defense of Moscow. With the help of the Nazis, General Vlasov publicly proclaim a Russian national liberation movement and invited other of his compatriots to join in overthrowing the Stalin regime. With other Soviet nationals, General Vlasov, in his Smolensk manifesto made 13 demands of the Soviet regime which included the abolition of forced labor and all collective farms, freedom of religion, conscience, speech, assembly and press, among other things. One can only conjecture how many more millions would have joined General Vlasov if the invading Nazis had not turned out to be as brutal to the Russian people as had the Soviet leaders in the years before.

According to Mr. Epstein, the Vlasov army had less than 50,000 men actually armed and organized as a fighting unit, and after one battle on the eastern front and without the approval of the Nazis they turned and marched west to Czechoslovakia. In May 1945, Vlasov's troops liberated Prague from the Nazis. An American correspondent's eye-witness account, appearing in the Saturday Evening Post, stated in part:

Prague really was liberated by foreign troops, after all. Not by the Allies who did not arrive until the shooting was all over, but by 22,000 Russian outlaws wearing German uniforms. The leader of these renegades was General Vlasov, a former hero of the Red Army.

Mr. Epstein, in his synopsis of his forthcoming book, reports that General Vlasov after the German capitulation in May 1945, marched south toward the American forces in answer to the Allies invitation that surrender would result in fair treatment according to the Geneva Convention. Before the downfall of the Nazis, the Americans and British had dropped million of leaflets and so-called safe-conducts, signed by General Eisenhower inviting the Germans and those who had fought with them, including the Vlasov troops, to lay down their arms in exchange for fair treatment. Mr. Epstein, in his book states that the War Department at first promised the Vlasov troops in its leaflets "speedy return to your beloved fatherland"—the very fate they feared most. Later other leaflets were dropped on Vlasov's troops promising that "we shall never return you to the Soviet Union."

Vlasov's troops, sad to say, were among those Russian nationals who were forcibly repatriated to the Soviet Union.

To say that U.S. policy toward the repatriation of Soviet nationals was confused from 1944 on is to put it mildly. Dr. Frederic N. Smith, whose dissertation for a doctorate of philosophy at the Graduate School of Georgetown University was expressly on the American role in the forcible repatriation of Soviet citizens after World War II, states that the fate of the Soviet nationals after the war was being given serious consideration in 1944:

By September, it was abundantly clear that the defeat of Nazi Germany was near. A member of the International Red Cross delivered to the United States Legation in Switzerland a lengthy memorandum relative to the problem which Russians and others of Soviet citizenship would face after the impending Allied victory. Being of Baltic parentage, and having good contacts with both the Germans and the Soviets, he was able to present a very astute analysis, which proved to be a remarkably accurate forecast of what actually took place.

Dr. Smith went on to say that—

In his memorandum he gave a figure of 1,500,000 as the number of Soviet citizens who had been recruited for service with the Germans. He went on to mention the work of the National Alliance of Solidarists or the NTS among these people, which I have previously mentioned. He further expressed the opinion that the NKVD or secret police would deal harshly with these persons, based upon their performance in areas "liberated" from the Germans up until that time. He went on to state that these people "have been told again and again that, should they surrender, they risk being delivered by the Anglo-Saxons into the hands of their Soviet ally." (The preceding quote is from a letter from the U.S. Legation in Switzerland to the State Department dated September 30, 1944.)

Dr. Smith concluded this passage with this provocative observation:

The memorandum ends with a plea that the International Red Cross work through the Allied governments in order to save these people. Obviously, this memorandum was ignored or not properly considered. I can say, however, that it was seen by those responsible for policy in this regard, as I did observe their initials on the communication.

If the research of Mr. Epstein is correct, the above memorandum was several months late, for Mr. Epstein in the synopsis of his book states:

The truth is that forced repatriation of Soviet nationals by the Americans and British started in June, 1944, eight months before the Yalta Agreement was signed.

To add further to the confusion, on February 1, 1945, 3 days before the Yalta Conference, Acting Secretary of State Joseph C. Grew told the Soviet representative in Washington in writing that—

We will never return these people. We cannot repatriate these people, because this would be a gross violation of the Geneva Convention. They were captured in German uniforms, and the Geneva Convention does not permit us to look behind the uniform.

When Mr. Grew informed Secretary of State Stettinius of the note to the Soviet diplomats here in Washington, Mr. Stettinius wired back from Yalta that the United States had to sign the agreement on the exchange of prisoners in order to get back American POW's captured by the Germans and then in Soviet custody.

Upon recent inquiry, I was informed by a source serving in the State Department at that time that the exchange of Soviet nationals to the U.S.S.R. was to be limited to those actually caught wearing German uniforms.

In April 1945, according to U.S. Army documents cited by Mr. Epstein, the policy of forcible repatriation was officially carried forth. In one document compiled under the authority of the Army chief historian and chief archivist, this passage appears:

The principle of forcible repatriation of Soviet citizens was recognized in Supreme Headquarters in April 1945. Although the Yalta Agreement did not contain any categorical statement that Soviet citizens should be repatriated regardless of their personal wishes, it was so interpreted by the Joint Chiefs of Staff. On instructions from the latter, Theater headquarters ordered repatriation regardless of the individual desire.

The Chairman of the Joint Chiefs of Staff at that time was Gen. George C. Marshall.

The second document cited by Mr. Epstein was distributed to all our European Army posts in May 1945, and read in part:

After identification by Soviet Repatriation Representatives, Soviet displaced persons will be repatriated regardless of their individual wishes.

Another excerpt from the document stated:

Enemy and ex-enemy displaced persons, except those assimilated to United Nations status, will be returned to their countries of nationality or former residence without regard to their personal wishes.

As the above statement from the first document states, and as Mr. Epstein has pointed out, the Yalta Agreement did not expressly provide for the use of force to repatriate Soviet citizens. Furthermore, if one of the conditions for repatriation was being apprehended in a German uniform, it is pertinent to ask how many Soviet civilians not caught in German uniforms were actually shipped back to the U.S.S.R.

The importance of the Epstein against Resor case stems from the fact that it is the first test case to be carried to the U.S. Supreme Court concerning the Freedom of Information Act of 1967. Journalists, historians, legislators, lawyers, and Government officials have an interest in the workability of the act and whether amendments to enhance its utility are in order. The historic problem of national security versus the public's right to know is central to the issue. Briefly stated, the Operation Keelhaul file has been classified as "top secret" under an executive order which protects Government records classified in the interest of national security or foreign policy. Mr. Epstein argues that the file is over 20 years old and the national security or foreign policy restriction seemed to be absurd. Mr. Epstein further contends that under the Freedom of Information Act it was the intent of Congress that a U.S. district court would review the file and make a judgment as to whether it was properly classified. The courts have ruled that this was not the intent of Congress. It is evident, then, that the case history of Epstein against Resor is of the utmost importance in further clarifying by amendment, if necessary, the intent of Congress regarding this act or other changes deemed necessary to protect both the interests of the Nation regarding national security and the availability of Government information to which the public is entitled.

A summary of the Epstein against Resor case appears on pages 34487 through 34492 of the September 30 CONGRESSIONAL RECORD, and there follows the texts of the various legal documents which comprise this all important case.

The aforementioned material follows:

[United States District Court for the Northern District of California Southern Division]

JULIUS EPSTEIN, PLAINTIFF, VS. STANLEY RESOR, SECRETARY OF THE ARMY, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE, DEFENDANT.

COMPLAINT

1. This action arises under the Administrative Procedure Act of 1946, as amended, Section 3, 60 Stat. 238, U.S.C., Title 5, Sec. 1002. The jurisdiction of this Court is founded on those sections. Plaintiff in fact resides in the County of Santa Clara, State of California, within the Southern Division of the Northern District of California.

2. On or about July 22, 1967, and at times thereafter, plaintiff requested that defendant make available to plaintiff a file in the possession and under the control of defendant, described as "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul."

3. Plaintiff's request was made pursuant to Section 3 of the Administrative Procedure Act of 1946, as amended, 60 Stat. 238, U.S.C., Title 5, Sec. 10002.

4. Plaintiff has been willing to perform all conditions on his part to perform in order to obtain said file.

5. Defendant has improperly withheld said file from plaintiff contrary to the provisions of said Act.

Wherefore, plaintiff requests judgment enjoining the defendant from withholding from plaintiff the file entitled "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul"; and for costs incurred in this action.

Dated: March 20, 1968

AFFIDAVIT

John E. Moss, being first duly sworn, deposes and says: That I am a United States Congressman from the State of California; that on June 9, 1955, a House Government Information Subcommittee, with myself as Chairman, was established to investigate charges that Federal agencies had withheld information from those entitled to receive it; namely, the American public; it was discovered by the subcommittee that agencies, in refusing to permit public disclosure, were citing as authority 5 U.S.C. Section 301, which provided that the head of each department was authorized to establish regulations concerning the performance of his department business and the use of its records; Congress amended that statute in 1958 to make it clear that the statute could not be relied upon as legal authority for the withholding of information from the public; the agencies, however, then began relying on the restrictive reading of Section 3 to deny this disclosure; subsequent hearings on the availability of Government information were held by my subcommittee and by the Sentae Subcommitee on Administrative Practice and Procedure; since 1957, each succeeding Congress had before it a bill to substantially revise Section 3 of the Act; after nine years of hearings and debate before the two Subcommittees, Congress passed a new Public Information Law; it was the overriding concern of Congress that disclosure be the general rule, not the exception, that the burden be on the agency to justify the withholding of a document and the person who requests it, that individuals improperly denied access to the documents have a right to seek injunctive relief in the Courts, and that in general the statute be a disclosure statute and not a withholding statute; specifically, it was the intent of Congress to grant to the District Court the broadest latitude to review all agency acts in this regard, including the correctness of a designation by an agency bringing documents within an exemption found in Section "(e)" of the Act; and that the powers granted to the Court and the burdens placed upon the Government in Section "(c)" were meant to include rather than exclude the exemptions.

[United States District Court for the Northern District of California, Southern Division, Civil No. 48962]

JULIUS EPSTEIN, PLAINTIFF, VS. STANLEY RESOR, ET AL., DEFENDANTS

MEMORANDUM IN SUPPORT OF THE MOSS AFFIDAVIT

Plaintiff, in defense of its position that the Government must prove the proper classification of "Operation Keelhaul" as Top Secret, has submitted to the Court an Affidavit from Congressman John E. Moss, Chairman of the House Committee under which the Freedom of Information Act was initiated, and the author of the bill. The Government has challenged the relevancy of the Affidavit.

The primary rule of construction of statutes is to ascertain and declare the intention of the legislature. See for example, *U.S.* v. *Cooper Corp.*, 312 U.S. 600, and *U.S.* v. *Alpers*, 338 U.S. 680. It is clear that committee reports may be considered in determining the intent of the legislature where a doubt as to the statute's proper meaning exists. See for example, *Wright* v. *Vinton Mountain Trust Bank*, 300 U.S. 440.

As a general rules, it is permissible in the construction of a statute to resort to statements by members of the Congress, generally a committee member or chairman in charge of having the bill passed. The courts generally regard explanatory statements by such persons as belonging to the same category as committee reports. See *Wright* v. *Vinton*, ante; *Helvering* v. *Bell Oil Syndicate*, 293 U.S. 312; and *Union Starch and Refining Co.* v. *N.L.R.B.*, CA 7th 186 fed. 2nd 1008.

Statements by the author of a bill have been held proper for consideration as showing the conditions or history of the period or the "mischief which it was intended to remedy and thus, throw light on its proper interpretation." *Jennison* v. *Kirk*, 98 U.S. 453; *Helvering* v. *Griffiths*, 318 U.S. 371; and *N.L.R.B.* v. *Wine, Liquor and Distillery Union*, (2nd Cir.) 178 2nd 584.

It is clear from the above case law that Congressman Moss' Affidavit can be properly considered by the Court in determining the intent of Congress.

[U.S. District Court for the Northern District of California, Southern Division]

JULIUS EPSTEIN, PLAINTIFF, *v.* STANLEY RESOR, ET AL., DEFENDANTS

Civil No. 48962, memorandum in opposition to defendant's motion to dismiss.

I. PRELIMINARY STATEMENT

Plaintiff, an historian who is now a research associate at Stanford University's Hoover Institution on War, Revolution and Peace, has filed suit pursuant to Section 3 of the Freedom of Information Act, 5 USC § 552, seeking the production of a 1948 U.S. Army report entitled "Operation Keelhaul" from the Department of the Army. Plaintiff, who was educated at the Universities of Jena and Leipzig, Germany, served as an editor with the Office of War Information, and later became a foreign correspondent after fleeing Germany in 1939. He has contributed articles to various publications including the *New York Herald Tribune*, the *Los Angeles Times* and the *National Review*, among others, and is presently preparing a book on forced repatriation of anti-Communists to the Soviet Union after World War II. (See Exhibit A, Affadavit of Plaintiff). In 1959, he was appointed by the Eisenhower Administration as a member of the White House Conference on Refugees. In this regard, he drafted a bill for the creation of a select House committee to investigate past and present forced repatriation. (See Exhibit B)

In 1956, plaintiff, in testifying before a Senate subcommittee about the existence of "Operation Keelhaul" said that he had been trying to obtain the file since 1954. Members of the subcommittee were also unable to obtain it. The file is believed to contain information dealing with about 900,000 Communist Russians who were allegedly forceably repatriated from Germany to the Soviet Union at the end of the war, and who are believed to have been either executed or died in slave camps after their repatriation.

The file has been classified "Top Secret" since 1948, and remains so classified today, even though the file is twenty years old and obviously has no present bearing on national defense, foreign policy, or any other requirement for such a classification.

II. STATEMENT OF FACTS

In view of the public ignorance about "Operation Keelhaul", plaintiff accepts generally the statement of facts set forth in the Department's opening brief. It is not disputed that the file was "generated by the Allied Force Headquarters". Classification of the Allied Force Headquarters as an "international organization" is challenged, however.

It is agreed that the documents requested by plaintiff have been classified "Top Secret" pursuant to the provisions of Executive Orders 10501 and 10964. Exception is taken, however, to the Government's position that the documents are not subject to unilateral regrading by the United States and that they are "Top Secret in the interest of national defense or foreign policy", a prerequisite to such classification. Its continued classification is in violation of the requirements of the Executive Orders.

The facts as set forth on pages 5 and 6 of the Department's brief are correct except the allegation that plaintiff's request has not been denied. It has been denied continuously from 1954. (See Exhibit C, Correpondence, especially the Department's letters of August 3, 1955, April 6, 1966, August 7, 1967 and October 4, 1967) The Court's attention is called also to the numerous references to the unlimited amount of time during which plaintiff must wait for the Department to take up these matters with the British Government, review each document, one by one, and proceed then with an unduly long and unnecessary administrative appeal.

III. THE STATUTE INVOLVED

5 USC § 552, effective on Independence Day, 1967, provides in part that each agency shall make information available to the public as follows:

(3) . . . each agency, on request for identifiable records . . . *shall* make the records *promptly* available to any person. On complaint, the District Court of the United States . . . has jurisdiction to enjoin the agency from withholding any records improperly held . . . in such a case the court *shall* determine the matter *de novo* and the *burden is on the agency* to sustain its action. . . . Except as to causes the court considers of greater importance, proceedings authorized by this paragraph take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

But the above does not apply to matters that are "specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy."

IV. THE ISSUES TO BE DETERMINED

The three major issues to be determined by the Court are the following: (1) Does the classification of documents as "top secret" within the above-mentioned executive orders automatically prohibit their disclosure pursuant to the first exception of the Act (Section 4(b)(1)), as the Department urges (see defense brief, page 12, lines 8–20) or may the District Court look behind the classification at its reasonableness in order to give effect to the plain language, purpose and intent of the Act? We believe the latter view must prevail if the Freedom of Information Act is

not to be repealed by judicial decision or governmental bureaucracy.

(2) Has the Department carried its burden of proof as required by the Act on the issues raised below?

(3) Must plaintiff wait another 14 years to have his request determined by the Department and before he may bring suit? We believe the plain language of the Act in addition to its purpose and intent requires a negative answer to issues 2 and 3.

V. ARGUMENT

A. *Jurisdiction to Review.*—First, it is clear that the District Court has the power to examine the basis of and apply a test of reasonableness to the Department's contention and conclusion that the documents being sought fall within the Executive privilege exemption. Section 3 of the Act specifically orders the court to conduct a trial *de novo* and examine the facts, documents and files in question in order to make a determination of whether the claimed privilege and exemption are proper—i.e., whether the Department has sustained its burden of proof.

The Supreme Court of the United States in *U.S.* v. *Reynolds*, 345 US 1 (1953), held that when a government privilege was claimed, the court has jurisdiction to determine whether the circumstances are appropriate and yet do so without forcing a disclosure of the very thing the privilege is designed to protect. In proscribing a test, the Supreme Court stated that the District Court could review the documents in issue to determine the privilege unless "injurious disclosure would result." In the *Reynolds* case, newly developed secret Air Force electronic devices were in issue and the court took judicial notice that it was "a time of vigorous preparation for national defense." In the case at bar, a twenty year old file dealing with the repatriation of prisoners in World War II is in issue. Clearly, nothing here reaches the question of national defense or foreign policy which might result in injurious disclosure.

The above, coupled with the express language of the Statute placing the burden of proof on the agency to sustain its refusal, clearly gives the District Court power to examine and review the file itself, to determine whether the privilege should be granted or whether the documents should be disclosed.

B. *Policy Demanding Review.*—After determining it has power to examine the reasonableness of the Department's claim of privilege, the court must decide whether it should exercise that power. We believe that power must be exercised in order to give effect to the Act.

The purpose of the Act and its history are clearly set forth in Senate Report No. 813, 89th Congress, 1st Session (1965). Senator Long, after noting the desirability of "public information" and the necessity for an informed electorate being vital to the operation of a democracy, stated that the prior Section 3 was "full of loopholes which allow agencies to deny legitimate information to the public. Enumerable times it appears that information is withheld only to cover embarrassing mistakes or irregularities . . . It is the purpose of the present bill . . . to establish a general philosophy of full agency disclosure . . . and to provide a court procedure by which citizens and the press may obtain information wrongfully withheld . . ."

It was the intention of the Senate to make the new Section 3 a "disclosure" rather than a "withholding" act.

An interesting analysis of the Act and its legislative history is found in 34 University of Chicago Law Review 761 (1967) in an article entitled "The Information Act: A Preliminary Analysis". The Attorney General's Memorandum printed in June 1967, which analyzes the Act sentence by sentence and is intended to guide the agencies' practice under the Act, reflects the point of view of the agencies, all of whom opposed enactment. The courts, however, must use the Senate Committe report and the plain language of the Statute as a guide for interpretation and preservation of the Act.

The language of the Act is as plain, simple and straight-forward as is its purpose. Only in its application do problems arise, due primarily to the reluctance of the various governmental agencies to abide by its purpose and intent.

C. *The Department's Failure to Carry Its Burden of Proof.*—The Department has denied plaintiff's request based upon the language of the Act, which specifically exempts from disclosure information required by Executive Order to be kept secret in the interest of national defense and foreign policy. Plaintiff does not contest the validity of such an exception, only its application herein. The above legislative history was set forth to show the purpose of the Act and to further show the general attitudes of noncompliance of the agencies. The Department proceeds with its argument through a series of quotations from various documents. Analysis indicates a general intention to circumvent the Act.

In quoting Executive Order 10501, official information which requires protection "in the interest of national defense" is limited to three classifications, one of which is "Top Secret". The use of the "Top Secret" classification is to be authorized, however, only for defense information or material which requires the highest degree of protection. The Top Secret classification shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation, such as . . . an armed attack, . . . or the compromise of military or defense plans, . . . or scientific or technological developments vital to the national defense.

First, the Department has not attempted to show that the classification of the file sought as Top Secret satisfies the above requirements. No effort was made to carry the burden of proof on this issue because the information sought by plaintiff can in no way be considered to fall within those requirements.

The Department then goes on to quote from Section 3 on classification: "Unnecessary and over-classification shall be scrupulously avoided". Again, no effort is made to prove that this requirement has been satisfied in view of the information being sought.

In support of itself, the Department quotes sub-section (c). To fall within this requirement, it must be shown that we are dealing with (1) defense information of a classified nature, (2) furnished to the United States by a foreign government or international organization. No proof has been offered that these requirements are satisfied. We believe they are not.

Counsel's brief then goes on to Section 4 of the Executive Order dealing with declassification and downgrading. It appears to rely on Section 4(a)(1) Group 1, which states that information originated by foreign governments or international organizations and over which the United States has no jurisdiction cannot qualify for automatic downgrading. Plaintiff also denies that "Operation Keelhaul" falls within the above section. The Department has not proved that any of the information was originated by a foreign government or international organization over which the United States has no jurisdiction." It has stated merely that a joint allied command was responsible for these documents, and apparently, for "Operation Keelhaul" itself. The government has arbitrarily designated the Allied Headquarters an "international organization", but no definition, authority or convincing argument is set forth to justify this arbitrary designation. It is suggested that that phrase refers to an agency such as UNESCO, the International Red Cross or similar agencies.

This allegation surely cannot mean that the U.S. Government was not a part of the Combined Chiefs of Staff and it cannot mean either that the file does not contain documents of purely American origin. In fact, one must presume that the greater part of the "Operation Keelhaul" file consists of American documents, dealing, as the title indicates, with the American operation of forced repatriation of Soviet nationals, prisoners of war and displaced persons.

It cannot be assumed that the British Government should have any legal power to prevent the American people from learning the truth from these American documents. These documents have been under the American Government's administration which classified them "Top Secret" and which, therefore, has the sole authority to declassify and to release them.

Unless the Government can prove that their declassification and release could result in "a definite break in diplomatic relations affecting the defense of the United States, and armed attack against the United States or its allies, a war or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense", the "Operation Keelhaul" file has to be declassified and released.

It should also be borne in mind that the Combined Chiefs of Staff was a war-time creation which ceased to exist in 1945, more than 23 years ago and rules which may have been applied under strict war-time regulations cannot be applied today, 23 years later. This holds true especially in view of the "Freedom of Information" Act which came into force on July 4, 1967. The purpose of this Act is exactly the prevention of overclassification and the providing of a judicial remedy to the public in cases of unnecessary classification.

Lastly, in support of its argument, the Government relies on the Wickam affidavit, paragraphs 3 and 4, which states the "Operation Keelhaul" file was originally classified "Top Secret" because it contained documents which were "top secret". The illogic of this circular definition speaks for itself. Incredibly, however, the Wickam affidavit goes on to say "they have retained the top secret classification because as combined or foreign records they are characterized as Group I documents . . . and are not subject to unilateral regrading action by the United States". No effort is made on behalf of the Government to show that the documents still qualify as "Top Secret." No effort is made to show that they have any present bearing on national defense or foreign policy. The only reason set forth for continued classification as "Top Secret" is bureaucratic red tape—these documents are "Top Secret" now because they were classified as Group I long ago—or is the real reason because their disclosures could prove embarrassing to certain people, which is not a ground for non-disclosure according to the Department's own regulations (AR 345–20, 1967, page 1—"Information from Army files will not be withheld . . . because it may reveal or support error or inefficiency.") This approach is a blatant effort to circumvent the intent and purpose of the Freedom of Information Act and is the very reason why the United States District Court has been empowered to grant injunctions through a trial *de novo* and force disclosure of documents into the public realm which no longer need to be classified.

D. *Subject Matter to be Disclosed.*—As stated above, plaintiff has no knowledge of what is specifically in the file other than its general subject matter. With respect to the question of forced prisoner repatriation, certain statements should be helpful to the court in determining a policy of disclosure. (See statements of President Eisenhower attached herein as Exhibits D and E, of President Truman attached herein as Exhibit F and excerpt from the *Congressional Record*, July 3, 1968, attached herein as Exhibit G.) Only the Department knows what documents, if any, in the file were originated by a foreign government. These documents should be identified for and made available to the court. Their declassification and release cannot depend upon British consent. If British consent were necessary to declassify American Government documents improperly classified, it would make a mockery of the Freedom of Information Act.

E. *Procedural Questions.*—In addition, the Department has asked plaintiff to continue to be patient while it reviews the file on a piecemeal basis and discusses it with the British Government, stating the request is now neither approved nor disapproved. The Department states that this delay might be indefinite. It then has the audacity to add that the plaintiff must exhaust his administrative remedies by appealing the Department's refusal to the District Court.

First, plaintiff's request has been denied (See Exhibit C). Only *after* the Act came into effect did the Department order a reexamination. Why was this not done 14 years ago if it can be done today.

We contend that the Information Act does not contemplate such interminable delay or require an administrative appeal. The Act states that the agency "*shall* make the records *promptly* available to any person." It orders the District Court to have a trial *de novo* and place said trial on the active trial calendar prior to any other causes "at the earliest practicable date and expedited in every way."

Nor does the Act contemplate limiting the court's view of plaintiff's status as a member of the general public only as the Department's brief suggests (Page 3, line 14). Plaintiff is a renowned historian doing important work at a famous institution. The President's Executive Order, as revised in 1959, takes this fact into consideration. (See Exhibit H, *John Foster Dulles: The Last Year*, Eleanor Langsing Dulles (1963), pp. 4 and 5, which states in part " 'Executive Order is not intended to deny access to classified information to trustworthy persons engaged in historical research.' Thus a positive approach was embodied in the wording that emerged, designed to 'encourage historical research'.")

V. CONCLUSION

The Department has attempted to satisfy its burden of proof with a conclusion—i.e. that the file plaintiff seeks has been classified top secret and is therefore exempt under Section 4(b)(1). This conclusion is not enough. The Department must justify such a classification. It has failed to carry its burden of proof on all issues necessary to bring the file within the exemption of Section 4(b)(1).

Plaintiff respectfully requests the court to order the Department to produce for the court's inspection the "Operation Keelhaul" file for a determination of which, if any, of the documents are subject to exemption and non-disclosure.

To date Operation Keelhaul is invalidly classified and kept secret, not in the interest of national defense or security, but in order to protect former administrations from possible embarrassment. As pointed out above, this is not enough to prevent declassification.

AFFIDAVIT

STATE OF CALIFORNIA,
County of Santa Clara, ss.

Julius Epstein, being first duly sworn, deposes and says:

I am an historian by profession and now a research associate at Stanford University's Hoover Institution on War, Revolution and Peace; my special interest concerns war refugees, with particular attention given to the period from 1939 and thereafter; I am presently preparing a book on forced repatriation of anti-Communist Russians to the Soviet Union after World War II; I discovered by chance a reference to a file entitled "Operation Keelhaul", which I believe deals with the above-mentioned topic; I have sought the production of this file for my historical research since 1954, and since that time have been continually denied access to it; I was educated at the Universities of Jena and Leipzig in Germany; I served as editor with the Office of War Information and later became foreign correspondent after fleeing Nazi Germany in 1939; I have contributed articles to various publications, including the New York Herald Tribune, the Los Angeles Times and the National Review; in 1949 I published a series of articles about the Katyn Forest Massacre, the murder of more than 4,000 Polish officers by the Soviets; I have testified before various Congressional committees on immigration and refugee problems; in 1959 I was appointed by the Eisenhower Administration as a member of the White House Conference on Refugees and I have drafted legislation for the creation of a select House Committee to investigate past and present forced repatriation, which bill was unsuccessfully introduced three times by Congressman Bosch of New York; the Operation Keelhaul file will be of invaluable help in the work in which I am presently engaged.

JULIUS EPSTEIN.

Subscribed and sworn to before me this 8th day of August, 1968.

MARY M. HOUCK,
Notary Public in and for said County and State.

[In the U.S. District Court for the Northern District of California]

JULIUS EPSTEIN, PLAINTIFF *v.* STANLEY RESOR, SECRETARY OF THE ARMY, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE, DEFENDANT

Civil action No. 48962.

DEFENDANT'S MEMORANDUM IN REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

Plaintiff, as a member of the public, seeks to require defendant, Stanley R. Resor, Secretary of the Army, to make available to him pursuant to 5 U.S.C. § 552 a file which plaintiff has described as "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul." Defendant has moved to dismiss plaintiff's action upon the ground that the file sought is classified as "top secret" and is, therefore, specifically exempt from the Act's provisions.

In his brief filed in opposition to defendant's motion to dismiss or, in the alternative, for summary judgment, plaintiff agrees that the jurisdiction of this Court under 5 U.S.C. § 552 "does not apply to 'matters that are specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy.' " Plaintiff's Memorandum, p. 3. Plaintiff likewise agrees "that the documents requested by plaintiff have been classified 'Top Secret' pursuant to the provisions of Executive Orders 10501 and 10964." Plaintiff's Memorandum, p. 2. Having conceded the facts necessary to establish that the Court lacks jurisdiction, plaintiff then explains his position as follows:

Exception is taken . . . to the Government's position that the documents are not subject to unilateral regrading by the United States and that they are "Top Secret in the interest of national defense or foreign policy," a prerequisite to such classification. (Plaintiff's Memorandum, p. 2.)

Since the clear language of the statute and its legislative history leave no doubt that Congress intended by Exemption 1 to exclude from the jurisdiction of the Court under the Act records classified by the Executive pursuant to Executive Order 10501 (see Defendant's Memorandum in Support of Motion to Dismiss Or, in the Alternative, for Summary Judgment [hereinafter referred to as "Defendant's Memorandum"], pp. 8–9), plaintiff's position reduces itself to the untenable argument that this Court should assume jurisdiction not granted by 5 U.S.C. § 552 or any other provision of law and thereby allow plaintiff to maintain an unconsented suit against the United States.

The Undisputed Facts Establish That The Court Lacks Jurisdiction And Plaintiff's Contentions To The Contrary Are Without Merit.

a. Plaintiff Concedes that the Record sought is specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy.

Executive Order 10501, as amended, provides in pertinent part as follows:

Whereas the *interests of national defense require* the preservation of the ability of the United States to protect and defend itself against all hostile or destructive action by covert or overt means, including espionage as well as military action; and

Whereas it is essential that *certain official information affecting the national defense be protected uniformly against unauthorized disclosure;*

Now, therefore, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows

* * * * *

Section 1. Classification Categories. Official information which requires protection *in the interest of national* defense shall be limited to three categories of classification, which in descending order of importance shall carry one of the following designations: Top Secret, or Confidential. . . . (italic added.)

Plaintiff unequivocally concedes that the file which he seeks ". . . has been classified 'Top Secret' . . . pursuant to the provisions of Executive Orders 10501 and 10964." Plaintiff's Memorandum, p. 2. It thus is apparent at the outset that the record sought by the plaintiff has been specifically required by Executive Order to be kept secret in the interest of national defense and that the Court lacks jurisdiction under 5 U.S.C. § 552 or any other law to proceed with any further inquiry.

b. Plaintiff's Action for Access to a Record specifically Classified pursuant to Executive Order 10501, as amended, is an unconsented suit against the United States over which the Court lacks jurisdiction.

Records of an executive agency are clearly property of the United States which could not be obtained by an original court action prior to the effective date of 5 U.S.C. § 552 because there was no statute giving consent of the United States to be sued for access to the records of its agencies. See cases cited in footnotes 2 and 4 of Defendant's Memorandum. Section 552(a)(3) of 5 U.S.C. created a new cause of action against the United States which would allow any member of the public under certain circumstances to obtain some types of agency records by injunction under the Act. Congress specifically determined, however, that this consent of the United States to be sued should not extend to nine categories of records set forth in 5 U.S.C. § 552(b).

Obviously entertaining no doubt that a member of the public should not be allowed to maintain an action against the United States for access to files classified by the Executive in the interest of national defense or foreign policy and specifically focusing upon the authority exercised by the President in the issuance of Executive Order 10501, Congress, in the very first exemption, eliminated this class of records from the consent to suit granted for the first time by the Act.

5 U.S.C. § 552(b) provides that the Act * * * does not apply to matters that are—

* * * (1) Specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy.

As demonstrated above and in defendant's earlier memorandum, defendant need only demonstrate, as he indisputably has done in the present case, that the record requested has been . . . specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy . . . "to establish that the Court lacks jurisdiction under 5 U.S.C. § 552 or any other law. In recognition of the traditional discretion exercised by the Executive in matters involving military and foreign affairs Congress clearly intended by Exemption 1" . . . that any . . . documents that are of sufficient significance to the security of this Nation or to the interests of this Nation as it deals with other nations can, *by appropriate designation*, be excluded from the provisions of this Act." Hearings before the Subcommittee of the House Committee on Government Operations, on H.R. 5012–21, *Federal Public Records Law*, 89th Cong., 1st Sess. (1965), p. 14, (Chairman Moss) (Emphasis added.) Congressman Gallagher (a member of the Moss Subcommittee) reiterated the point on the floor of the House in the following terms:

"The bill in no way affects categories of information *which the President * * * has determined* must be classified to protect the national defense or to advance foreign policy. These areas most generally are classified under Executive Order No. 10501." [112 Cong. Rec., H. 13026, daily ed. June 20, 1966.] (Emphasis added.)

See also, Davis, *The Information Act*, 34 U. Chi. L. Rev. 761, 784–85 (1967) ("Under the Act the President may withhold information about national defense or foreign policy with the approval of Congress previously lacking").

Early decisions under the Act have confirmed that where, as here, a Government agency has demonstrated that the record requested falls within one of the statutory exemptions, the Court lacks jurisdiction to proceed further and the agency is entitled to an immediate dismissal of the action.

In *Collins* v. *Federal Highway Administration, et al.*, Civil Action No. 6486, E.D. Va. (July 29, 1968) (Copy of opinion and order attached hereto as Appendix "A"); plaintiff sought to require the Federal Highway Administration to make available to him pursuant to 5 U.S.C. § 552 records identified in an Affidavit of the Administrator of the Federal Highway Administration as:

". . . reports . . . compiled by the Office of Audits and Investigations of the Federal Highway Administration of an investigation to determine facts relative to whether or not there has been a violation of law."

Upon the basis of this identification the Court held as follows:

"We conclude that the records sought in this case fall within the exemption of 5 U.S.C. § 552(b)(7), as investigatory files compiled for law enforcement purposes, and the defendants' motion to dismiss should be granted."

See also *Bristol-Myers Co.* v. *Federal Trade Commission*, Civil Action No. 2905–67, D.D.C. (Opinion filed May 24, 1968 attached hereto as Appendix "B"); *Barcelonets Shoe Corp.* v. *Compton*, 271 F. Supp. 591 (D.P.R. 1967).

In the present case, as in *Collins*, the essential facts establishing the applicability of the exemption and the consequent lack of jurisdiction in the Court have been demonstrated by defendant's affidavit. (Wickham Affidavit, Par. 4.) In addition, plaintiff has expressly conceded these facts. Plaintiff's Memorandum, pp. 2 and 3. Here, as in *Collins*, defendant is entitled to an immediate dismissal of the action.

c. Plaintiff's Additional Contentions are without merit.

Having, in effect, conceded at the outset that the Court lacks jurisdiction, plaintiff devotes the balance of his memorandum to a series of unsupported and irrelevant contentions.

First, plaintiff urges (Plaintiff's Memorandum, p. 4) that the District Court should ". . . look behind the classification (of the file by the Executive pursuant to Executive Order 10501) at its reasonableness. . . ." This contention is, of course, completely without merit as contrary not only to the specific language of Exemption 1 and its legislative history but also as contrary to the traditional disclaimer by the courts of any jurisdiction to interfere with the discretion of the Executive Department in the areas of military secrets and foreign relations. See *Chicago and Southern Air Lines* v. *Waterman S.S. Corp.* 333 U.S. 103, 111–112, wherein the Supreme Court, in holding that presidential approval of foreign air routes under 49 U.S.C. § 646 was immune from judicial review, commented as follows:

"It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret. Nor can courts sit *in camera* in order to be taken into executive confidence. But even if courts could require full disclosure, the very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry."

Next(plaintiff urges (Plaintiff's Memorandum, p. 5.) that the Court ". . . review the file itself to determine whether the documents should be disclosed." This contention is directly refuted by the only case cited in Plaintiff's Memorandum. In *United States* v. *Reynolds*, 345 U.S. 1 (1953) [cited at page 4 of Plaintiff's Memorandum], the Supreme Court held that where:

"there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged . . . the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers." [345 U.S. 10]

The courts have consistently recognized that *in camera* inspection of matters touching upon military and foreign policy secrets is improper. See, *e.g.*, *Totten* v. *United States*, 92 U.S. 105 (1875) (Action upon contract to perform espionage dismissed on pleadings because subject matter was state secret); *Carl Keiss Stiftung* v. *V.E.B. Carl Keiss, Jena*, 40 F.R.D. 318, 324, 328 (D.D.C. 1966), *affirmed*, 384 F.2d 979 (D.C. Cir. 1967), cert. *denied*, 389 U.S. 952; *Boeing Airplane Co.* v. *Coggeshall*, 290 F.2d 654, 662 (D.C. Cir. 1960).

Finally, plaintiff argues that, in any event, he, as a "renowned historian," (Plaintiff's Memorandum, p. 11) should be entitled to greater "status" under the Act than other members of the general public. In reply to this contention defendant need only note that the relevant statutory language and legislative history is directly contrary.

CONCLUSION

For the reasons set forth above and in defendant's prior memorandum, defendant respectfully submits that the Court lacks jurisdiction and that his motion to dismiss or, in the alternative for summary judgment should be granted.

[In the U.S. District Court for the Northern District of California]

JULIUS EPSTEIN, PLAINTIFF v. STANLEY RESOR, AND SO FORTH, DEFENDANT

Civil No. 48962, Supplemental memorandum in support of defendant's notice to dismiss.

On August 21, 1958 this Court vacated the submission of the above-entitled cause to allow the plaintiff "to file affidavits concerning statutory interpretation." The plaintiff has filed the affidavit of the Honorable John E. Moss, which purports to serve as an authoritative guide to the interpretation of 5 U.S.C. § 552(b)(1). In this regard the Congressman's affidavit provides in part:

"Specifically, it was my intent as the principal co-author of the legislation to grant to the appropriate District Court the broadest latitude to review all agency acts in this regard, including the correctness of a designation by an agency bringing documents within an exemption found in Section '(e)' of the Act; and that the powers granted to the Court and the burdens placed upon the Government in Section (c) were meant to include rather than exclude the exemptions."

Upon initial consideration, one pauses to ask what better guide in the often difficult task of discerning legislative intent than a witness personally involved in the legislative process? There is, however, a basic distinction between the contemporaneous utterances of a legislator and *ex post facto* testimony in the form of affidavits or otherwise.

A most pertinent illustration of the application of this rule is the District Court's opinion in *State Wholesale Grocers* v. *Great Atlantic & Pacific Tea Co.*, 154 F. Supp. 471 (N.D. Ill. 1957), *aff'd in part and reversed in part on other grounds*, 258 F. 2d 831 (7th Cir.), *cert. denied*, *General Foods Corp.* v. *State Wholesale Grocers*, 358 U.S. 947. In that case, the court had occasion to rule upon the propriety, in the urging of a particular statutory construction, of the parties' reliance upon a book written by Congressman Patman subsequent to the enactment of the Robinson-Patman Act. The court commented in pertinent part as follows:

"While resort by the courts to such a novel procedure by resolving an issue might be a convenient way of disposing of these Robinson-Patman Act cases, it is a practice which would amount to an abandonment by the courts of their judicial function and, as such, cannot be condoned. Although legislative histories may be considered by the courts, a book subsequently written by a legislator, even though he be a co-author of the Act, and with all respect to his good intentions in writing such a book, should be given no consideration by a court in determining whether there has or has not been a violation of a particular act. * * *"— 145 F. Supp. at p. 485.

The policy underlying the rule has also been emphasized by the Court of Claims. In *National School of Aeronautics* v. *United States*, 142 F. Supp. 933 (Ct. Cl. 1956), the plaintiff produced as a witness, ostensibly for the purpose of showing legislative intent, a former member of the Senate who had been Chairman of the Senate Sub-committee which had considered the legislation then before the court for review. The court commented as follows:

"At first blush it might seem that this would be the ideal way to learn the intent of a legislative body, to get it straight from the mouth of a responsible member of the legislature. Second thought leads to the conclusion that the practice would be intolerable. A legislature speaks through statutes, and, in cases where the statutes require interpretation, through committee reports and debates. No member of a legislature, outside the legislature, is empowered to speak with authority for the body. If he may testify voluntarily, other members of his legislative body with different views or different recollections may be summoned to give their differing versions. The debate, which, so far as the lawmaking body is concerned, should have been ended by the enactment of the statute, would be transferred to the court, with disturbing possibilities of embarrassment and friction." 142 F. Supp. at p. 938

Whatever may be the facts which the Government must show in order to demonstrate that a record falls within the other exemptions contained in 5 U.S.C. § 552(b), the statutory language as well as the contemporaneous expressions of legislative intent upon which both the Congress and the President relied in the enactment of the Act uniformly support the Government's position as to the applicability of exemption 1 in the present case. Indeed, the Congress was repeatedly assured by members of the Moss Subcommittee that the bill was ". . . not intended to impinge upon the appropriate power of the Executive . . ." (112 Cong. Rec. 13008, June 22, 1966 Statement of Congressman Moss). Indeed Congressman Dole expressed the view that the "bill gives full recognition to the fact that the President must at times act in secret in the exercise of his constitutional duties . . ." (112 Cong. Rec. 13022, June 20, 1966). It would be presumptuous to conclude that Congress acted without full awareness of the traditional discretion accorded the Executive in the classification of documents involving military secrets and foreign relations. (See cases cited at pp. 6–7 of Defendants' Reply Memorandum.)

For the foregoing reasons, it is respectfully submitted that the material sought by the plaintiff is specifically exempted from coverage by the Public Information Act and the motion to dismiss must be granted since the court is without jurisdiction.

[In the U.S. District Court for the Northern District of California, Southern Division]

JULIUS EPSTEIN, PLAINTIFF V. STANLEY RESOR, SECRETARY OF THE ARMY, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE, DEFENDANT CIVIL ACTION NO. 48962.

AFFIDAVIT OF MAJOR GENERAL KENNETH G. WICKHAM

COUNTY OF ARLINGTON, *State of Virginia, ss:*

Kenneth G. Wickham, being duly sworn, deposes and says:

1. I am The Adjutant General of the Army. The authority to release information from, or copies of, retired defense classified files of the Department of the Army in response to requests by members of the public has been vested in me and my designees by the Secretary of the Army.

2. In the above-captioned action, filed pursuant to Section 3 of the Administrative Procedure Act, as amended, 5 U.S.C. § 552 (Public Law 90–23, 81 Stat. 54), effective July 4, 1967, the plaintiff is seeking access to a file containing documents described by plaintiff as "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul." The records requested by plaintiff are in the physical custody of the National Archives and Records Service, General Services Administration. These records were transferred to that agency in accordance with normal Department of the Army disposition and retirement procedures. Under the terms of the transfer, however, the Department of the Army reserved the right to examine all requests for the records and to rule on their declassification or release. The Adjutant General of the Army exercises this responsibility for the Department of the Army.

3. The documents in question are photographic reproductions (photoprints) made from the microfilm copies of records generated by the Allied Force Headquarters (AFHQ), an international organization (combined headquarters in World War II parlance) directing the allied military operations in the Mediterranean Theater of Operations. By direction of the Combined Chiefs of Staff, the original AFHQ records were released to the British Government and microfilm copies of the records were released to the United States Government (the War Department).

4. The files of these documents as originally received bore an overall classification of TOP SECRET. This classification was required because the files contained many individual TOP SECRET documents of combined or British origin. They have retained the TOP SECRET classification because as combined or foreign records they are categorized as Group 1 documents under AR 380–6 (Executive Order 10501, as amended by Executive Order 10964) and are not subject to unilateral regarding action by the United States. Pursuant to Executive Order 10501, as amended by Executive Order 10964, the record here sought by plaintiff is specifically classified as "TOP SECRET" in the interest of national defense or foreign policy.

5. By letter dated July 22, 1967, a copy of which is attached hereto as Exhibit 1, plaintiff wrote the Department of the Army requesting a document described as "the Army Document: Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul" filed under number "383.7–14.1".

6. By memorandum dated July 31, 1967, a copy of which is attached hereto as Exhibit 2, plaintiff's letter was referred to the Modern Military Records Division, National Archives and Records Service for reply.

7. By letter dated August 7, 1967, a copy of which is attached hereto as Exhibit 3, the Acting Assistant Director, Modern Military Records Division, National Archives and Records Service, advised plaintiff that the document was "security classified and cannot be made available for unofficial research purposes at the present time."

8. By letter dated August 14, 1967, a copy of which is attached hereto as Exhibit 4, plaintiff requested that the Acting Assistant Director, Modern Military Records Division, National Archives and Records Service, effect a reconsideration of the security classification.

9. By letter dated August 23, 1967, a copy of which is attached hereto as Exhibit 5, Acting Assistant Director, Modern Military Records Division, forwarded plaintiff's request to Department of the Army along with a photoprint copy of the document sought by plaintiff.

10. By letter dated September 1, 1967, a copy of which is attached hereto as Exhibit 6, The Adjutant General of the Army, wrote plaintiff that the file was in his office for review and necessary action in consultation with other departments and agencies concerned, that the review would take some time, and that plaintiff would be notified of the completion of that action.

11. By letter dated September 27, 1967, a copy of which is attached hereto as Exhibit 7, plaintiff acknowledged the review being made by Department of the Army.

12. By letter dated October 4, 1967, a copy of which is attached hereto as Exhibit 8, plaintiff was advised by The Adjutant General of the Army that the requested document file could not be declassified.

13. By letter dated February 6, 1968, a copy of which is attached hereto as Exhibit 9, Roger L. Mosher, as attorney for plaintiff, requested the file entitled "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul," "in accordance with Section 3 of the Administrative Procedure Act." This request was treated as an initial request pursuant to 5 U.S.C. § 552(a)(3) and, accordingly, by letter dated February 14, 1968, a copy of which is attached hereto as Exhibit 10, plaintiff's attorney was advised by The Adjutant General of the Army that a complete reexamination of the file had been directed.

14. By letter dated February 19, 1968, a copy of which is attached hereto as Exhibit 11, plaintiff's attorney responded that plaintiff had been advised on October 4, 1967, that a re-examination of the file was complete and the factors that dictated retention of the security classification remained unchanged. Plaintiff's attorney, however, contended that no basis existed for the continued classification of the file.

15. By letter dated February 29, 1968, a copy of which is attached hereto as Exhibit 12, The Adjutant General of the Army explained that the earlier review of the document file was predicated upon the content of the file in its entirety and that a current review of the file was proceeding on a single paper basis, rather than the file as an entity; the file was originated by a Combined (Allied) Headquarters; the original copies were in the custody of the British Government and coordination with that Government would take time; plaintiff would be advised when the review was completed; and plaintiff could appeal to the Secretary of the Army the results of the Army's action taken after the latest review was completed in accordance with AR 345–20. Plaintiff was furnished a copy of AR 345–20, the Army's Regulation which implements 5 U.S.C. 552. A copy of the regulation is also attached hereto as Exhibit 13.

16. A current review of the file requested by plaintiff is now in progress on a paper-by-paper basis. This review of individual papers has been completed within the Department of the Army and coordination is now in progress with the Joint Chiefs of Staff and the Department of State to verify the position of the United States Government with respect to each paper. The outcome of this effort will determine the possibility of requesting a review and redetermination of the classification of some or all of the documents by the British Government. This Department will continue on its present course of coordinating the declassification of the files with the concerned agencies. The complexity of interests in these files indicates considerable time will pass before a final determination is made. In the meantime, the documents remain classified Top Secret in accordance with Executive Order 10501, as amended by Executive Order 10964 and those Army Regulations which implement these Executive Orders, i.e., AR 380–5 and AR 380–6. Copies of Executive Order 10501 and the pertinent Amendments thereto are attached hereto as Exhibits 14, 15, 16 and 17. Copies of AR 380–5 and AR 380–6 are attached hereto as Exhibits 18 and 19 respectively.

IN THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, NO. 48962, MEMORANDUM AND ORDER

(*Julius Epstein*, Plaintiff, v. *Stanley Resor*, Secretary of the Army, Department of the Army, Department of Defense, Defendants)

Plaintiff, an historian who is now a research associate at Stanford University's Hoover Institution on War, Revolution and Peace, brings this action pursuant to Section 3 of the Administrative Procedure Act, 5 U.S.C. § 552, to enjoin the Secretary of the Army from withholding a file described as "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul." The file was generated by the Allied Force Headquarters

of World War II and has been classified Top Secret since 1948. The classification was made pursuant to the provisions of Executive Order 10501, 3 C.F.R. 484, (Supp. 1968).

Subsection (a) of Section 3 of the Administrative Procedure Act provides in part:

"[E]ach agency, on request for identifiable records . . . shall make the records promptly available to any person. On complaint, the District Court of the United States . . . has jurisdiction to enjoin the agency from withholding any records and to order the production of any agency records improperly held. . . . In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action . . ."

Subsection (b) of Section 3 provides:

"This section does not apply to matters that are—

"(1) specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy; . . ."

The defendants have moved to dismiss the action for lack of jurisdiction of the subject matter, or, in the alternative, for summary judgment. Plaintiff contends that the Top Secret classification on the file he seeks, is unwarranted and that this Court has the power to hold a trial de novo on the merits of this classification. He contends that such power is based on Section 3 of the Administrative Procedure Act. The Court is of the opinion that Congress did not intend to subject such classifications to judicial scrutiny to that extent.

Before discussing the purpose and effect of Section 3 of the Act, the Court directs its attention to the affidavit of Congressman John E. Moss, which plaintiff filed in support of his contentions. The affidavit has been introduced to give aid to the Court in interpreting the provisions of Section 3 of the Act. Congressman Moss' affidavit states:

"[S]pecifically, it was my intent as the principal co-author of the legislation to grant to the appropriate District Court the broadest latitude to review all agency acts in this regard, including the correctness of a designation by an agency bringing documents within an exemption found in Section '(e)' of the Act; and that the powers granted to the Court and the burdens placed upon the Government in Section '(c)' were meant to include rather than exclude the exemption."

Statements made by legislators in debate can be a part of the legislative history which guides courts in statutory construction. See *Bindczyck* v. *Finucane*, 342 U.S. 76 (1951). On the other hand, statements made by a legislator after enactment of a statute and not a part of the records of the legislative body are entitled to little or no weight at all. *National School of Aeronautics* v. *U.S.* 142 F. Supp. 933 (Ct. Cl. 1956). See also, *United States* v. *United Mine Workers of America*, 330 U.S. 258 (1947). Such statements are not offered by way of committee report and are not offered for response by other members of the law-making body. The intent which is helpful in interpreting a statute, is the intent of the legislature and not of one of its members. For purposes of statutory construction, a legislative body can only speak through a statute, with the words that are used in light of the circumstances surrounding its enactment. For this reason, the Court has not considered the affidavit prepared and submitted by the Honorable John E. Moss solely for purposes of this lawsuit after the legislation in question was enacted.

Prior to amendment of Section 3 of the Act in 1966, this Section was described by Senator Long as:

"Full of loopholes which allow agencies to deny legitimate information to the public. Enumerable times it appears that information is withheld only to cover embarassing mistakes or irregularities . . . " Senate Rep. No. 813, 89th Cong. 1st Ses., 111 Cong. Rec. 26821 (1965).

Senator Long went on to say in support of the amendment:

"It is the purpose of the present bill . . . to establish a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language and to provide a court procedure by which citizens and the press may obtain information wrongfully withheld . . ." *Id.* at 26821.

This purpose of full disclosure was accomplished by giving the United States District Courts jurisdiction to determine de novo whether information was being properly withheld with the burden of the withholding agency to sustain its action. 5 U.S.C. § 552(a)(3). This jurisdiction does not apply to information that falls within the exemptions set forth in subsection (b) of Section 3. To hold that the agencies have the burden of proving their action proper even in areas covered by the exemptions, would render the exemption provision meaningless. If a determination de novo is made by this Court on whether the Top Secret classification by the Department of Army is proper, with the burden on the Secretary to sustain its action, the Court would be giving identical treatment to information withheld by an agency whether it fell within the exemption or not. Apparently, Congress did not intend such a result.

It may be argued that the exceptions enumerated in Section 3 are set forth merely to designate the various grounds on which information may be withheld and that the burden is on the agency to show that the information properly falls within the exception, with the district court having jurisdiction to make the determination de novo. That this position is unwarranted is shown by the clear expression of Congress in Subsection (b) of Section 3, "This section *does not apply* to matters that are [listed below.]" It is further shown by the statements of Congressman Gallagher on the floor of the House:

"There has been some speculation that in strengthening the right of access to Government information, the bill, as drafted, may inadvertently permit the disclosure of certain types of information now kept secret by Executive order in the interest of national security.

"Such speculation is without foundation. The committee, throughout its extensive hearings on the legislation and in its subsequent report, has made it crystal clear that the bill in no way affects categories of information which the President—as stated in the committee report—has determined must be classified to protect the national defense or to advance foreign policy. These areas of information most generally are classified under Executive Order No. 10501." 112 Cong. Rec. 13659 (June 20, 1966).

On the other hand, it is equally without merit to say that Congress intended absolutely no effect by the Act on information that falls within the areas covered by the exemptions. The district courts at least have jurisdiction to determine whether the exemption applies in a given situation. In furtherance of this jurisdiction, it is reasonable to say that Congress intended the courts to determine whether classifications within the first exemption is clearly arbitrary and unsupportable. Otherwise, the agencies could easily frustrate the purpose of full disclosure intended by Congress merely by labeling the information to fall within the exemption.

In determining when information need not be disclosed if *classified* "top secret in the interest of national defense or foreign policy," guidance is set forth in the Act itself. Section 3 provides that the section does not apply to matters that are *"specifically required* by Executive order to be kept secret in the interest of the national defense or foreign policy." The Secretary of the Army has asserted the privilege of nondisclosure pursuant to Executive Order No. 10501 which reads in part:

"Except as may be expressly provided by statute, the use of the classification Top Secret shall be authorized, by appropriate authority, only for defense information or material which requires the highest degree of protection. The Top Secret Classification shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation such as leading to a definite break in diplomatic relations affecting the defense of the United States or its allies, a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense." Exec. Order 10501, § 1(a).

Section 2 of the Executive Order further provides:

"In the [Department of the Army] the authority for original classification of information or material under this order may be exercised by the head of the department, agency, or governmental unit concerned or by such responsible officers or employees as he, or his representative, may designate for that purpose."

By this Executive Order, the President has delegated authority to the Department of Army to classify matters Top Secret. The exercise of this authority is, as it must be, discretionary in nature. Judgment in this area is best rendered by those best equipped with the necessary facilities to do so. The function of this Court is similar to that described in *United States* v. *Reynolds*, 345 U.S. 1 (1953), by Mr. Chief Justice Vinson:

"The court itself must determine whether the circumstances are appropriate for the claim of privilege, and yet do so without forcing a disclosure of the very thing the privilege is designed to protect. . . . Regardless of how it is articulated, some like formula of compromise must be applied here. Judicial control over the evidence in a case cannot be abdicated to the caprice of executive officers. Yet we will not go so far as to say that the court may automatically require a complete disclosure to the judge before the claim of privilege will be accepted in any case. It may be possible to satisfy the court, from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged. When this is the case, the occasion for the privilege is appropriate, and the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers." *Id.* at p. 8–10.

The *Reynolds* case was decided before the amendment to Section 3 of the Administrative Procedure Act was adopted and dealt with information being sought by discovery procedures. There is no reason for denying application of the principles announced in *Reynolds* to this case. Professor Davis seems to accept this viewpoint in his discussion of the first exemption in Section 3 of the Act:

"The Department of Justice as recently as 1965 took an official position that in withholding information 'the Executive is accountable only to the electorate. Under the separation of powers concept, Congress cannot transfer responsibility for Executive records to the courts.' That position seems to me extreme, just as is the opposite position that the courts may take the whole power away from the executive would be extreme; the long-term constitutional solution is likely to follow the middle position of the *Reynolds* case that the executive determines the scope of the privilege, subject to a judicial

check whenever a court has jurisdiction." Davis, The Information Act: A Preliminary Analysis, 34 U. Chi. L. Rev. 761, 764–5 (1967).

It is the opinion of this Court that Congress has granted it jurisdiction to determine whether the first exemption of Section 3 applies in this case. Plaintiff admits that the information he seeks has been *classified* Top Secret by the Department of the Army. The question remaining is whether or not this information is "required by Executive order to be kept secret in the interest of the national defense or foreign policy." In answering this question, the Court is limited to determining whether the Secretary of the Army has acted capriciously in exercising the authority granted to him by Executive Order 10501.

Although the information before the Court is not extensive, it is sufficient for rendering a decision on the issue of summary judgment. The ultimate facts are practically uncontested. The affidavit produced by Major General K. Wickham states that the documents in question are photographic reproductions made from microfilm copies of records generated by the Allied Force Headquarters which directed the allied military operations in the Mediterranean Theater of Operations. It further states that by direction of the Combined Chiefs of Staff, the original records were released to the United States Government. Top secret classification "was required because the files contained many individual top secret documents of combined or British origin." Plaintiff, in his brief, states that the file is believed to contain information dealing with about 900,000 anti-Communist Russians who were forcibly repatriated from Germany to the Soviet Union at the end of the Second World War, and were either executed or died in slave camps after their repatriation.

The general subject matter of the file in question is described in the preamble to House Resolution 24, 86th Congress, 1st Sess. (1959). Plaintiff has appended to his brief a daily copy of the Congressional Record which describes Congressman Bosch's presentation of the remarks prepared by plaintiff in support of H.R. 24. In these remarks, the plaintiff himself had quoted and used the preamble to H.R. 24 which reads:

"Whereas this forced repatriation of prisoners of war and civilians cannot be justified by the agreement on prisoners of war, made public by the Department of State on March 8, 1946; and

"Whereas the forced repatriation of prisoners of war who had enlisted in the enemy's army was in contradiction to the opinion of the Judge Advocate General of the Army, as expressed during the last 40 years; and

"Whereas the forced repatriation of millions of anti-Communist prisoners of war and civilians represent an indelible blot on the American tradition of ready asylum for political exiles; and

"Whereas the forced repatriation and annihilation of millions of anti-Communist prisoners of war and civilians of Russian, Ukrainian, Polish, Hungarian, Baltic, and other origin is still poisoning our spiritual relations with the vigorously anti-Communist peoples behind the Iron Curtain, and is therefore impeding our foreign policy . . ." 105 daily Cong. Rec. A3226 (1959).

The Court concludes that the information above speaks for itself and thus finds that the circumstances are appropriate for the classification made by the Department of the Army in the interest of "the national defense or foreign policy"

Accordingly, the motion to dismiss the complaint is denied, and the motion for summary judgment is granted in favor of the defendants.

Dated: February 19, 1969.

OLIVER J. CARTER,
U.S. District Judge.

IN THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, CIVIL NO. 48962, FINDINGS, CONCLUSIONS, AND JUDGMENT

(Julius Epstein, plaintiff v. Stanley Resor, etc., defendant)

This action having come regularly on befor the Court on the alternative motions of the defendant for dismissal for lack or jurisdiction or summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure; and

The motions having been made and argued by the attorneys for the respective parties, and supplemental memoranda and affidavits thereafter presented and the motions duly submitted; and

The Court being fully advised in the premises, entered its Memorandum and Order on February 19, 1969 which is hereby incorporated as though fully set forth herein, and pursuant to which the Court hereby *finds* and *concludes* that:

1. The Court has jurisdiction of the action under Title 5, United States Code, Section 552(a)(3); and

2. There is no genuine issue as to any material fact and the defendant is entitled to a judgment as a matter of law.

Wherefore, it is hereby ordered, adjudged, and decreed that:

1. The motion of the defendant to dismiss the action for lack of jurisdiction is denied; and

2. The alternative motion of the defendant for summary judgment in his favor and against the plaintiff is granted, and this judgment shall be entered accordingly with costs and disbursement to be taxed by the Clerk in favor of the defendant.

Dated: April 14, 1969.

OLIVER J. CARTER,
U.S. District Judge.

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that a copy of the attached form of proposed Findings, Conclusions, and Judgment was mailed today to the plaintiff's attorneys at their office address of record herein.

Dated: April 4, 1969.

WILLIAM B. SPOHN,
Assistant U.S. Attorney.

NO. 24275: IN THE U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT

(Julius Epstein, Appellant, v. Stanley Resor, Department of Defense, Appellee)

ISSUES PRESENTED FOR REVIEW

I. Must the Department carry the burden of proof to show the documents sought were *properly* classified within one of the exceptions to the statute not requiring their disclosure to the public, or is the mere classification itself sufficient to withhold documents?

II. Does the District Court have the power to determine *de Novo* the propriety of the classification?

III. Is the affidavit of John E. Moss (Ct 235) entitled to consideration by the trial court?

STATEMENT OF THE CASE

I. Nature of the Case: Appellant, hereafter referred to as Plaintiff, an historian who is now a research associate at Standford University's Hoover Institute on War, Revolution and Peace has filed suit pursuant to Section 3 of the Freedom of Information Act, 5 U.S.C.A. § 552(a)(3), seeking the production of a 1948 U.S. Army report entitled "Operation Keelhaul" from the Department of the Army. Plaintiff's major area of interest as an historian has concerned war refugees. He served the Eisenhower administration as a member of the White House Conference on Refugees and drafted a bill for the creation of a select House Committee to investigate past and present forced repatriation (Ct 184). Plaintiff has, since 1954, continually sought from the Department of the Army review of the "Operation Keelhaul" file, which file was believed to contain information dealing with about 900,000 anti-Communist Russians who were allegedly forcibly repatriated from Germany to the Soviet Union at the end of World War II and who are believed to have been either executed or died in slave camps after their repatriation (Ct 183).

The file has been classified "Top Secret" since 1948 and remains so classified today, even though it is over twenty years old and has been retired to the National Archives (Ct 7).

II. The Course of the Proceedings: The Freedom of Information Act, 5 U.S.C.A. § 552, as amended, became effective on Independence Day, 1967. Section 552(a)(3) provides as follows:

"Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

Section 552(b) states in part: "This section does not apply to matters that are—(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;". On March 26, 1968, Plaintiff filed his Complaint (CT 1) seeking an Order enjoining the Department of the Army from withholding from Plaintiff the file entitled "Operation Keelhaul". On June 28, 1968, the Department of the Army filed Motions to Dismiss or for Summary Judgment (CT 3), alleging the file is exempted by Section (b)(1) of the Act. The matter was briefed by both sides (Defendant's memorandum CT 6–171; Plaintiff's memorandum in opposition CT 172–206; Defendant's reply CT 207–232) and argued.

III. Disposition in the District Court: On February 19, 1969, the Honorable Oliver J. Carter filed his Memorandum and Order granting Defendant's Motion for Summary Judgment (CT 246), holding that the burden of proof on the withholding Department does not apply beyond establishing that the documents are classified within one of the exemptions set forth in paragraph (b) of the Act. The Court also stated that it is limited to determining only whether the Agency acted "capriciously" in exercising its authority to classify documents within an exempt category.

Findings of Facts, Conclusions of Law, and the Judgment were entered on April 15, 1969 (CT 254).

IV. Facts Relevant to Issues Presented for Review: The documents sought by Plaintiff were generated by the Allied Force Headquarters directing allied military operations during World War II. Plaintiff denies that AFHQ was an "international organiza-

tion", a conclusion alleged by the Department (CT 8). The original records were released to the British government and microfilm copies were released to the United States War Department (CT 24, paragraph 3). These records were then transferred to the Department of the Army. The file has retained a "Top Secret" classification and the Department alleges the file is not subject to unilateral re-grading by the United States. This latter conclusion is also contested by Plaintiff.

Plaintiff's efforts to secure the "Operation Keelhaul" file are well documented, extending from July 1954, through October, 1967, (Exhibit C to Plaintiff's Complaint, CT 185 through 199). These documents indicate a continued and overt policy of the Department of the Army to stall Plaintiff and withhold the information from him, giving whatever excuses could be found at the time. The Court's attention is especially directed to the Department's letters of August 3, 1955, April 6, 1966, August 7, 1967, and October 4, 1967 (CT 186, 193, 195, and 199).

ARGUMENT

I. The Freedom of Information Act requires the Defense Department to prove its classification within an exemption was reasonable and proper and not merely that the material sought has been so classified.

This is a case of first impression of the Disclosure Act with respect to the relationship between that part of the statute which requires disclosure (Section (a) (3)) and that part which exempts certain documents from disclosure (Section (b) (1)). Plaintiff admits that the documents sought have been classified "Top Secret". Plaintiff argues, however, that the Act requires the Department to prove that the classification of documents within Section (b) (1) was proper and further contends that the District Court, by trial de novo may examine the classification to see if it has, in fact, been proper. Plaintiff believes the classification to be improper and unreasonable.

A. Legal authority allows the district court to determine the reasonableness of the classification

While the District Court stated that it had no power to look behind the classification "Top Secret" except where the Department had acted "capriciously", case authority holds otherwise.

Section 3 of the Act specifically orders the Court to conduct a trial *de novo* and examine the facts, documents, and files, in question in order to determine whether the claim, privilege, and exemption are proper, i.e. whether the Department has sustained its burden of proof as required by Section 3 in denying the documents.

The Supreme Court in *U.S.* v. *Reynolds*, 345 U.S. 1 (1953), held that when a government privilege was claimed, the Court had jurisdiction to determine whether the circumstances were appropriate and yet do so without forcing a disclosure of the very thing the privilege is designed to protect. In proscribing a test, the Supreme Court stated that the District Court could review the documents in issue to determine the privilege unless "injurious disclosure would result". In the *Reynolds* case, newly developed secret Air Force electronic devices were in issue and the Court took judicial notice that it was "a time of vigorous preparation for national defense". Here, a twenty-one-year-old file dealing with the repatriation of prisoners in World War II is in issue. Clearly, the District Court could find nothing which reaches the question of national defense or foreign policy which might result in "injurious disclosure".

The above, coupled with the express language of the statute placing the burden of proof on the agency to sustain its refusal, clearly gives the District Court power to examine and review the file itself, to determine whether the privilege should be granted or whether the documents should be disclosed.

B. Policy demands the exercise by the district court of its power to review such a classification

The purpose of the Act and its history are clearly set forth in Senate Report No. 813, 89th Congress, 1st Session (1965), and should guide the Court in its decision. Senator Long of Missouri, after noting the need for an informed electorate in a democracy, stated that the prior Section 3 was:

"Full of loopholes which allow agencies to deny legitimate information to the public. Enumerable times it appears that information is withheld only to cover embarrassing mistakes or irregularities . . . It is the purpose of the present bill . . . to establish a general philosophy of full agency disclosure . . . and to provide a court procedure by which citizens and the press may obtain information wrongfully withheld . . ."

It was the intention of the Senate to make the new Section 3 a "disclosure" rather than a "withholding" Act as it was prior to amendment.

The language of the Act is plain, simple, and straightforward, as is its purpose. Only in its application do problems arise, due primarily to the reluctance of the various governmental agencies to abide by its purpose and intent.

The District Court held that, since the Executive Order delegated authority to the Department to classify information, it should not review the "experts" conclusions. But the record discloses the Department did not even follow the rules applicable.

C. The Department of Defense has not followed the rules set by Executive Order 10501

In Executive Order 10501 (CT 67–86), official information which requires protection "in the interest of national defense" is limited to three classifications, one of which is "Top Secret". The use of the "Top Secret" classification is to be authorized, however:

"Only for defense information or material which requires the highest degree of protection. The "Top Secret" classification shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation, such as an armed attack, . . ., or the compromise of military or defense plans, . . ., or scientific or technological developments vital to the national defense." (CT 68).

First, the Department has not attempted to show that the classification of the file sought as "Top Secret" satisfies the above requirements. No effort was made to carry the burden of proof on this issue because the information sought by Plaintiff can in no way be considered to fall within those requirements.

Section 3 of the Executive Order on classification states in part: "Unnecessary classification and over-classification shall be scrupulously avoided." (CT 68). Again, no effort was made to prove that this requirement has been satisfied in view of the information being sought.

In support of itself, the Department quotes Section 3(e) (CT 69) dealing with information originated by an international organization. To fall within this requirement, it must be shown that we are dealing with: (1) defense information of a classified nature, (2) furnished to the United States by a foreign government or international organization. No proof has been offered that these requirements are satisfied. Plaintiff believes they are not.

Section 4 of the Executive Order as amended (CT 82–3) deals with de-classification and downgrading. The Department relied on Section 4(a)(1), Group 1, which states that information originated by foreign governments or international organizations and over which the United States has no jurisdiction cannot qualify for automatic downgrading. Plaintiff denies that "Operation Keelhaul" falls within the above Section. The Department did not prove that any of the information was "originated by a foreign government or international organization over which the United States has no jurisdiction". It has stated merely that a joint allied command was responsible for these documents, and apparently for "Operation Keelhaul" itself. The Department has arbitrarily designated the Allied Headquarters as an "international organization", but no definition, authority, or convincing argument is set forth to justify this arbitrary designation. It is suggested by Plaintiff that that phrase refers to an agency such as UNESCO, the International Red Cross, or similar agencies.

This allegation surely cannot mean that the United States government was not a part of the Combined Chiefs of Staff and it cannot mean either that the file does not contain documents of purely American origin. In fact, one must presume that the greater part of the "Operation Keelhaul" file consists of American documents dealing, as the title indicates, with American participation in forced repatriation of Soviet nationals, prisoners of war, and displaced persons.

It cannot be assumed that the British Government should have any legal power to prevent the American people from learning the truth from these American documents. These documents have been under American administration and were classified "Top Secret" by our government. If the Department has sole authority to classify, it must have sole authority to de-classify and to release the file.

Unless the Department can prove that its de-classification and release could result in "a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States, or its allies, a war or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense", the "Operation Keelhaul" file must be declassified and released pursuant to Section 1(a) of the Executive Order (CT 68).

It should also be borne in mind that the Combined Chiefs of Staff was a war-time creation which ceased to exist in 1945, more than twenty-three years ago and rules which may have been applied under strict war-time regulations cannot be applied twenty-three years later. This is especially true in view of the *Freedom of Information Act*, the purpose of which is to prevent over-classification and to provide a judicial remedy to the public in cases of unnecessary classification.

Lastly, in support of its argument, the Department relied on the Wickham affidavit, paragraph 4 (CT 24), which states the "Operation Keelhaul" file was originally classified "Top Secret" because it contained documents which were "Top Secret". The illogic of this circular definition speaks for itself. Incredibly, however, the Wickham affidavit goes on to say "they have retained the "Top Secret" classification because as combined or foreign records they are characterized as Group 1 documents . . . and are not subject to unilateral re-grading action by the United States". No effort is made on behalf of the Department to show that the documents still qualify as "Top Secret" within Executive Order 10501. No effort is made to show that they have any present bearing on national defense or foreign policy. The only reason set forth for continued classification as "Top Secret" is bureaucratic red tape—these documents are "Top Secret" now because they were classified within Group 1 long ago—or is the real reason because their disclosure could prove embarrassing to certain people,

which is not a ground for nondisclosure according to the Department's own regulations (AR 345–20, 1967, page 1—"Information from Army files will not be withheld . . . because it may reveal or support error or inefficiency".). This approach is a blatant effort to circumvent the intent and purpose of the *Freedom of Information Act* and is the very reason why the United States District Court has been empowered to grant injunctions after a trial *de novo* and force disclosure of documents into the public realm which no longer need to be classified.

This background is set forth to show this Court the basic requirements with which the Department must comply to validly classify documents "Top Secret" and bring them within the exemption of 5 U.S.C.A. § (b)(1). The Department made no effort to carry its burden of proof in this regard, and the District Court has improperly held that it need not. The District Court in its Memorandum Decision concluded that the circumstances were appropriate for the classification made by the Army (CT 253), but in fact had no basis upon which to form such an opinion.

II. The Moss affidavit should be considered by the court.

With respect to the Moss affidavit (CT 235), the Court has held that statements by Legislators after the enactment of a statute are not part of the record and are entitled to no weight in the interpretation of the statute. It did not consider it in making its decision.

As a general rule, it is permissible in the construction of a statute to resort to statements by members of Congress, generally a Commitee member or Chairman in charge of having the Bill passed. The Courts generally regard these statements as belonging to the same category as Committee reports, *Wright v. Vinton Mountain Trust Bank,* 300 U.S. 440; *Helvering v. Bell Oil Syndicate,* 293 U.S. 312.

Statements by the author of a bill have been held proper for consideration as showing the conditions or history of the period or the "mischief which it was intended to remedy and thus throw light on its proper interpretation", *Jennison v. Kirk,* 98 U.S. 453; and *Helvering v. Griffiths,* 318 U.S. 371.

It is clear from the above case law that Congressman Moss' affidavit can and should be properly considered by the Court in determining the intent of Congress.

CONCLUSION

It is clear from the legislative history that the *Freedom of Information Act* was intended to have the broadest and most liberal interpretation to achieve its goal of full disclosure to the public. To hold that the District Court must accept without reveiw a Department's classification of documents so that it falls within one of the exemptions of the statute totally emasculates the statute's effect and thwarts its intended purpose. The history of the Government agencies in opposing this legislation is well known and the specific documents sought herein seem to be withheld more to avoid embarrassment to the Government than for legitimate reasons.

The opinion of the District Court should be reversed with instructions that it conduct a trial *de novo* to determine if any of the documents have been properly and reasonably classified "Top Secret" and, if so, which of them, are subject to exemption and nondisclosure.

Respectfully submitted,

MICHAEL KLYNN,
Attorney for Plaintiff and Appellant.

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and a resident of the County of Santa Clara, California. I am over the age of eighteen years and not a party to the within above entitled action; my business address is 801 Welch Road, Palo Alto, California 94304.

On July 18, 1969, I served the within Brief for Appellant on the Appellee in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States post office mail box at Palo Alto, California, addressed as follows:

William B. Spohn, Esq., Assistant United States Attorney, Chief, Civil Division, 16th Floor, Federal Building, Box 36055, 450 Golden Gate Avenue, San Francisco, California 94102.

[In the United States Court of Appeals for the Ninth Circuit, No. 24,275]

JULIUS EPSTEIN, APPELLANT, VS. STANLEY RESOR, SECRETARY OF THE ARMY; DEPARTMENT OF THE ARMY; DEPARTMENT OF DEFENSE, APPELLEES

On Appeal from the United States District Court for the Northern District of California.

Brief of amicus curiae on behalf of appellant.

STATEMENT OF ISSUES

1. Did the trial court correctly rule that its jurisdiction to review the Army's claim to an exemption under the Freedom of Information Act was limited to determining whether the Secretary of the Army acted capriciously in classifying the file requested as top secret? If not, what is the proper test under the statute of the district court's jurisdiction?

2. Did the Army sustain its statutory burden of establishing that its withholding of the information requested by plaintiff was proper, *i.e.* that every document in the Operation Keelhaul file is specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy?

STATEMENT OF AMICUS CURIAE

The American Civil Liberties Union of Northern California is a non-partisan, nonprofit organization dedicated solely to the protection and preservation of the individual liberties guaranteed by the Bill of Rights. We have traditionally been especially concerned with the free exercise of opinion and argument upon which the First Amendment and our form of representative democracy are based.

The exercise of opinion and argument so necessary to a free and open society means little if the relevant facts of government are hidden from the people. In recognition of this, Congress in 1967 passed the Freedom of Information Act so that public access to the facts of government could be guaranteed. In that same spirit, because access to information is critical to an enlightened electorate and essential to the exposure of truth in the marketplace of ideas, we submit this brief in the conviction that it will aid this Court in determining the important issues here presented.

STATEMENT OF THE CASE*

Over 20 years ago, the Allied Force Headquarters of World War II generated a file called "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul." The British government received the original; the United States Department of the Army (hereinafter "the Army") received a photoprint copy. (CT 24.) The file contains a number of individual documents. (CT 23–27.) The Army states that some of the individual documents in the file are of British origin or combined US-British origin. (CT 24.) The Army's file was identified by number 383.7–14.1 and, after storage as a historical record with the Army (CT 186, 188), was finally stored at the National Archives and Records Service, General Services Administration (CT 23, 195) subject to review by the Army for declassification or release. (CT 23–24.)

Upon receipt, the Army classified the entire file as top secret. (CT 24.) The Army claims that, under Executive Order 10501 and Army Regulations, top secret classification is still required and it has not yet declassified the document. (CT 26–27.)

Starting in 1954, the plaintiff Julius Epstein sought to have the files on repatriation of Soviet nationals released. (See CT 185–199; 31–45.) The Army has replied that a decision was made in 1954 to retain the top secret classification for the file and that the file cannot be declassified and released. (See CT 199, 186.)

Epstein is a historian and a research associate at Stanford University's Hoover Institution on War, Revolution and Peace. His special interest concerns war refugees. He is preparing a book on forced repatriation of anti-Communist Russians after World War II and needs to examine the Army's Operation Keelhaul file for this purpose because he believes that it contains information not otherwise available. He was educated at the Universities of Jena and Leipzig in Germany, has served as an editor for the Office of War Information and as a foreign correspondent has contributed articles to various publications and has testified before Congressional Committees on immigration and refugee problems. In 1959, he was appointed by the Eisenhower Administration as a member of the White House Conference on Refugees. (CT 183, 194, 196.)

On July 22, August 14, and September 27, 1967, Epstein again requested the Operation Keelhaul file from the Army, (CT 29, 35, 42, 194, 196, 198.) He was first told that the document was still classified and could not be released for "unofficial research purposes." (CT 195.) He was then told that the file would be reviewed again "in consultation with the departments and agencies concerned. This may take some time." (CT 40, 197.) Later he was informed by Major General Wickham, Adjutant General, U.S. Army, that the review was completed and that "the factors that dictated the retention of the security classification in 1954 have not changed. Accordingly, the Operation Keelhaul file cannot be declassified." (CT 44, 199.)

On Independence Day, July 4, 1967, the new Freedom of Information Act (80 Stat. 383, 81 Stat. 54, codified in 5 U.S.C., Section 552), became effective and on May 26, 1968, Epstein sued thereunder for release of the Operation Keelhaul file. (CT 1–2.) The Army moved for summary judgment (CT 4) and filed an affidavit by Major General Wickham (CT 23–27) which in essence stated that the Operation Keelhaul file was still classified top secret because the files contained some individual top secret documents of British origin or combined U.S.-British origin; that the entire file was therefore a "Group one" document under Army Regulations (AR 380–6, reproduced at CT 159–170); and accordingly that without action by the British, a U.S. Army file could not be declassified or released to a scholar in this country. Major General Wickham's affidavit also states that "A current review of the file requested by plaintiff is now in progress on a paper-by-paper basis. This review of individual papers has been completed within the Department of the Army and coordination is now in progress with the Joint Chiefs of Staff and the Department of State to verify the position of the United States Government with respect to each paper. The outcome of this effort will determine the possibility of requesting a review and redetermination of the classification of some or all of the documents by the British government. This Department will continue on its present course of coordinating the declassification of the file with the concerned agencies. The com-

Footnotes at end of article.

plexity of interests in these files indicates considerable time will pass before a final determination is made." (CT 26.)

In addition to its motion for summary judgment, the Army moved to dismiss for lack of jurisdiction on the grounds that the file was within a specific exemption under the act; that Epstein had failed to exhaust his administrative remedies; and that he was attempting to maintain an unconsented suit against the United States. (CT. 4.)

The trial court, on February 19, 1969, entered its Memorandum and Order (CT 246) and, on April 14, 1969, denied the Army's motion to dismiss and granted its motion for summary judgment. (CT 254.) The conclusions of the trial court were:

1. The court had jurisdiction under 5 U.S.C. Section 552(a) (3). (CT 254.)

2. There was no genuine issue as to any material fact. (CT 254.)

3. The defendant was entitled to summary judgment as a matter of law (CT 254), *i.e.*

(a) Although the court has jurisdiction under 5 U.S.C. Section 552 (a) (3) to determine de novo whether information is being improperly withheld, this jurisdiction does not apply to the exemptions set forth in Section 552(b). (CT 248.)

(b) With respect to the Operation Keelhaul file and the Army's claim for an exemption under Section 552(b) (1) on the ground that the file is "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy", the court "is limited to determining whether the Secretary of the Army has acted capriciously in exercising the authority granted to him by Executive Order 10501" to classify the document top secret. (CT 252.)

(c) Without looking at the Operation Keelhaul file but based on:

(1) General Wickham's affidavit:

(2) Plaintiff's statement in his brief (CT 173) that the file is believed to contain information dealing with about 900,000 anti-Communist Russians who were forcibly repatriated from Germany to the Soviet Union at the end of World War II and were either executed or died in slave camps after their repatriation; and

(3) Plaintiff's remarks (CT 184) in support of a congressional resolution in 1959 (H.R. 24, 86th Cong., 1st Sess.) and the preamble thereof to the effect that the forced repatriation was contrary to the Yalta Agreement on prisoners of war and the opinion of the Judge Advocate General and was "an indelible blot on the American tradition of ready asylum for political exiles" and is still poisoning relations with anti-Communist peoples behind the Iron Curtain and "therefore impending our foreign policy";

"The Court concludes that the information above speaks for itself and thus finds that the circumstances are appropriate for the classification made by the Department of the Army in the interest of 'the national defense or foreign policy.'" (CT 253.)

4. The trial court also ruled (CT 247–248) that it would not consider Congressman Moss' affidavit (CT 236–237). The affidavit states that Congressman Moss was Chairman of the House Government Information Subcommittee; that he had held hearings on access to information; that he was a co-author of the Freedom of Information Act; and that it was his intent "to grant to the appropriate District Court the broadest latitude to review all agency acts in this regard, including the correctness of a designation bringing documents within an exemption."

On April 17, 1969, Plaintiff Epstein noticed this appeal from the summary judgment for the defendant Army. (CT 257.)

On August 25, 1969, this Court granted the American Civil Liberties Union's motion for leave to file a brief as Amicus Curiae on behalf of Appellant Epstein.

ARGUMENT

I. The judgment must be reversed because the trial court applied an unauthorized and overly restrictive test of judicial review of an agency's claim of exemption and failed to discharge its statutory responsibility to determine whether the record requested was improperly withheld.

Introduction

1. The question in this case

The crucial question in this case concerns the responsibility of the district court under the Freedom of Information Act to determine whether a requested record has been improperly withheld and, in particular, the scope of judicial review of an agency's claim that the withholding of the record is justified by a statutory exemption.

In brief, the answers herein advanced are that the trial court erred, first by holding that it did not have jurisdiction to review de novo the Army's claim to an exemption and, second, by fabricating and applying a stringent and special jurisdiction, not found in and precluded by the statute, to reject the Army's claim only if the court could find that the Secretary of the Army acted capriciously. Under the statue, the trial court instead should have used its own judgment and determined whether the Army had sustained its burden of establishing that the information requested under the statute was properly withheld, *i.e.* that the information was within the specific statutory exemption claimed for matters "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." The statute gave such jurisdiction and responsibility to the trial court but the court failed to exercise it.

2. The Freedom of Information Act

The Freedom of Information Act provides in 5 U.S.C. Section 552(a) (1) for publication of organizational data, procedures, and rules; in Section 552(a) (2) for public inspection and copying of opinions, statements of policy and interpretations, and administrative staff manuals and instructions; and in Section 552(a) (3), the section in question, for making identifiable records accessible on proper request by any person.[1]

Section 552(a) (3) provides as follows:

"(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

Section 552(b) sets forth nine exemptions from the Act. The one in question is the first one which provides:

"(b) This section does not apply to matters that are—

(1) Specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;"

The Freedom of Information Act is striking and fundamental departure from the earlier law. Under the earlier law, disclosure was not required "of information held confidential for good cause found" or matters relating to "any function of the United States requiring secrecy in the public interest," and there was no provision for judicial review of an agency's decision that there was "good cause" or a need for secrecy. Act of June 11, 1946, ch. 324, Section 3, 60 Stat. 238.

The Freedom of Information Act was designed to provide for judicial review of these executive decisions to reverse the thrust of the earlier statute which had been construed to authorize widespread withholding of agency records. S. Rep. No. 813, 89th Cong. 1st Sess. 5 (1965). The "secrecy" exemption in particular was changed to "delimit more narrowly the exception and to give it a more precise definition." S. Rep., *supra* at 8.[2]

The basic purpose of the Freedom of Information Act is plain, namely to provide wider public access to government records and promote the policy that, as President Johnson said in signing the bill, "the United States is an open society in which the people's right to know is cherished and guarded." See AG Memo ii. As aptly and simply stated by Commissioner Elman of the FTC: "To me, the basic provision of this statute is the provision which says that the records and actions of the agencies are public and are to be made available, and that if they are withheld improperly, the courts should decide, and the burden of proof shall be on the agency to justify the withholding." *Symposium*, 20 Admin. L. Rev. 1, 32 (1967). See also Sen. Jud. Comm., Subcomm. on Admin. Pract. & Proc., *The Freedom of Information Act (Ten Months Review)*, p. 3, 90th Cong., 2d Sess. (1968) ("it was Congress' overriding concern that disclosure be the general rule, not the exception").

A. The trial court erred by holding that it did not have jurisdiction to review de novo the Army's claim to an exemption and by fabricating and applying a stringent and special jurisdiction, not found in and precluded by the statute, to reject the Army's claim only if the court could find that the Secretary of the Army acted arbitrarily and capriciously

This is the first case in which it is necessary to struggle with some of the statute's more difficult interpretive problems. The key words and phrases which cause the difficulty are italicized below:

Section 552(a) (3):

"On complaint, the district court . . . has *jurisdiction* to enjoin the agency from withholding agency records and to order the production of records *improperly* withheld from the complainant. In such a case the court shall *determine the matter de novo* and *the burden is on the agency* to sustain its action. . . ."

Section 552(b):

This section does not apply to matters that are —

(1) specifically required by Executive order to be kept secret in *"the interest of the national defense or foreign policy."*[3]

Section 552(c):

"This section does not authorize withholding of information or limit the availability of records to the public, *except as specifically stated in this Section.*"

The problem is: What is the district court's responsibility when it receives a complaint that an agency has improperly withheld information?[4]

In this case, the trial court drastically limited its responsibility by making it turn on

Footnotes at end of article.

the introductory language to subsection (b), "This section does not apply to . . .," and the exemptions which follow. The trial court held that language to mean that if the information sought was within one of the exemptions, the main provision, section 552 (a)(3), did not apply. In the court's words:

"This jurisdiction [of section 552(a)(3)] does not apply to information that falls within the exemptions set forth in subsection (b) of Section 3 [*i.e.*, Section 552]. To hold that the agencies have the burden of proving their actions proper even in areas covered by the exemptions, would render the exemption provision meaningless." (CT 248–249.)

The difficulty with the trial court's reading is that it renders the rest of the statute meaningless, particularly the clause in Section 552(a)(3) that the district court "shall determine the matter de novo and the burden is on the agency to sustain its action. . . ." That language indicates that the court is *not* to defer automatically to an agency decision to withhold.

The statute requires the court to order the production of documents "improperly" withheld. Under what circumstances would withholding of an identifiable record requested in accordance with appropriate procedure be "improper"? The only possible answer is: When it is not within one of the exemptions stated in (b).

An example under exemption (b)(2) will illustrate the point. Suppose that the complainant has asked for the rules or regulations determining who is entitled to parking privileges in the Federal Building in San Francisco. This may be a matter within the exemption in (b)(2) "related solely to the internal personnel rules and practices of an agency".[5] If the construction placed on the act by the trial court is correct, the court's role in such a case is simply to accept the allegation of the government that the matter sought is within (b)(2) and the case is concluded. But what if the information sought is slightly different, for example the monthly cost of parking facilities in the Federal Building? Is the district court to accept at face value the assertion that this matter also is "related solely to the internal personnel rules and practices of an agency"? The trial court's opinion compels a "yes" answer. Congress, however, gave the trial court a greater responsibility. Section 552(a)(3) requires the court to use its own judgment on such a record as is presented to it (that is what de novo means) with the burden on the government to show that the particular information sought fits the exempting language "related *solely* to the internal personnel rules and practices of an agency."

Another example, this time under exemption (b)(3), further illustrates the point that Congress gave the courts responsibility to exercise judgment, not to defer, as the trial court did, to the agency's judgment. The exemption in (b)(3) is for matters "specifically exempted from disclosure by statute." By its terms, subsection (b)(3) picks up all specific statutory provisions for nondisclosure. When added to (b)(1)—those matters specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy—there are substantially no claims of privilege left to be asserted.[6] In other words, the exemptions have swallowed the statute and there is nothing left for the district court to act on, if the trial court correctly concluded that if a matter is within one of the exemptions, the court has no jurisdiction under subsection (a)(3). Compare *American Mail Line Ltd. v. Gulick*, 411 F. 2d 696 (D.C. Cir. 1969) (disclosure required; exemption denied).[7]

The Committee reports do not bear directly on the trial court's interpretation but the Attorney General's memorandum explicitly excludes it. Discussing the language granting jurisdiction to the district court, the Attorney General said:

"Any person from whom an agency has withheld a record after proper request under subsection [(a)] may file a complaint in the appropriate United States district court. The agency then has the burden to justify withholding, *which is can satisfy by showing that the record comes within one of the nine exemptions in* subsection [(b)]." A.G. Memo, 27. (Emphasis added.)[8]

That is precisely our position: The Army in this case had the burden of justifying its position that the Operation Keelhaul file and the individual papers within it were within the terms of exemption (b)(1). The trial court adopted a quite different position, however.

Up to this point we have characterized the trial court's opinion as treating matters within one of the exemptions as if they were totally without the statute. That is what Judge Carter said at one point (quoted above) but, later in his opinion, he retreated somewhat by saying that:

"On the other hand, it is equally without merit to say that Congress intended absolutely no effect by the Act on information that falls within the areas covered by the exemptions. The district courts at least have jurisdiction to determine whether the exemption applies in a given situation. In furtherance of this jurisdiction, it is reasonable to say that Congress intended the courts to determine whether classifications [sic] within the first exemption is *clearly arbitrary* and *"unsupportable."* (CT 249–250.) (Emphasis added.)

In other words, the trial court fabricated a jurisdiction to determine whether the withholding was "clearly arbitrary" or, as he later said, to determine whether the Secretary of the Army acted "capriciously." (CT 252.) It is not at all clear where that jurisdiction comes from. It is not found in the statute and would seem to be precluded by it, particularly the express language in Section 552(a)(3) requiring de novo review. Furthermore, if Section (a)(3) were inapplicable, it seems unlikely that the plaintiff would have standing to obtain judicial review. A litigant might have standing, as in *United States v. Reynolds*, 345 U.S. 1 (1953), but a simple citizen whose only concern was to obtain disclosure of government information probably would not. See L. Jaffe, *Judicial Control of Administrative Action*, c. 12, (1965).[9]

Putting aside the standing issue, however, the trial court admittedly was applying a different test for the scope of review than that provided in Section 552(a)(3). The trial court was anxious to defer to the view of the military—"Judgment in this area is best rendered by those best equipped with the necessary facilities to do so" (CT 250–251)—and refused to interfere unless it were shown (presumably by the plaintiff) that the withholding of information was "clearly arbitrary" or "capricious". Section 552(a)(3), however, requires that the court exercise de novo review and that the burden be on the government to justify withholding. Those responsibilities were not discharged in this case. The trial court's judgment must therefore be reversed.

B. The trial court should have rejected the Army's claim of exemption or, at the very least, required the Army to produce the Operation Keelhaul file for review in camera and independent judgment by the court

The trial court was doubtless concerned by what it conceived, we believe wrongly, to be an impossible dilemma: How could a judge possibly evaluate a claim for secrecy—especially if it related to the national defense or foreign policy—without either deferring heavily to the judgment of others (here the Army) or thrusting itself into the middle of policy questions of the state and defense departments? Congress did not want the trial court to defer routinely to the agency judgment—the grant of de novo jurisdiction to courts was to prevent that—but it does not follow, as the trial court apparently felt, that it is necessary to compromise the integrity of coordinate branches of government.

The case that proves that the trial court's dilemma is a false one is the case the trial court itself cited, *United States* v. *Reynolds*, 345 U.S. 1 (1942). The documents there sought were reports concerning experimental electronic equipment on a military airplane that crashed. The court held that it was not necessary to see the reports to determine that the information was of immediate and current value to the military and that its disclosure might compromise the nation's defense. Also, the claim of secrecy was made by a cabinet level officer after a personal review of the file. Finally, there were alternative sources of information available, the surviving crew members, which the government offered to make available. Given that context and the alternative sources of information, in camera review was deemed unnecessary.

The same kind of circumstantial review perhaps is possible in this case but it leads to the opposite result: It seems implausible, for example, that the British will go to war with us if the Operation Keelhaul file is disclosed to a reputable historian; conversely our government is totally dependent upon the British for secrecy because they have the original of the file. If our relations with other nations might be affected, we are at the mercy of Her Majesty's government. It is possible, perhaps, that some nation or nations would be upset to learn what we and others did 20-odd years ago, but not overwhelmingly likely. The Army can scarcely be said to have carried its burden of showing that it is essential that this information be "kept secret in the interest of the national defense or foreign policy."

It is remotely possible that the Army could show, by an in camera disclosure to the trial court, that a few documents should be kept secret. Showing the file to the trial judge and having him react to the assertion that our national defense or foreign policy will be compromised will not be a significant breach in the security wall. It is admitted that the file exists, and that the British have the original. The file has only historical value because it has been moved to the National Archives. A careful in camera examination cannot possibly harm the nation's national defense or foreign policy interests and that kind of examination is precisely what Congress wanted when it passed the Freedom of Information Act.[10]

If we are concerned, as the court was in the *Reynolds* case and as Congress was in passing the Freedom of Information Act, "that executive caprice might be substituted for honest judgment, the only way for the court to probe the claim of privilege is to take a look at the information in question. . . . In the last analysis, if the court does not examine the information to weigh need for disclosure against the public interest in secrecy, the executive determines the question of privilege." Hardin, *Executive Privilege in the Federal Courts*, 71 Yale L.J. 879, 894–895 (1962). Congress put the responsibility for finally determining the question of privilege in the federal district courts, not the agencies, but the trial court in this case failed to discharge that responsibility. If the trial court could not reject the Army's claim entirely, it could, at the least, have required the Army to produce the file for review in camera and independent judgment by the court. *See, e.g., Benson* v.

Footnotes at end of article.

General Services Administration, 289 F. Supp. 590 (W.D. Wash. 1968) (in camera review, disclosure then ordered).

For the foregoing reasons, the judgment below must be reversed.

II. The summary judgment of the trial court must be reversed because the Army did not sustain its burden of establishing that every document in the Operation Keelhaul file is specifically required by executive order to be kept secret in the interest of the national defense or foreign policy and because there is a substantial issue of fact whether the exemption claimed by the Army is available.

The Freedom of Information Act requires the agency that withholds a requested record to sustain the burden of showing that the record was properly withheld, *i.e.*, that it falls within a specific exemption. In this case, the Army has the burden of showing that every document in the Operation Keelhaul file is a matter "specifically required by Executive order to be kept secret in the interest of national defense or foreign policy." 5 U.S.C. Section 552(b)(1). The Army did not sustain its burden and there is a substantial issue of fact whether the claimed exemption applies. The summary judgment for the Army must therefore be reversed.

The Army's showing, via General Wickham's affidavit, was essentially as follows: Upon receipt, the entire file was classified top secret by the Army; in 1954 the file was reviewed and top secret status was and has been retained primarily on the ground that the file is considered a "Group one" document because it contains individual documents of British or combined origin: the file and the individual documents therein are currently undergoing review on an individual document basis; this review may require coordination with the British and other governmental agencies and will take a long time; pending this review the entire file must be withheld.[11]

It bears emphasis that the Army did not produce the Operation Keelhaul file for in camera inspection by the court, or show that the file itself or any document therein was specifically identified in an Executive order for secrecy, or establish that each individual document in the file is required by the Executive order to retain top secret status, or make the claim of privilege by the Secretary of the Army.[12]

A. The Army failed to lodge a formal claim of privilege by the Secretary of the Army or the Secretary of Defense

The Army's claim to the exemption in subsection (b)(1) is essentially a claim of executive privilege. The Freedom of Information Act, as shown above, narrowed the previous exemption for secrets, and clearly did not relax the strict procedural requirements for asserting the claim of privilege. Those requirements are clearly set forth in *United States* v. *Reynolds*, 345 U.S. 1, 7–8 (1953) as follows:

"The privilege belongs to the Government and must be asserted by it; it can neither be claimed nor waived by a private party. It is not to be lightly invoked. There must be a formal claim of privilege, lodged by the head of the department which has control over the matter, after actual personal consideration by that officer."

Quoting with approval from *Duncan* v. *Cammell, Laird & Co.* (1942) AC 624, 638, (1942) 1 All E.R. 587–H.L. on this procedural point, the Court stated:

"'The essential matter is that the decision to object should be taken by the minister who is the political head of the department, and that he should have seen and considered the contents of the documents and himself have formed the view that on grounds of public interest they ought not be produced . . .'" 345 U.S. at 8 n. 20.

In the *Reynolds* case, the claim was lodged formally by the Secretary of the Air Force and supported by an affidavit of the Judge Advocate General. See also *Machin* v. *Zuckert*, 316 F.2d 336, 338 (D.C. Cir) (formal claim of privilege by Secretary of the Air Force), *cert. denied*, 375 U.S. 896 (1963); *Carl Zeiss Stiftung* v. *V.E.B., Carl Zeiss, Jena*, 40 F.R.D. 318, 323 (D.C. D.C 1966), *affirmed per curiam* 384 F2d 979 (D.C. Cir.), *cert. denied*, 389 U.S. 952 (1967) (affidavit of Attorney General in his capacity as head of the Department of Justice) (citations to similar cases).

Although Major General Wickham may be the Adjutant General of the Army and charged with the authority to release information from the archives (CT 23) he is not head of the Department of the Army or the Department of Defense. His affidavit does not reflect the personal action of the head of the department affected that is necessary to obtain the privilege in the exemption in subsection (b)(1).

B. NO EXECUTIVE ORDER SPECIFICALLY REQUIRES THE OPERATION KEELHAUL FILE ITSELF OR THE INDIVIDUAL DOCUMENTS THEREIN TO BE KEPT SECRET IN THE INTEREST OF NATIONAL DEFENSE OR FOREIGN POLICY

The Army does not claim that an Executive order specifically requires the Operation Keelhaud file itself or the individual documents therein to be kept secret in the interest of national defense or foreign policy. Rather, the Army claims that under an Executive order which generally provides for top secret and other classification of certain documents (E.O. 10501, as amended), this particular file by the Army is required to be classified top secret.

It is not necessary for Amicus Curiae to urge that the exemption is only applicable when a particular document has been identified by the President and made the specific subject of an executive secrecy order.[13] However, it bears noting that the agencies have been well advised, if they determine that a matter should be kept secret that is not otherwise protected, to "seek appropriate exemption by Executive Order, to come within the language of subsection (b)(1). A.G. Memo 30. See also President Kennedy's statement—"Executive privilege can be invoked only by the President and will not be used without specific Presidential approval"—quoted by the principal author of the Freedom of Information Act. Moss, *Public Information Policies, The APA and Executive Privilege*, 15 Admin. L. Rev. 111, 120 (1963).

Simply because the Act may not condition the exemption (this point is not conceded) on a specific determination by the President that the particular document requires secrecy, however, does not prevent a useful distinction from being drawn between acts of the President and acts of his delegates who purport to act under his general orders. For example, if the President himself had specifically determined and ordered that the Operation Keelhaul file or individual papers therein be kept secret in the interest of the national defense or foreign policy, that determination would most likely convince the court absent a strong showing for disclosure. See *United States v. Burr*, 25 Fed. Cas. 187, 191–192 (No. 14694) (C.C. Va. 1807) (Marshall, C.J.); Berger, *Executive Privilege v. Congressional Inquiry*, 12 U.C.L.A.L.Rev. 1044, 1107–1110 (1965); Hardin, *Executive Privilege in the Federal Courts*, 71 Yale L.J. 879, 899–900 (1962).[14] On the other hand, if one of his subordinates, even a member of the cabinet, so withheld the document, the courts would and should give far less deference to the claim for nondisclosure. See, *e.g.*, *United States v. Reynolds*, 345 U.S. 1, 8–10 (1953); see L. Jaffe, *Judicial Control of Administrative Action*. 363–364 (1965).

Stated in terms of the statute, the agency's burden of sustaining its action is more easily met when the President has specifically determined that the item in question must be kept secret than when his delegate purports to act under a general Executive order. In the latter case, the agency at the very least must show not simply that it labeled a document top secret but that its classification meets the requirements of the Executive order. The Army has made no such showing in this case.

C. The Army has not shown that it has complied with Executive Order 10501; instead the Army appears to have violated that order

1. Executive Order 10501 (made part of General Wickham's affidavit and reproduced in the transcript) Section 1(a) provides a strict standard for top secret classification:

"Except as may be expressly provided by statute, the use of the classification Top Secret shall be authorized, by appropriate authority, only for defense information or material which requires the highest degree of protection. The Top Secret classification shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation such as leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States or its allies, a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense." (CT 68.)

Section 3 provides that persons delegated authority to classify information "shall be held responsible for its proper classification" and that "unnecessary classification and over-classification shall be scrupulously avoided. (CT 68.)

The Army has made no showing, either in open court of in camera, that the defense aspect of the Operation Keelhaul file is paramount and that unauthorized disclosure of it could result in exceptionally grave damage to the nation of the type specified in Section 1(a) of the Executive Order. It seems highly unlikely that a document over 20 years old would have these characteristics.[15]

2. Executive Order 10501, Section 3(b), provides that:

"The classification of a file or group of physically connected documents shall be at least as high as that of the most highly classified document therein. Documents separated from the file or group shall be handled in accordance with their individual defense classification." (CT 69.)

The foregoing requirement would appear limited to such matters as documents printed on both sides or bound folders and charts. It would appear inapplicable to a group of photoprints which for convenience are collected but not physically connected in one file. Otherwise, for example, 100 unclassified documents could be stapled to one top secret document and obtain top secret status as "physically connected." Such a construction would defeat the basic purpose of avoiding unnecessary classification and over-classification and the requirement in Section 3(a) that "documents shall be classified according to their own content and not necessarily according to their relationship to other documents." (CT 68.) Simply because one or more photoprints in the Operation Keelhaul file might be top secret does not mean that all the photoprints therein are top secret. (See also Appendix A, showing the easy separability of the items.)

3. Executive Order 10501, Section 3(c) provides:

"A document, product, or substance shall bear a classification at least as high as that of its highest classified component. The document, product, or substance shall bear only one overall classification, notwithstanding that pages, paragraphs, sections, or com-

Footnotes at end of article.

ponents thereof bear different classifications." (CT 69.)

The foregoing provision would appear to refer, for example, to such items as a page which contains a top secret paragraph, or a bound document which contains several top secret pages. It would not appear to authorize the placement of the only copies of separate documents that are not top secret in a file which effectively gives them top secret status by association and denies access to them except to a few officials cleared for top secret and entitled to see the file. It is understandable that in some instances it would be convenient to have an integrated file which contains some individual documents that are classified top secret together with other documents which are unclassified or lower classified but which therefore must be top secret. Obtaining this convenience, however, does not justify denying access to the documents that are not top secret; it is a simple matter to make copies for the total file of convenience and keep access open, according to the classification or if there is no classification, to those other documents. The Army's position, however, seems to be that access can be denied to any number of otherwise unqualified separate documents simply by associating them loosely in a file with one top secret document. Such an approach is not permitted by the Executive Order and does not reflect the scrupulous care in classification that is required by that order.[16]

4. Executive Order 10501, Section 3(e) provides that:

"Defense information of a classified nature furnished to the United States by a foreign government or international organization shall be assigned a classification which will assure a degree of protection equivalent to or greater than that required by the government or international organization which furnished the information." (CT 69.)

It is not clear from General Wickham's affidavit whether the British government specifically assigned top secret classification to a few documents and therefore these documents must be classified top secret. Rather General Wickham states that the file was generated by Allied Force Headquarters and that "the files of these documents as originally received bore an overall classification of top secret. This classification was required because the files contained many individual top secret documents of combined or British origin." (CT 24.) The affidavit does not allege specifically that such information is "defense information" or that the British government assigned top secret classification to it.[17] If they were true, such allegations could have been made simply and easily. In its ambiguous phrasing, the affidavit suggests that something other than "defense information" is involved and that the classification may not have been made by the British at all but by AFHQ. It is asserted in the affidavit that the AFQH is an "international organization" (CT 24) but this is merely a conclusion that is not supported by facts or legal authorities. Indeed, it appears clear that "international organization" within the meaning of the Executive order would be an organization such as the United Nations, not a military headquarters.[18] In any event, the "foreign government" or "international organization" requirement, even if it applied, would not justify top secret classification of the other documents in the file.

5. Executive Order 10501, Section 4 (as amended by E.O. 10964) provides for downgrading or declassification of information on a systematic basis as appropriate "to preserve the effectiveness and integrity of the classification system and to eliminate classification of information or material which no longer require classification protection." (CT 82.)

Footnotes at end of article.

Section 4(a) provides for automatic downgrading at periodic intervals but excludes "Group 1" information which is defined as:

"Information or material originated by foreign governments or international organizations and over which the United States Government has no jurisdiction, information or material provided for by statutes such as the Atomic Energy Act, and information or material requiring special handling, such as intelligence and cryptography. This information and material is excluded from automatic downgrading or declassification." (CT 82.)

The Army claims that the Operation Keelhaul file is a "Group 1" document (CT 24) but again makes no showing that the British government or other foreign government actually originated the file, or that Allied Force Headquarters (AFHQ) is an "international organization", or that all the photoprints in the file were originated by a foreign government or international organization, or that the United States lacks any jurisdiction over the AFHQ if it is an "international organization." Accordingly, it has not shown that the file, or at least the documents therein not originated by a foreign government or international organization, are "Group 1" documents excluded from the automatic downgrading process.

6. For top secret material, there are special requirements for storage (Section 6 as amended by E.O. 10964, CT 84), accountability (Section 7), and transmission (Section 8). (CT 72–73.) Presumably, one of the purposes of requiring scrupulous care in classification is to avoid these onerous requirements unless they are necessary. The Executive order does not encourage wholesale lumping of materials into a file and classfying it top secret simply because a few documents within it are top secret.

7. Executive Order 10501, Section 15 (as amended by E.O. 10816) provides, as an exception to the rule for access only to proper officials but subject to the other provisions of the order, that:

"[T]he head of an agency may permit persons outside the executive branch performing functions in connection with historical research projects to have access to classified defense information originated within his agency if he determines that: (a) access to the information will be clearly consistent with the interests of national defense, and (b) the person to be granted access is trustworthy: *Provided*, that the head of the agency shall take appropriate steps to assure that classified information is not published or otherwise compromised." (CT 77.)

The Army has not shown that it made any determination (a) that providing access to the information to Mr. Epstein would not "be clearly consistent with the interests of national defense" or (b) that he is untrustworthy.

8. Finally, Executive Order 10501, Section 18 requires that:

"The head of each department and agency shall designate a member or members of his staff who shall conduct a continuing review of the implementation of this order within the department or agency concerned to insure that no information is withheld hereunder which the people of the United States have a right to know, and to insure that classified defense information is properly safeguarded in conformity herewith." (CT 75.)

The Army appears to have reviewed the file in 1954. General Wickham's affidavit says that after Mr. Epstein's request in 1967, the file was in his office for review but that review would take considerable time. (CT 3, 4.) The details of the review are not established. It is evident that the "continuing review" has not been made that is required by the Executive order "to insure that no information is withheld hereunder which the people of the United States have a right to know." What appears to have happened instead is that the file was reviewed once approximately 15 years ago and subsequently sent to the archives, that it was not under continuing review in the interim, and that it was only Mr. Epstein's request in 1967 that prompted another review, a review that has now been going on for over two years. These are the natural inferences to be drawn from General Wickham's affidavit. If, in fact, the Army had been reviewing the Operation Keelhaul file continually since 1948, presumably it would have said so. (See also Appendix A.)

The foregoing analysis demonstrates that the Army has not shown that it has complied with Executive Order 10501. Instead, the Army has shown that it appears to have violated the President's order.

D. The Army has not shown that it has complied with its own regulations; instead it appears to have violated them

The Army's regulations are binding on it. *Service v. Dulles*, 354 U.S. 363 (1957); *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The Army claims that its regulations implement Executive Order 10501 and that top secret classification is required under them. (CT 26–27.) Accordingly, the Army's regulations (which were made part of General Wickham's affidavit and are reproduced in the clerk's transcript) deserve examination to determine whether the Army has shown its own compliance with them. The Army has not shown that it has complied with its own regulations; instead it appears to have violated them, as the following examples illustrate:

1. AR 345–20, paragraph 2, provides that Army policy "is that maximum information shall be made available from Army records . . . All requests for information will be acted upon fairly, completely, and expeditiously. Delay will not be permitted . . . Information within a category which is normally exempt from public disclosure . . . shall be made available if no legitimate purpose exists for withholding it from the public. Information from Army files will not be withheld from the public because it may reveal or suggest error or inefficiency." (CT 54.)

The foregoing admirable policies appear to have been disobeyed rather than followed in this case: Maximum information has been denied. The plaintiff has been denied access since 1954. No legitimate purpose has been shown for withholding. Is there a possibility that disclosure of the file may reveal error and that it is being withheld for that reason? (See also n. 10, *supra*.)

2. AR 380–5, paragraph 8b, provides that "since the value of military information is subject to change, it must be reexamined periodically to determine whether it requires continued classification or whether its assigned classification should be changed or canceled." (CT 99.) The Army has made no showing that the value of military information, if any, in the Operation Keelhaul file has remained unchanged or that it has reexamined the file periodically while it sat in the archives under a top secret label.

3. AR 380–5, paragraph 9, warns against overclassification and emphasizes "that Army originated documents must be classified according to their own content and not necessarily according to their relationship to other documents." (CT 99.) According to General Wickham's affidavit, however, the entire file was classified top secret because it contained individual top secret documents of combined or British origin. (CT 24.) It is not indicated from General Wickham's affidavit whether or how many documents in the file were "Army originated" or whether they were classified according to their own content rather than their relationship to other documents.[19]

4. AR 380–5, paragraph 19d requires a security control officer in each command to "maintain an aggressive program of declassification, downgrading, and destruction." (CT 108.) Keeping a file in storage at the archives under top secret classification of

many years and taking more than two years after the last request to review the file does not appear to be the kind of "aggressive program" contemplated by the regulation.

5. AR 380–5, paragraph 43a provides:

"Top Secret documents normally will not be retired to records centers. Those Top Secret records which cannot be downgraded or destroyed in accordance with approved records disposition standards will be handled in accordance with paragraph 62, AR 345–210 and paragraph 49, AR 345–215, as appropriate." (CT 119.)

Paragraph 62, AR 345–210 provides that top secret documents "which cannot be destroyed under approved disposal standards will not be retired to a records center until reduced to a lower classification." An exception is provided for top secret files of overseas commands which "will be retired to records centers in accordance with approved disposition standards." (Not reproduced in transcript.)

Paragraph 8–10 (effective 1/1/68 and apparently the successor to paragraph 49) of AR 345–215 provides that top secret files which "have a retention period of longer than six years will not be retired to a records center until reduced to a lower classification . . . When Top Secret files become eligible for retirement to a records center, the unit commander will review them for possible regrading or declassifying." An exception is provided for "Top Secret files of units in overseas commands. These files will be retired to records in accordance with retirement standards in Appendix A, this regulation. [Appendix A provides for file disposition standards for various types of files by subject matter.] However, Top Secret documents will be regraded to the maximum extent practicable prior to retirement." (Not reproduced in transcript.)

Notwithstanding the foregoing regulations, the Army made no showing that the Operation Keelhaul file was reviewed for declassification or downgrading, to the maximum extent practicable before being retired to a records center or the archives.

6. AR 380–5, Appendix III, is a general classification guide. It sets out the strict standards for top secret classification and examples of items that may appropriately be classified as top secret such as war plans; certain operations plans; major intelligence production efforts; particular intelligence or special operation plans, the compromise of which "could result in exceptionally grave damage to the Nation—not just to individuals or groups of individuals"; and essential information concerning "radically new and extremely important equipment (munitions of war)." (CT 145–146.) The old Operation Keelhaul file stands in marked contrast to the foregoing items.

7. AR 380–6, paragraph 4, excludes "Group 1" material from automatic downgrading and declassification procedures and defines "Group 1" material to include material:

"Originated by or containing classified information *clearly* attributed to foreign governments or their agencies, or to international organizations and groups, including the Combined Chiefs of Staff. This does not include US classified information hereafter furnished to a foreign government or international organization; the US classified information shall be grouped and marked as otherwise prescribed herein." (CT 161.) (Emphasis in original.)

The reference to "international . . . groups, including the Combined Chiefs of Staff" appears to be an unauthorized extension of the term "international organization" in Executive Order 10501 and should therefore be disregarded, particularly when, as in the instant case, the "group", *i.e.*, Allied Force Headquarters (AFHQ), apparently no longer exists and when the regulation neglects to include the limitation in Executive Order 10501 that the United States have no jurisdiction over the "international organization". (See also n. 18, *supra*.)

There are two pertinent requirements under the Army's "Group 1" definition, however, that have not been established by the Army:

(a) There is no showing that the Operation Keelhaul file contains "Group 1" documents exclusively, *i.e.* that there is no U.S. classified information that should be grouped separately.

(b) There is no showing that the documents for which "Group 1" status is claimed are "clearly attributed" to a foreign government or an international organization. *Cf.* also *Zimmerman v. Poindexter*, 74 F.Supp. 93, 936 (D.C. Hawaii 1947) (similar Army regulation interpreted not to apply to production of documents in court).

8. AR 380–6, paragraph 4b, provides that "Group 1" material "may be downgraded or declassified only by the originating authority, or by an official higher in the same chain of command." (CT 161.) Even if the Army's claim were correct that AFHQ is an "international organization" and still an "originating authority" even though the war has long been over, it would not follow that the United States is precluded from downgrading an AFHQ file without British consent. The Supreme Allied Commander was General Eisenhower and whatever authority he had to classify and downgrade an Army file should now be vested in his United States successors, particularly when the British have their own file.

E. The Army has shown no attempt by it to obtain declassification authority from the British or to ascertain whether the document has already been declassified or downgraded by the British

For the purpose of this argument it is assumed without conceding that some documents in the Operation Keelhaul file are of British origin, that the British classified and transmitted them to the Army on a top secret or equivalent basis, that they contain defense information, and that at one time they were properly "Group 1" documents under Executive Order 10501.

Simply because a foreign government, many years ago, classified and transmitted a photoprint to us on a top secret basis does not mean that the United States has no obligation under the Freedom of Information Act or Executive Order 10501 with respect to that document. It does not mean that a person seeking access to that document must wait years for the unilateral action, whim, or caprice of a foreign official. Nor does it mean that a document can rest unseen and under top secret security in the national archives without any effort being made by an official of the United States to review whether the foreign government has declassified or downgraded the document. The Army makes no showing of any specific British restrictions on the document that are now in force; of any attempt by the Army to determine their status under the British; or of any attempt by the Army to seek declassification at downgrading by the British. Without such a showing, a claim that over 20 years ago the British classified a document top secret and thereby foreclosed access to a U.S. Army file to an American scholar proceeding under a U.S. statute in a U.S. court seems frivolous. It would be ironic indeed if the Freedom of Information Act, which became effective on a day celebrating nearly 200 years of independence from the British, were interpreted to mean that British consent to the release of a 20-year old file is required before Congress' purpose of making United States records public can be served.

F. The Army has made no showing that a claim of privilege by a British official would be sustained by a court

Since the Army asserts a supposed privilege of the British, it is relevant to ask whether a court would sustain the withholding of any documents of British origin in the Operation Keelhaul file if a British minister claimed executive privilege for them. It is very doubtful whether a court in either the United States or England would pay the kind of deference the Army appears to have paid to the security classification supposedly made by a British official more than 20 years ago.

In *Crosby* v. *Pacific S.S. Lines*, 133 F.2d 470, 475 (9th Cir.), *cert. denied*, 319 U.S. 752 (1943), the question was whether Walsh, the San Francisco representative of the British Ministry of Shipping, who was a witness in a court case here, could assert a privilege to withhold relevant correspondence on the grounds that it belonged to the British government and that he was instructed to keep it confidential and not disclose it to anyone outside the British government. The Court held that the correspondence should have been disclosed. "We think the rule to be applied is the one we would apply to a similar department of government here:"

"[I]t was error to refuse to compel Walsh to produce the correspondence for the inspection of the special master to determine their admissibility in evidence, because of an absence of showing: (1) existence of a rule of the British Ministry of Shipping that all correspondence between its officers is confidential; (2) existence of a direction, by an officer superior to Walsh, to Walsh that the correspondence is confidential; (3) existence of a direction to Walsh by an officer superior to Walsh authorizing the latter to determine what correspondence is confidential; and (4) how the correspondence would in any manner jeopardize the public interest, safety or security."

Under the *Crosby* case, there at least should have been a showing in the instant case that British originated documents were still properly classified top secret and that disclosure of them now would jeopardize the public interest, safety or security. The Army made no such showing in this case. See also *Conway v. Rimmer* (1968) 1 All E.R. 874–H.L., which established the principle of substantial judicial review of claims of executive privilege and effectively overruled *Duncan v. Cammell, Laird & Co., Ltd.*, (1942), 1 All E.R. 587–H.L.

G. The Army has not shown why its subsidiary papers must remain hidden from view when the far more sensitive, important, top secret, and directly related Yalta papers were opened to public view almost 15 years ago

In 1955, pursuant to the "custom of the United States Government to release to the public, after a suitable lapse of time, a substantially complete documentary record of our country's diplomacy," the State Department in 1955 released the Yalta papers on the Yalta conference in 1945 between President Roosevelt, Prime Minister Churchill and Prime Minister Joseph Stalin. Dept. of State Public. 6199, *Foreign Relations of the United States, The Conferences at Malta and Yalta 1945* (1955), p. iii.

The Yalta papers, as so published in 1955, include many documents, initiated at the presidential level and the highest military and diplomatic levels, which were previously classified top secret and concerned matters of the gravest importance and greatest sensitivity. The published papers contain, for example, copies of signed agreements, minutes of meetings of Roosevelt, Churchill and Stalin, informal notes exchanged, and other previously top secret records of the Yalta Conference. These documents and records deal with such sensitive questions as the dismemberment of Germany, reparations to be obtained from Germany—both in kind and in manpower—division of German territories, the Polish question, and many other items of far reaching significance.

In preparing the publication, the Department of State "obtained the assistance of the Department of Defense in locating and releasing documents from the military records of these conferences. This type of material consists of papers documenting the official position or advice of the War and Navy Departments on politico-military subjects discussed at the international level, as presented by the civilian leaders of those departments and by the American Joint Chiefs of Staff and the Anglo-American Combined Chiefs of Staff, together with instructions and interpretations on such subjects given to those departments by the President . . . In the selection of military papers the emphasis has been placed upon those relating to subjects with significant implications for the foreign relations of the United States." *Id.* at xiii. A limited number of omissions were made "(1) to avoid giving needless offense to other nationalities or individuals, (2) to protect defense information in accordance with Executive Order 10501, and (3) to condense the record . . ." *Id.* at xx.

One of the important subjects at the Yalta Conference was the repatriation of Soviet nationals. See, *id., e.g.,* 414–415, 416–418, 440, 445, 455, 697, 754–756, 985–987 (the signed agreement on repatriation which was released to the press on March 8, 1946).

The Army document involved in this case by title concerns the "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul" and presumably deals with the implementation, by subsidiaries, of the presidential and similarly high level directives at Yalta for repatriation. Perhaps there is an outside chance that the Army file contains a few papers "the disclosure of which could result in exceptionally grave damage to the nation" (E.O. 10501).[20] In view of the disclosure of the far more sensitive, important, top secret, and directly related Yalta papers almost 15 years ago, however, the Army should make a convincing showing to the court, in camera or otherwise, that every one of its subsidiary documents should continue to remain in storage and hidden from view. The Army has made no such showing.

CONCLUSION

The judgment below must be reversed because the trial court did not discharge its statutory responsibility to determine the propriety of the Army's withholding of the requested information and because the Army did not sustain its statutory burden of establishing its claim to an exemption. The express language and the fundamental purposes of the Freedom of Information Act require a reversal.

Dated, October 7, 1969.

Respectfully submitted,

PAUL N. HALVONIK,
CHARLES C. MARSON,
Staff Counsel, American Civil Liberties Union of Northern California.
MICHAEL TRAYNOR,
PREBLE STOLZ,
DONATAS JANUTA,
By MICHAEL TRAYNOR,
Attorneys for Amicus Curiae on behalf of Appellant.

(Appendix A follows.)

APPENDIX A

DEPARTMENT OF THE ARMY,
OFFICE OF THE ADJUTANT GENERAL,
Washington, D.C., August 23, 1969.

Mr. JULIUS EPSTEIN,
Hoover Institution
Stanford University,
Stanford, Calif.

DEAR MR. EPSTEIN: The review of the "Operation KEELHAUL" files, referred to in my letter of 20 December 1968, has been completed. It has been determined that four documents may be declassified. These have been declassified and copies are attached herewith for your use.

I regret to inform you that the other documents in these files must remain classified, as determined again by this latest paper-by-paper review, and thus are exempt from release under the provisions of paragraph 10a, AR 345–20 (copy attached).

If you wish, however, you may submit a final appeal in writing to the Secretary of the Army. If you decide to do this, please send your appeal to this office for transmittal to the Secretary.

Sincerely,

KENNETH G. WICKHAM,
Major General, USA, The Adjutant General.

AFHQ MESSAGE CENTER [21]

INCOMING MESSAGE

Filed: 0312259; AFSC 473/3.
Top Secret
From: FSS.
To: Comgenmed.
Ref no this message: FRS 12942.
AUGUST 3, 1946.

Cite BFATC.

Reference operation KEELHAUL conversation between Captain PRAIL this Headquarters and Lt. Colonel PATEUGILL, ALCOM in ROME, indicates the following.

ALCOM is unable to furnish interpreters at Separation Points or any person who will be able to identify individuals wanted imperative that individuals qualified to perform the above mentioned duties be furnished that Headquarters in order that mission may be accomplished.

Action: JAG.

Information: C–I G–5 C/S NTO.

Circular Stamp: Unclassified, Secret, Unclassified, Regarded, Order Sec Army, by Tag Per, 70802.

Paraphrase Unnecessary.

MC IN 263 3 Aug 46; 2332B Ref No. PBS 12932 fl.

Top Secret, Copy No. —.

Printed: The Making of an Exact———

Printed: The making of an exact copy of this message is forbidden.

AFHO MESSAGE CENTER

INCOMING MESSAGE

Filed: 041510E; AFSC N 147/4.
Paraphrase Unnecessary
Secret
From: Comet ——— ———
To: AGWAR.
Info: CMDUS, USFA COMGENMED.
Ref No this message: SN 67–17
DECEMBER 4, 1946.

Cite ———

Reference to your WX–89544 of 20 December 1945.

Subject is repatriation of Soviet citizens who are subject to forcible repatriation under the Yalta Agreement.

1. At the present time Soviet citizens constitute a static group with respect to those unwilling to return to the Soviet Union. It is again requested that (see our 3–3796 of 17 September with respect to exit of Soviet Mennonites for resettlement in PARAGUAY) authorization be given this Headquarters to permit the immigration of those Soviet citizens who leave the Zone under the sponsorship of an accredited agency (such as IGCR) and who do NOT, in the opinion of this Headquarters, fall within the terms of the Yalta Agreement as being subject to forcible repatriation.

2. In connection with the foregoing IGCR here has made mention of a United Nations resolution, reputed to have been adopted, which precludes the necessity of submitting nominal rolls of prospective immigrants to Governments of countries of origin or citizenship before authorizing their immigration.

Request test of such resolution, if adopted, together with interpretation as to its effect on the Brazilian and similar immigration programs. (Continued)

Paraphrase unnecessary
MC IN 179; Secret.

MC IN 179; Secret.

Circular Stamp; Regraded Order, Sec. Army by Tag per 70802, Copy No. 1.

The making of an exact copy of this message is forbidden.

Ref No this message: 31.6717 (Cont'd), 4 December 1946.

Note: WX–89544 no longer held in AFHQ M/C files; 3–3796 not identified in AFHQ M/C files.

Action: G–5.

Information: C/3 MKO G–1 G–2 US POLAD.

MC IN 179 4 Dec 46 —2— 2330A.

Ref No BX 6717 jvd/A.

AFHQ MESSAGE CENTER

INCOMING MESSAGE

Paraphrase unnecessary
Filed: 3120122; AFSC 4361.
Secret
From: AGWAR From WOSCA
To: USFET Info: USFA CMDUS COMGENMED.
Ref No this mesage: WX–88676.
DECEMBER 31, 1946.

Reference your radio December SX 6717 and reference our radio December W 87198.

Authority request para 1 your radio granted in our radio.

Reference your radio para 2, resolution as such not adopted but UN has consistently upheld principle of NOT giving names of prospective immigrants to countries of origin prior authorizing immigration.

All proposals to submit names of prospective immigrants to countries of origin have been defeated.

Note: SX 6717 MO IN 179 4/12/46 G–5 W 87198 not identified in AFMC M/C files.

Action: C–5

Information: C/5 MTO G–1 G–2 US POLAD

Paraphrase unnecessary.

MC 10 1 Jan 47; Secret; 1730 A Ref No. WX 88676.

Circular Stamps: Unclassified, etc.

The making of an exact copy of this message is forbidden.

HEADQUARTERS MEDITERRANEAN THEATER OF OPERATIONS, UNITED STATES ARMY, APO 512
JANUARY 16, 1947.

AG 323. 7/7/000 E–O.

Subject: Certificate for ex KEELHAUL Personnel

To: Commanding General, Peninsular Base Section, APO 762.

Individuals released from "KEELHAUL" as non-Soviets to revert to Displaced Persons status will be issued a certificate of four paragraphs, substantially:

1. A description of the individual in sufficient detail to prevent ready usage of the document by another person.

2. Signature of the recipient.

3. "(Name), described above, has been subjected to military interrogation at Prisoner of War Enclosure 339, Pisa, Italy, and is believed to be a national of (Country). This finding has been confirmed by the Supreme Allied Commander, Mediterranean Forces, at Caserta.

4. Signature of the C.G., AITC, and PBS authorization.

By Command of Lieutenant General Ike:

U. G. PETTERMAN,
Major, ADC, Asst. Adjutant General.

Stamped. Unclassified, etc.

G–5 383.7–14.1.

FOOTNOTES

* The statement of the case is based on the Memorandum and Order (CT 246–253) and Findings, Conclusions, and Judgment (CT 254) of the trial court except as supplemented by references to other material in the Clerk's Transcript of Record (CT).

[1] The Freedom of Information Act was enacted by P.L. 89–487, 80 Stat. 383, and codified without substantive change in 5 U.S.C.

Section 552 by P.L. 90–23, 81 Stat. 54. The Act became effective July 4, 1967.

The prior law was Act of June 11, 1946, ch. 324, Section 3, 60 Stat. 238.

The principal legislative history of the Freedom of Information Act is found in the Senate Report and the House Report. S.Rep. No. 813, 89th Cong., 1st Sess. (1965); H.R. Rep. No. 1497, 89th Cong., 2d Sess. (1966). For major floor arguments in Congress see 104 Cong. Rec. 6547–75, 15688–99; 110 Cong. Rec. 17086–89.

The Attorney General published an Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act (1967) (hereafter cited as AG Memo), a 47-page pamphlet which sets forth guidelines for the agencies and some analysis of the act and the legislative history.

There have been several articles written on the Act. See *e.g.*, Davis, *The Information Act: A Preliminary Analysis*, 34 U.Chi.L. Rev. 761 (1967); Note, *The Freedom of Information Bill*, 40 Notre Dame Law. 417 (1965) (extensive discussion of bill and related earlier proposals); Note, *Freedom of Information: The Statute and the regulations*, 56 Georgetown L.J. 18 (1967); Note, *The Information Act: Judicial Enforcement of the Records Provision*, 54 Va.L.Rev. 466 (1968).

Professor Davis cautions that "In general, the Senate committee is relatively faithful to the words of the Act, and the House committee ambitiously undertakes to change the meaning that appears in the Act's words. The main thrust of the House committee remarks that seem to pull away from the literal statutory words is almost always in the direction of nondisclosure. The *Attorney General's Memorandum* consistently relies on such remarks by the House committee." Davis, supra, 34 U.Chi.L.Rev. at 763.

[2] Some background on the derivation of the revised and more limited secrecy exemption is set forth in the comprehensive Note, *The Freedom of Information Bill*, 40 Notre Dame Law. 417, 421, 443–445 (1965) as follows:

The Senate Judiciary Committee held hearings and after reviewing the broad "secrecy in the public interest" test of the prior law reported in 1964 that:

"The phrase 'public interest' in section 3 (a) of the Administrative Procedure Act (and in S. 1666 as it was introduced) has been subject to conflicting interpretations, often colored by personal prejudices and predilections. It admits of no clear delineations, and it has served in many cases to defeat the very purpose for which it was intended—the public's right to know the operations of its Government. Rather than protecting the public's interest, it has caused widespread public dissatisfaction and confusion. S. Rep. No. 1219, 88th Cong., 2d Sess. p. 3 (1964). . . ."

After the hearing, the proposed rewording of the test was "any function of the United States requiring secrecy for the protection of national security." *Id.* "However, as pointed out in the hearings, *national security* can also become a vague and confusing standard. An administrator could conceivably interpret *national security* so as to frustrate the purpose of this exemption as he has done *within the public interest*. Consequently, in S.1160 the proposed Senate bill], the exemption has now been further narrowed to extend to matters specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy." 40 Notre Dame Law., *supra* at 421. (Emphasis in original.) With the substitution of "in the interest of" instead of "for the protection of", the test was substantially similar to the test proposed by the American Civil Liberties Union, namely "any matter specifically required by Executive Order to be kept secret for the protection of the national defense or foreign policy." *Id.* at n. 26 citing *Hearings Before the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary*, 88th Cong., 2d Sess., pp. 75, 79 (1964).

[3] Two additional exemptions not claimed by the Army but used for analysis and illustration herein are (2) and (3), *i.e.*, matters:

"(2) *related solely* to the *internal personnel rules and practices* of an agency;

(3) *specifically exempted from disclosure by statute;*"

[4] Before getting to the question of exemption, there is a possible preliminary question in some cases under the statute, but not in this case, that may be disposed of quickly, *i.e.*, whether the procedural standards of Section 552 (a)(3) have been met. For example, if the complainant failed to request an "identifiable" record or did not comply with published time and place rules or pay the proper fee, the agency could urge that its records were properly withheld without necessarily claiming an exemption under Section 552(b). These requirements have been met and the trial court did not hold that any of them justified withholding of the records in this case.

[5] The example of parking regulations was deliberately chosen since it is referred to in the Senate Report. S. Rep. No. 813, 89th Cong., 1st Sess. at 8 (1965), as a matter within the exemption. As Professor Davis suggests, both the House Report and A.G. Memo seem to go beyond the statutory language in discussing this exemption.

[6] Privileges, that is, of the government itself. There are other provisions relating to trade secrets and other confidential information obtained by the government from private sources designed essentially to protect those sources. Many of these are in the statutes covered by subsection (b)(3); others would be included in the exemptions of (b)(4), (6), (7), (8), and (9).

[7] The trial court's position would reduce the issues to be considered to the few procedural requirements contained in Section 552(a)(3); *e.g.*, did the complaint seek an "identifiable" record; did the plaintiff tender the proper fees; was the venue correct? See n. 4, *supra*. It is inconceivable that Congress intended that the de novo review by the district courts be restricted to issues of such minor consequence.

[8] The Attorney General's memo cited the statute as it passed Congress; the brackets are to the statute as codified.

[9] The foregoing point on standing seems true even if it is assumed that Section 10 of the A.P.A. (now codified as 5 U.S.C. Sections 701, 704) could be construed to authorize judicial review. Note that the trial court did not purport to rest jurisdiction on 5 U.S.C. Sections 701 and 704, but rested it on 5 U.S.C. Section 552(a)(3). (CT 254.)

[10] Presumably, the Army's principal expertise on the implications of disclosing the file would be in the national defense area rather than the foreign policy area. However, the file is very old and the national defense implications, if any, of releasing it seem remote. Presumably also, the Army's reluctance to release the file does not arise out of any desire to hide error or inefficiency of the Army or an allied component of Allied Force Headquarters (AFHQ) such as the British, for to do so would directly contradict Department of Defense policy that a claim that information is exempt from disclosure under the Freedom of Information Act "in no event" shall be "influenced by the possibility that its release might suggest administrative error or inefficiency or might embarrass a component or an official of that component." 32 C.F.R. Section 286.4(c), reproduced in House Comm. on Gov't Operations, *Freedom of Information Act (Compilation and Analysis of Departmental Regulations)*, p. 46, 90th Cong., 2d Sess. (1968). One would think also that the Army might be glad to release the file to clear away any suggestion that it might have used force or cooperated in the use of force in the repatriation of persons to the Soviet Union. Repatriation by force was not provided for in the Yalta agreements, and official Army history makes clear that Allied policy was to protect "displaced persons from forcible repatriation." Coles & Weinberg, *United States Army in World War II, Civil Affairs: Soldiers Become Governors*, Department of the Army (1964), pp. 582, 648; Dept. of State Public. 6199, *Foreign Relations of the United States, The Conferences at Malta and Yalta 1945*, pp. 985–987 (1955). It would seem unlikely also that the Army desires to protect Soviet Communists from disclosure about their use of force. It needs no citation to state that the Army is opposed to Communist aggression. Moreover, a decision to protect Soviet Communists would not seem to be one of national defense. Besides, the story of the Communists' use of force has already been documented in some detail. See, *e.g.*, the four-volume collection, translated from the German, entitled *Documents on the Expulsion of the German Population from Eastern and Central Europe* (Schneider ed., 1960–61); Bouscaren, *International Migrations Since 1945*, pp. 47–66 (1963).

[11] After the judgment was entered and by letter dated August 22, 1969, Major General Wickham informed Mr. Epstein that the review had been completed, that four documents were declassified, and that the remaining papers still could not be released. Appendix A to this brief contains copies of General Wickham's letter and a transcription of the four documents to the extent feasible. (Copies of the four documents were also appended to the typewritten amicus brief previously filed herein.) In summary, the four documents, which were withheld from public view for over 20 years, are: 1) a request for interpreters, 2) a request (originally classified secret) for authorization concerning immigration of certain Soviet citizens who do not "fall within the terms of the Yalta Agreement as being subject to forcible repatriation", 3) a message (originally classified only as secret) confirming that "all proposals to submit names of prospective immigrants to countries of origin have been defeated", and 4) a letter indicating the form of certificate to be issued to "individuals released from KEELHAUL as non-Soviets."

[12] It is noted in passing that the Army did not attempt to justify its withholding on the ground that the material might simply be secret rather than top secret. The Army's restraint is correct for two reasons: 1) A showing that documents are only "secret" or less would involve an admission that a declassification had been made which would contradict the Army's basic assertions that the entire file was top secret pending review on a paper by paper basis. 2) Having adopted the stricter "top secret" approach, the Army is bound to justify it. See *Service v. Dulles*, 354 U.S. 363, 388 (1957), a case involving the crucial security question of a key employee's loyalty: Although "the Secretary was not obligated to impose upon himself these more rigorous substantive and procedural safeguards, neither was he prohibited from doing so, and having done so he could not, so long as the Regulations remained unchanged, proceed without regard to them." See also *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260 (1954) (regulations validly prescribed by a government administrator are binding upon him as well as the citizen even when administrative action under review is discretionary).

[13] The exemptions in Section 552(b) begin with a reference to "matters" rather than to "identifiable records", the more specific phrase in Section 552(a)(3). The House Report specifically refers to "matters classified pursuant to Executive Order 10501" as an example of a potential exemption under subsection (b)(1). Congress may not have imposed on the President the burden of qualifying each particular document for the exemption with a particular Executive Order or attempted to act, except constitutionally,

with respect to the President's claimed consitutional power to withhold secrets. *Cf.* Statement by President Johnson upon signing P.L. 80–487, AG Memo 11 (1967), that "this bill in no way impairs the President's power under our Constitution to provide for confidentiality when the national interest so requires." See Wozencraft (then Asst. Atty. Gen), *Symposium*, 20 Admin.L.Rev. 1, 46 (1967): "[I]t is very clear here from the fact that the President did sign this bill . . . that the earlier contention that judicial review of these decisions would be an invasion of an executive prerogative is not now being pressed. The separation-of-power concept is obviously something that the executive branch did not intend to press when the President signed the bill."

[14] As noted in the cited articles, President Jefferson promptly produced all the documents requested in the Aaron Burr trial conducted by Chief Justice Marshall except for one letter, and as to that letter he was willing to submit it to Marshall to review.

[15] The Army apparently considered that a request for interpreters required top secret status for 23 years. See Appendix A. It bears asking whether there might be similar documents in the file, the disclosure of which the Army feels might "result in exceptionally grave damage to the Nation." Are the courts supposed to defer to the military judgment on such matters without even looking at the documents? Overclassification, of course, has been severely criticized. See, *e.g.*, Bar Ass'n City of New York, *Report of the Special Committee on the Federal Loyalty Security Program*, 69–73 (1956).

[16] Note that two of the recently released documents reproduced in Appendix A were originally classified only as secret, not top secret.

[17] The United Kingdom apparently uses "Top Secret" as a classification comparable to the U.S. "Top Secret". AR 380–5, App. V. (CT 92.)

[18] Section 288 of Title 22 of U.S.C., dealing with foreign relations, provides that "the term 'international organization' means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designed by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities provided" in certain listed statutes. The President, by Executive orders, has designated various organizations as "international organizations". The designations are listed in 22 U.S.C.A. after Section 288. They include such organizations as the United Nations, the Inter-American Development Bank, and the International Monetary Fund. No military group or allied commands appear to be listed as "international organizations".

AFHQ appears to have been disbanded shortly after the Treaty of Peace Between Italy and the Allied and Associated Powers of 1947 went into effect. Coles & Weinberg, *U.S. Army in World War II, Civil Affairs: Soldiers Become Governors*, Department of the Army, 645–649 (1964).

[19] See Appendix A which reveals that at least two documents were originally classified only as secret, not top secret.

[20] Compare, however, the request for interpreters reproduced in Appendix A, which the Army kept in top secret status for 23 years, *with* the top secret minutes of presidential meetings and top secret notes and information which were made public almost 15 years ago with publication of the Yalta papers. See discussion at n. 10, *supra*.

[21] Copies of the documents as furnished by General Wickham were appended to the typewritten amicus brief previously filed. The copies are hard to read and accordingly are transcribed herein to the extent feasible.

[In the United States Court of Appeals for the Ninth Circuit, No. 24275]

JULIUS EPSTEIN, APPELLANT *vs.* STANLEY RESOR, ET AL., APPELLEES

ADDENDUM AND AFFIDAVIT FOR AMICUS CURIAE IN RESPONSE TO ASSERTIONS OF APPELLEE UNITED STATES OUTSIDE THE RECORD

Michael Traynor, being sworn, says: I am one of the attorneys for Amicus Curiae, the American Civil Liberties Union of Northern California. During the oral argument on November 19, 1969, I stated that the government's contentions did not support the trial court's judgment and were unresponsive to the arguments of appellant and amicus curiae. At the close of oral argument, Judge Koelsch asked me if I had any further response to the government's contentions. I replied that the government's reference, *Federal Records of World War II*, did not support its contentions, and I was going to conclude my answer with the following short argument had time permitted:

The government's "intelligence and cryptography" contention was raised for the first time on appeal; is not supported by General Wickham's affidavit or the record; is an implausible afterthought given the many years since the file was made; and is just the sort of claim the district court should consider independently in camera or otherwise in a trial instead of in a cursory summary judgment proceeding. I object to the government's unverified and cavalier assertions of such factual matter outside the record and to its attempt to burden the Court with a belated concern for old cryptography that could have and should have been brought to the attention of the trial court had it been of any significance at all.

Because of the late filing of the government's brief, the court asked whether we wanted to file a reply brief. I did not ask to do so thinking that the government's contentions could be disposed of orally and briefly. Time did not permit the foregoing argument to be made, however, and I respectfully request that this Addendum and affidavit be filed in response to the Court's invitation and in lieu of reply brief.

Appellant's counsel, Michael Klynn, informs me that he joins in the foregoing statement.

Dated: November 20, 1969.

Respectfully submitted.

MICHAEL TRAYNOR.

[In the United States Court of Appeals for the Ninth Circuit, No. 24, 275]

JULIUS EPSTEIN, PLAINTIFF-APPELLANT *v.* STANLEY RESOR, SECRETARY OF THE ARMY, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE, DEFENDANT-APPELLEE

STATEMENT OF THE QUESTION PRESENTED

Whether the requested file, which is security-classified pursuant to Executive Orders 10501 and 10964, falls within the exemption in the Freedom of Information Act for matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." 5 U.S.C. 552(b)(1) (Supp. IV, 1965–68).[1]

STATEMENT OF THE CASE

1. For a number of years plaintiff Epstein has been attempting to secure the disclosure to him of a file which he describes as "Army document: 'Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul,'" File No. 383.7–14.1 (R. 29).[2] Plaintiff's requests were denied because of the "current high security classification" of the file (R. 185–193).[3] After Congress enacted the Freedom of Information Act, effective July 4, 1967, plaintiff invoked that Act in support of his request for disclosure (R. 35, 46). Plaintiff's request for disclosure pursuant to the Information Act was also denied—on the ground that the requested file is exempt from disclosure under the Information Act, as matter which is "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." 5 U.S.C. 552(b)(1). (R. 24–52).

Plaintiff thereafter brought this action in the district court, pursuant to the Information Act, to compel the defendant Secretary of the Army to disclose the requested file to him (R. 1–2). The district court granted the Government's motion for summary judgment, and dismissed the action, on the ground that the Government had appropriately invoked the exemption in the Information Act for matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." 5 U.S.C. 552(b)(1). (R. 246–255).[4]

2. In support of the motion for summary judgment, defendant filed the affidavit of Major General Kenneth G. Wickham, The Adjutant General of the Army (R. 23–27). The Adjutant General's affidavit states that the requested file is security classified in the interest of national defense or foreign policy, pursuant to Executive Orders 10501 and 10964 (R. 23–24, 26–27). The basis for that classification, as explained in The Adjutant General's affidavit, is set forth below.

The Allied Force Headquarters ("AFHQ") was the unified inter-allied command (British and American) that planned and supervised ground, air, naval, and service operations and military government during World War II in the North African Theater of Operations and the later Mediterranean Theater. See *Federal Records of World War II, Vol. II, Military Agencies* (General Services Administration, 1951), p. 767. After AFHQ was discontinued, the Combined Chiefs of Staff[5] directed that AFHQ's original records be transferred to the British Government, and that microfilm copies of the records be released to the War Department of the United States Government. See *Federal Records of World War II, Vol. II, Military Agencies, supra*, p. 769; Adjutant General's affidavit, R. 24. The Adjutant General of the Army states in his affidavit that the file requested by plaintiff is part of the foregoing AFHQ microfilm records that were released to the United States War Department by the Combined Chiefs of Staff, and that the requested file, as received by the War Department, bore an overall classification of "Top Secret" since it contained many individual "Top Secret" documents of combined (British and American) and British origin (R. 24).[6] The Adjutant General's affidavit also states that the requested file, in the possession of the United States Government, has continued to bear an overall classification of "Top Secret" because of the requirements of Executive Orders 10501 and 10964, and that the requested file is "not subject to unilateral regrading action by the United States" (R. 24, 26–27).

Executive Order 10501, issued by President Eisenhower in 1953,[7] provides, *inter alia* [Section 3]:

(b) Physically Connected Documents. The classification of a file or group of physically connected documents shall be at least as high as that of the most highly classified document therein. * * *

(c) Multiple Classification. A document, product, or substance shall bear a classification at least as high as that of its highest classified component. The document, product, or substance shall bear only one overall classification, notwithstanding that pages, paragraphs, sections, or components thereof bear different classifications.

(e) Information Originated by a Foreign Government or Organization. Defense information of a classified nature furnished to the United States by a foreign government or international organization shall be assigned a classification which will assure a

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Footnotes at end of article.

degree of protection equivalent to or greater than that required by the government or international organization which furnished the information.

By Executive Order 10964, issued in September 1961,[8] President Kennedy amended Executive Order 10501 to provide for automatic downgrading or declassification of certain kinds of information or material. However, Executive Order 10964 excludes from automatic downgrading or declassification "Group 1" material, *i.e.*, "information or material originated by foreign governments or international organizations and over which the United States Government has no jurisdiction, information or material provided for by statutes such as the Atomic Energy Act, and information or material requiring special handling, such as intelligence and cryptography" (Section 4(a)(1)). (R. 82). Army Regulation 380–6, issued by the Secretary of the Army in October 1962, implemented provisions of Executive Order 10964, and specifically states that "Group 1" documents include, *inter alia*, material originated by or containing classified information clearly attributed "to foreign governments or their agencies, or to international organizations and groups, including the Combined Chiefs of Staff" (R. 161).[9]

The affidavit of The Adjutant General of the Army specifically states that the file requested by plaintiff has continued to bear an overall classification of "Top Secret" because it is "categorized as Group 1 documents under AR 380–6 (Executive Order 10501, as amended by Executive Order 10964)" and that it is "not subject to unilateral regrading action by the United States" (R. 24).

3. As just seen, Executive Order 10501, as amended by Executive Order 10964, forbids the disclosure to plaintiff of the file requested by him, for this file was received by the United States Government from the Combined Chiefs of Staff as a security-classified document, and it must remain a security-classified document until the United States Government and the British Government (the other member of the Combined Chiefs of Staff) agree to remove the security classification of the file. Moreover, independently of the international nature of the file, we are informed by the Department of the Army that the file must remain security-classified because of considerations of intelligence and cryptography. See Section 4(a)(1) of Executive Order 10501, as amended by Executive Order 10964, *supra*, p. 6.

It should also be stressed that the Department of the Army has reviewed the file continuously, in cooperation with other agencies of the United States Government, in the hope that a procedure could be developed to declassify all, or a portion of, the papers in the file (see R. 24–52, 185–193). To date, those efforts have yielded the declassification of only four United States-originated items, involving no problems of intelligence or cryptography, which were furnished to plaintiff on August 22, 1969 (see Appendix A to Brief of Amicus Curiae). The Department of the Army is also currently in the process of attempting to develop a procedure whereby copies of the documents could be furnished the plaintiff and other members of the general public—*minus the security-classified data*. Development of this procedure involves complex and costly studies, and coordination with a number of United States agencies and with representatives of the British Government. The Department of the Army, of course, cannot represent, at this time, that this effort will ultimately result in the release of some or all of the material desired by plantiff.

Footnotes at end of article.

ARGUMENT

The file requested by plaintiff, which is security-classified pursuant to Executive Orders 10501 and 10964, falls within the exemption in the Freedom of Information Act for matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy". 5 U.S.C. 552(b)(1).

The Freedom of Information Act exempts from the coverage of the Act matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." 5 U.S.C. 552(b)(1). As seen above (*supra*, pp. 3–7), Executive Order 10501, as amended by Executive Order 10964, forbids the disclosure to plaintiff of the file requested by him, for the file—which plainly pertains to "defense information"—was received by the War Department of the United States Government from the Combined Chiefs of Staff (an "international" war organization composed of British and American representatives) as a security-classified document; and the file must remain as a security-classified document until the United States Government and the British Government (the other member of the Combined Chiefs of Staff) agree to remove the security classification of the file. Of course, these United States international commitments must be honored.[10] Moreover, independently of the international nature of the file, the Department of the Army informs us that the file must remain security-classified, pursuant to Section 4(a)(1) of Executive Order 10501, as amended by Executive Order 10964 (*supra*, p. 6), because of considerations of intelligence and cryptography.

Plaintiff argues that the district court should have reviewed the correctness of the Executive judgment that documents of the type here involved must be kept secret in the interest of the national defense or foreign policy (Brief for Appellant, pp. 5, *et seq.*). That contention, however, is contrary to the language and legislative history of the Information Act, which exempts matters "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." 5 U.S.C. 552(b)(1). As stated by the House Government Operations Committee, "* * * citizens both in and out of Government can agree to restrictions *on categories of information which the President has determined* must be kept secret to protect the national defense or to advance foreign policy, *such as matters classified pursuant to Executive Order 10501.*" H.R. Rept. No. 1497, 89th Cong., 2d Sess., pp. 9–10 (emphasis added).

Similarly, Representative Gallagher, a member of the House Government Information Subcommittee, explained the exemption as follows:

There has been some speculation that in strengthening the right of access to Government information, the bill, as drafted, may inadvertently permit the disclosure of certain types of *information now kept secret by Executive order in the interest of national security.*

Such speculation is without foundation. The committee throughout its extensive hearings on the legislation has made it crystal clear that *the bill in no way affects categories of information which the President*—as stated in the committee report—*has determined must be classified* to protect the national defense or to advance foreign policy. *These areas of information most generally are classified under Executive Order No. 10501* [CONGRESSIONAL RECORD, vol. 112, pt. 10, p. 13659; emphasis added].

And Representative Moss, Chairman of the House Government Information Subcommittee, stated during Hearings that: [11]

We do not challenge that right to withhold for the national interest, because we specifically require it by Executive order to be kept secret in the interest of the national defense or foreign policy. *Now, that is very broad.* That means that *any of these documents that are of sufficient significance to the security of this Nation or to the interests of this Nation as it deals with other nations can, by appropriate designation, be excluded from the provisions of this act.*

We do not challenge that right to withhold certain needs to keep some of this information locked up. And *the Executive order which is applicable in this instance I believe is Executive Order 10501, where the President authorizes the departments and agencies to appropriately classify and lays out the guidelines for classification* * * *

The whole object of the Executive order is to have a category in which you can place and identify this information, so that it is secure.

Now, what hardship is imposed there? What infringement of the Executive right or responsibility is diminished by this provision of the proposed legislation? [Emphasis added].[12]

We should also add that plaintiff's contention flies in the face of the settled principle of judicial refusal to review the discretion of the Executive Department in the area of national defense and foreign relations. As Mr. Justice Jackson declared in *Chicago and Southern Air Lines* v. *Waterman S.S. Corp.*, 333 U.S. 103, 111 (emphasis added):

* * * The President, both as Commander-in-Chief and as the Nation's organ for foreign affairs, has available intelligence services *whose reports are not and ought not to be published to the world.* It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken *on information properly held secret. Nor can courts sit in camera in order to be taken into executive confidences.* But even if courts could require full disclosure, *the very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry.*[13]

Finally, we note that plaintiff can derive no comfort from *United States* v. *Reynolds*, 345 U.S. 1. The *Reynolds* case did not involve the Freedom of Information Act, but concerned, instead, a formal claim of Executive Privilege asserted by the Government as a defense to discovery in a Tort Claims Act suit. The claim of Executive privilege was sustained by the Court, without requiring *in camera* inspection, where there were circumstances "indicating a reasonable possibility that military secrets were involved * * *." 345 U.S. at 10–11.[14] The instant case, however, involves an exemption to the Information Act (5 U.S.C. 552(b)(1)), which, Congress made clear, is independent of the doctrine of Executive Privilege. See the legislative history cited *supra*, pp. 10–12, and Hearings Before a Subcommittee of the House Committee on Government Operations on H.R. 5012, et al., 89th Cong., 1st Sess., Part 1, March 1965, pp. 13–14, 65, 104–105, 108. See, also, *General Services Administration* v. *Benson*, C.A. 9, No. 22,862, decided August 26, 1969, Slip Opin., p. 2. Moreover, as seen above (pp. 9, *et seq.*), the Government in the instant case has appropriately established that the file requested by plaintiff falls within the exemption to the Information Act.[15]

CONCLUSION

For the foregoing reasons, the judgment of the district court should be affirmed.

Respectfully submitted.

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FOOTNOTES

[1] All references to the Information Act in this brief are to the statute as it appears in 5 U.S.C. Supp. IV, 1965–68.

[2] "R." refers to the Clerk's Transcript of Record on this appeal.

[3] As the record makes clear (R. 24–27; see also *supra*, pp. 7–8), there is no substance in plaintiff's assertion that the Department of the Army has engaged in a "continued and overt policy * * * to stall plaintiff * * *" (Brief for Appellant, p. 5).

[4] The court also denied the Government's motion to dismiss for lack of jurisdiction (R. 246–255).

[5] The Combined Chiefs of Staff was established by the President of the United States and the British Prime Minister as a result of a United States-United Kingdom military staff conference held shortly after Pearl Harbor. The Combined Chiefs of Staff, which continued throughout the war, reported to the President and the Prime Minister. It collaborated in the formulation and execution of policies and plans concerning the strategic conduct of the war, the broad program of war requirements, the allocation of munitions resources, and the requirements for overseas transportation for the fighting services of the allied nations. See *Federal Records of World War II, Vol. II, Military Agencies*, supra, pp. 2–3.

[6] The file is stored in the National Archives (R. 23). A great number of other classified documents are also stored in the National Archives and its record centers, including documents dating to 1966.

[7] 18 Fed. Reg. 7049, 3 C.F.R., 1949–1953 Comp., p. 979. Executive Order 10501 is also reprinted at R. 67–75.

[8] 26 Fed. Reg. 8932, 3 C.F.R., 1959–1963 Comp., p. 486. Executive Order 10964 is also reprinted at R. 82–85.

[9] An identical definition of "Group 1" material is provided in Department of Defense Directive 5200.10, p. 5, issued July 26, 1962. Similarly, Department of Defense Directive 5200.9, p. 4, issued September 27, 1958, evidences the common understanding that the Combined Chiefs of Staff is an "international" group.

[10] Exemption 4, 5 U.S.C. 552(b)(4), recognizes the obligation of the United States Government to honor the confidentiality of documents submitted by *private citizens*. See. *General Services Administration* v. *Benson*, C.A. 9, No. 22,862, decided August 26, 1969. Slip Opin., p. 6. *A fortiori*, the United States Government must honor its *international* comments.

[11] Hearings Before a Subcommittee of the House Committee on Government Operations, on H.R. 5012, et al., 89th Cong., 1st Sess., Part 1, March 30, 1965, pp. 14–15.

[12] Mr. Moss also stated during the House Hearings that Exemption 1 (5 U.S.C. 552(b)(1)) "was specifically intended to recognize that Executive order [No. 10501]" (p. 52), and is drafted "in conformity with that Executive order" (p. 105).

Plaintiff relies upon Mr. Moss's statement, made in an affidavit filed in this action, that he personally intended "to grant to the appropriate District Court the broadest latitude to review all agency acts * * *", including the correctness of a designation of whether a document falls within an exemption (R. 235–237). However, the district court correctly concluded that this general statement could be of no value since it was made after enactment of the Information Act, and is "not a part of the records of the legislative body * * *" (R. 247–248). See 2 Sutherland, *Statutory Construction*, § 5013 (1943 and 1969 Supp.). See, also, the cases cited in our memorandum below (R. 241–242).

[13] See, also, *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 304, 320, 321–322:

It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. Moreover, he, not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war. He has his confidential sources of information. He has his agents in the form of diplomatic, consular and other officials. *Secrecy in respect of information gathered by them may be highly necessary, and the premature disclosure of it productive of harmful results.* * * *

When the President is to be authorized by legislation to act in respect of a matter intended to affect a situation in foreign territory, the legislator properly bears in mind the important consideration that the form of the President's action—or, indeed, whether he shall act at all—may well depend, among other things, upon the nature of the confidential information which he has or may thereafter receive, or upon the effect which his action may have upon our foreign relations. This consideration, in connection with what we have already said on the subject, discloses the unwisdom of requiring Congress in this field of governmental power to lay down narrowly definite standards by which the President is to be governed [Emphasis added].

And see *Johnson* v. *Eisentrager*, 339 U.S. 763, 789 ("Certainly it is not the function of the Judiciary to entertain litigation—even by a citizen—which challenges the legality, the wisdom, or the propriety of the Commander-in-Chief in sending our armed forces abroad or to any particular region"; the President is "exclusively responsible" for the "conduct of diplomatic and foreign affairs"); *Orloff* v. *Willoughby*, 345 U.S. 83; and *Panama Canal Co.* v. *Grace Line, Inc.*, 356 U.S. 309, 317–318. Also see *Luftig* v. *McNamara*, 373 F. 2d 664, 665–66 (C.A.D.C.), certiorari denied, 387 U.S. 945:

The fundamental division of authority and power established by the Constitution precludes judges from overseeing the conduct of foreign policy or the use and disposition of military power; these matters are plainly the exclusive province of Congress and the Executive.

[14] *Cf. Freeman* v. *Seligson*, 405 F. 2d 1326, 1339, fn. 65 (C.A.D.C.): "* * * we have adopted the *in camera* inspection as the procedure for accommodating claims of privilege *where no military or diplomatic secrets are involved*" (Emphasis added).

In *Crosby* v. *Pacific S.S. Lines*, 133 F.2d 470 (C.A. 9), certiorari denied, 319 U.S. 752, cited by the *amicus curiae*, the claim of Privilege by the British Government was effectively waived. See *United States* v. *Ragen*, 180 F.2d 321, 326–327 (C.A. 7), affirmed, 340 U.S. 462. *Conway* v. *Rimmer* (1968) 1 All E.R. 874 (H.L.), also cited by the *amicus curiae*, held that routine reports on a probationary constable by a junior officer should be produced for judicial inspection notwithstanding a claim of Crown Privilege. *Conway* did not involve any question of national defense or foreign policy. Indeed, Lord Reid recognized that "Where public or political consequences of disclosure are apprehended,* * * the Minister is the best judge." 1 All E.R. (1968), at 883–884. Similarily, Lord Pearce stated "If the Crown on the ground of injury to the public objects to the production of the plans of a submarine, as in *Duncan's* case, it is obvious that the court would accept the matter without further scrutiny." 1 All E.R. (1968) at 909.

[15] Under the Information Act, "the burden is on the agency to sustain its action" in denying disclosure. 5 U.S.C. 553(a)(3). The House Government Operations Committee explained that "The burden of proof is placed upon the agency which is the only party able to justify the withholding. A private citizen cannot be asked to prove that an agency has withheld information improperly because *he will not know the reasons for the agency action.*" H.R. Rept. No. 1497, 89th Cong., 2d Sess., p. 9 (emphasis added). The Senate Judiciary Committee similarly explained that the burden of proof provision was added because the citizen "will not know the reasons for the agency action." S. Rept. No. 813, 89th Cong., 1st Sess., p. 8. Here, the Government has explained why the file sought by plaintiff falls within Exemption 1, 5 U.S.C. 552(b)(1).

We should also add that plaintiff's claim under the Information Act is not affected by his status as a historian (see Brief for Appellant, pp. 1–2). Indeed, one of the fundamental purposes of the Information Act was to eliminate the test of whether an individual is "properly and directly concerned." As stated by the Senate Judiciary Committee (S. Rept. No. 813, *supra*, pp. 5–6), the Information Act:

* * * eliminates the test of who shall have the right to different information. For the great majority of different records, the public as a whole has a right to know what its Government is doing. There is, of course, a certain need for confidentiality in some aspects of Government operations and these are protected specifically; but outside these limited areas, *all citizens* have a right to know [Emphasis added].

Accord: H.R. Rept. No. 1497, *supra*, p. 1. Pursuant to Executive Order 10816 (May 12, 1959, 24 Fed. Reg. 3777, R. 77), certain kinds of classified documents can be made available for use by scholars; but, in the instant case, a determination was made that, because of the highly sensitive nature of the requested file, no such exception could be made here (see R. 193).

[In the United States Court of Appeals for the Ninth Circuit]

JULIUS EPSTEIN, PLAINTIFF-APPELLANT, VS. STANLEY RESOR SECRETARY OF THE ARMY; DEPARTMENT OF THE ARMY; DEPARTMENT OF DEFENSE, DEFENDANTS-APPELLEES.

This suit was brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552(a)(3)[1] to enjoin appellee, as Secretary of the Army, from continuing to withhold from appellant documents contained in an Army file.

Appellant, a historian, is research associate at Stanford University's Hoover Institution on War, Revolution and Peace. His special interest concerns war refugees. He is preparing a book on the forced repatriation of anti-Communist Russians following World War II, and for this purpose desires to examine the Army file designated "Forcible Repatriation of Displaced Soviet Citizens-Operation Keelhoul."

This file was generated over twenty years ago by the Allied Force Headquarters of World War II. That agency had classified the entire file as top secret. At the close of the war, the British Government received

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Footnotes at end of article.

the original and the United States Department of the Army received a photoprint copy. The file contains a number of individual documents, some of which are of British or combined United States-British origin. Upon its receipt the Army maintained the top secret classification under Executive Order 10501 and it has not yet been declassified.

After storage as a historical record with the Army the file was finally stored with the National Archives and Records Service, General Services Administration. The classification of the file was reviewed by the Army in 1954 and the classification was retained. In 1967 appellant sought declassification. The file again was reviewed and again the classification was retained.

In February 1968 appellant again requested release of the file. In response he was advised by the Adjutant-General of the Army that a complete re-examination of the file had been directed; that the 1967 action had been based on the contents of the file in its entirety; that the current review of the file was proceeding on a paper-by-paper basis. In March, 1968, this action was brought.

Appellees sought summary judgment. In support of their motion they filed an affidavit of the Adjutant-General. That affidavit, under date of May 29, 1968, stated that the paper-by-paper review of the file was still in progress. It went on:

"This review of individual papers has been completed with the Department of the Army and coordination is now in progress with the Joint Chiefs of Staff and the Department of State to verify the position of the United States Government with respect to each paper. The outcome of this effort will determine the possibility of requesting a review and redetermination of the classification of some or all of the documents by the British Government. This Department will continue on its present course of coordinating the declassification of the files with the concerned agencies. The complexity of interests in these files indicates considerable time will pass before a final determination is made. In the meantime, the documents remain classified TOP SECRET * * *."

The District Court granted summary judgment in favor of appellees. 296 F. Supp. 214 (N.D. Cal. 1969). The American Civil Liberties Union of Northern California, as amicus curiae, appears in support of appellant.

The appeal presents a question as to the scope of judicial review. Section 552(a)(3) provides that the court shall determine the matter de novo and the burden is on the agency to sustain its action.

Appellees insist, however, that this subsection does not apply here. They point to § 552(b) which states that "[t]his section does not apply to matters" in nine enumerated categories.[2] Appellees contend that agency determination that the material sought falls within one of the nine exempted categories takes the case out of subsection (a)(3) and precludes the broad judicial review provided by that subsection. They assert that we are here faced with an agency determination that the (b)(1) exemption applies.

Unquestionably the Act is awkwardly drawn. However, in view of the legislative purpose to make it easier for private citizens to secure Government information, it seems most unlikely that it was intended to foreclose an (a)(3) judicial review of the circumstances of exemption. Rather it would seem that (b) was intended to specify the bases for withholding under (a)(3) and that judicial review de novo with the burden of proof on the agency should be had as to whether the conditions of exemption in truth exist. *See American Mail Line, Ltd.* v. *Gulick*, 411 F.2d 696, 702 (D.C. Cir. 1969). The District Court was, then, in error in holding to the contrary, 296 F. Supp. at 217.

This being so, appellant argues, the District Court should have taken the file for a determination *in camera* as to whether, under (b)(1) and the applicable executive standards, this file should, after twenty-four years, still be classified as "top secret" in the interests of the national defense or foreign policy.

Here we part company with appellant.

Section (b)(1) is couched in terms significantly different from the other exemptions. Under the others (with the exception of the third) the very basis for the agency determination—the underlying factual contention—is open to judicial review. *See General Services Administration* v. *Benson*, 415 F. 2d 878 (9th Cir. 1969); *American Mail Line, Ltd.* v. *Gulick*, 411 F. 2d 696, 702 (D.C. Cir. 1969). Under (b)(1) this is not so. The function of determining whether secrecy is required in the national interest is expressly assigned to the executive. The judicial inquiry is limited to the question whether an appropriate executive order has been made as to the material in question.

This is not inconsistent with the legislative purpose. It simply recognizes the proposition that the question of what is desirable in the interest of national defense and foreign policy is not the sort of question that courts are designed to deal with. As has been stated, the judiciary has neither the "aptitude, facilities, nor responsibility" to review these essentially political decisions. *Chicago & Southern Air Lines, Inc.* v. *Waterman S. S. Corp.*, 333 U.S. 103, 111 (1948); *see also United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 320–22 (1936).

Upon the narrow question remaining for judicial review, we note that the executive determination of top secret classification does not rest on an ancient order unrelated to the conditions of today. The classification has been updated and the process of current review is continuing. Nor is the agency hiding material under a filing system that gives top-secret classification to material simply because it relates, for filing purposes, to other material that is truly top secret. A paper-by-paper review was in operation in May, 1968. Nor do we find a foot-dragging passing of responsibility for ordering declassification to other departments or nations. The Army has reached a decision and is seeking verification by the Joint Chiefs of Staff and the Department of State. Intercession with the British Government would, we are assured, follow a favorable decision by the agencies of the United States.

The District Court ruled that under (b)(1) it had authority to determine whether classification was arbitrary or capricious. It held that upon appellees' showing, classification could not be so characterized. In both respects we agree with the court's rulings. Further we agree that judicial inquiry into this narrow area does not, at least in this case, warrant in camera examination of the file.

The origin of the file's contents itself is sufficient to dispel any suggestion that the original classification was arbitrary or capricious. While the passage of time may cast doubt on the continuing need for secrecy, appellees have made more than a sufficient showing that questions bearing on that need persist and require resolution by the executive.

We conclude that subsection (b)(1) has been shown by the Army to apply and to justify withholding the material in question.

Judgment affirmed.

FOOTNOTES

[1] (*Page 1*) "* * * [E]ach agency, on request for identifiable records made in accordance with published rules * * * shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action." For a discussion of the Act, *see* Davis, *The Information Act: A Preliminary Analysis*, 34 U. Chi. L. Rev. 761 (1967).

[2] (*Page 3*) "(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and date, including maps, concerning wells."

[Supreme Court of The United States, October Term, 1969]

JULIUS EPSTEIN, PETITIONER, v. STANLEY RESOR, Secretary of the Army; DEPARTMENT OF THE ARMY; DEPARTMENT OF DEFENSE, RESPONDENTS

Petition for a writ of certiorari to the U.S. Court of Appeals for the Ninth Circuit.

The petitioner Julius Epstein respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit entered in this proceeding on February 6, 1970.

OPINION BELOW

The opinion of the Court of Appeals, not yet reported, appears in the Appendix hereto. The opinion of the District Court for the Northern District of California, appears in 296 F. Supp. 214 (N.D. Cal. 1969), and also in Appendix hereto.

JURISDICTION

The judgment of the Court of Appeals for the Ninth Circuit was entered on February 6, 1970. No petition for rehearing was filed. This petition for Certiorari was filed within 90 days of the date the judgment of the Court of Appeals was entered. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

QUESTIONS PRESENTED

1. What is the scope of judicial review of the Army's claim to exemption from disclosure requirements of the Freedom of Information Act where exemption is allegedly premised on interests of national defense or foreign policy?

2. Has the Army satisfied its statutory burden respecting premissible withholding of records where it establishes only its own good faith belief in the propriety of its claim to exemption?

STATUTORY PROVISIONS INVOLVED

United States Code, Title 5:

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.

(a) Each agency shall make available to the public information as follows:

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency on re-

quest for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to the causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(b) This section does not apply to matters that are—

(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress. Pub.L. 89–554, Sept. 6, 1966, 80 Stat. 383; Pub.L. 90–23, § 1, June 5, 1967, 81 Stat. 54.

STATEMENT OF THE CASE

Petitioner, an historian who is currently serving as a research associate at Stanford University's Hoover Institution on War, Revolution and Peace, has filed suit pursuant to Section 3 of the Freedom of Information Act, 5 U.S.C.A. Section 552(a)(3), seeking to enjoin the continued withholding of documents contained in Army file #383.7–14.1 entitled "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul."

Since 1954, petitioner has continually requested permission from the Department of the Army to review the contents of the Operation Keelhaul file in connection with a book he is preparing on the subject of forced repatriation of anti-Communist Russians after World War II. Petitioner's primary area of interest as an historian has concerned war refugees. In 1959, he was appointed by the Eisenhower administration as a member of the White House Conference on Refugees. He has drafted a bill for the creation of a select House Committee to investigate past and present forcible repatriation, and has testified before Congressional Committees on immigration and refugee problems. (Record, pp. 183, 194, 196). Petitioner believes that the file which remains prohibited to him will provide information, not otherwise available, as to approximately 900,000 anti-Communist Russians who were allegedly forcibly repatriated from Germany to the Soviet Union at the end of the World War II, and who are believed to have either died or been executed in slave camps after such repatriation. (Record, p. 183).[1]

The file in question was generated over 20 years ago by Allied Force Headquarters of World War II. On discontinuation of that body at the end of the War, a microfilm copy of its records was made for the use of the United States, and the records were then transferred to the Historical Section of the British Cabinet Office in London.[2] The file, originally stored as an historical record with the Army, was finally transferred to the National Archives and Records Service, General Services Administration, "in accordance with normal Department of the Army disposition and retirement procedures." (Record, pp. 186, 188, 23). The Army takes the position, as it has since 1954, that it has the right to prohibit release of this twenty year old file to an American historian who is badly in need of it for the completion of his work on forcible repatriation.

Petitioner's efforts to secure release of the file in question are well documented (Record, pp. 185 through 199), and bear almost audible testimony to the earnestness of petitioner's efforts to secure this information through available channels. The Army's initial refusal, by letter of August 5, 1965, stated that the current high security classification of the documents was required to be maintained indefinitely. (Record, p. 186). After a series of further requests (Record, pp. 187, 190, 192) and a series of vacillating replies (Record, pp. 189, 191, 193) extending over the period from 1955 to 1966, petitioner again requested the operation Keelhaul file from the Army on July 22, August 14, and September 27, 1967. (Record, p. 194, 196, 198). He was first told that the information was Security Classified and could not be made available for "unofficial research purposes" at the present time. (Record, p. 195). He was subsequently told that the file would be reviewed again "in consultation with the departments and agencies concerned. This may take some time." (Record, p. 197). Finally he was informed by Major General Wickham that re-examination of the file had been completed and "the factors that dictated the retention of the Security Classification in 1954 have not changed." Thus, the file could not be reclassified. (Record, p. 199).

On Independence Day, Fourth of July, 1967, the Freedom of Information Act, codified in 5 U.S.C. § 552, became effective.[3] "In February, 1968 [petitioner] again requested release of the file. In response he was advised by the Adjutant-General of the Army that a complete re-examination of the file had been directed; that the 1967 action had been based on the contents of the file in its entirety; that the current review of the file was proceeding on a paper-by-paper basis." (Ninth Circuit's findings of fact. Appendix p. 21).

On March 26, 1968, petitioner filed his complaint (Record, p. 1) seeking an order enjoining the Army from continuing to withhold the file. The Army moved for summary judgment, and Major General Wickham filed an affidavit (Record, pp. 23–27) stating, in essence, that the over-all classification of "top secret" "was required because the file [as originally received] contained many individual TOP SECRET documents of combined or British origin." The affidavit continues that the combined or foreign origin of some of the documents contained in the file necessitates retention of its over-all "top secret" classification. Because the file contains some individual "top secret" documents of British or combined U.S.-British origin, the affidavit asserts that, under Army regulations (Army Reg. 389–6, Record pp. 159–170) this Government cannot declassify or release the file to an American citizen without the permission of the British Government. Major General Wickham's affidavit continues:

"A current review of the file requested by plaintiff is now in progress on a paper-by-paper basis. This review of individual papers has been completed within the Department of the Army and coordination is now in progress with the Joint Chiefs of Staff and the Department of State to verify the position of the United States Government with respect to each paper. The outcome of this effort will determine the possibility of requesting a review and redetermination of the classification of some or all of the documents by the British government. This Department will continue on its present course of coordinating the declassification of the file with the concerned agencies. The complexity of interests in these files indicates considerable time will pass before a final determination is made." (Record, p. 26.)

The District Court for the Northern District of California granted a summary judgment in favor of the Army. 296 F. Supp. 214 (N.D. Cal. 1969). Although Section 552(a)(3) of the Freedom of Information Act directs that "the court shall determine the matter *de novo* and the burden is on the agency to sustain its action," the District Court held that "this jurisdiction does not apply to information that falls within the exemptions" specified by the statute. (Appendix, p. 28). The Court also held that its jurisdiction was limited to determining whether the Army acted capriciously in asserting its claim for exemption. Referring to General Wickham's affidavit, the nature of the general subject matter of the file, and certain remarks prepared by petitioner in support of a House Resolution quoting the preamble thereof, the District Court concluded that the nature of the information alone renders the circumstances appropriate for the Army's claim of exemption in the interests of national defense and foreign policy. See Appendix hereto.

On April 17, 1969, petitioner noticed his appeal from the District Court decision. On November 19, 1969, proceedings were had before the United States Court of Appeals for the Ninth Circuit, and on February 6, 1970, the Ninth Circuit entered its judgment affirming the holding of the District Court. The American Civil Liberties Union of Northern California appeared in support of petitioner in the Ninth Circuit as *amicus curiae*.

The Ninth Circuit opinion upholds, in theory only, the statutory provisions for *de novo* review of the conditions of exemption. The court proceeds to distinguish the exemption based on national defense or foreign policy in such a way as to emasculate the Freedom of Information Act. The Ninth Circuit, in essence, holds that the only prerequisite to a claim for such exemption is the Army's own good faith belief that it is entitled to it. The opinion narrows the permissible scope of the court's inquiry, in express contradiction to the language of the Act, to the question of whether the Army's claim for exemption is "arbitrary or capricious". In the sum, the Court abdicates its responsibility, under Section 552(a)(3) to determine whether records have been "improperly withheld."

REASONS FOR GRANTING THE WRIT

1. The decision below diverges sharply from constitutional principles of judicial review regarding the extent of executive autonomy in matters of foreign policy.

The Army claims exemption from the statutory disclosure requirements of the Freedom of Information Act on the basis of Section 552(b)(1), which exempts from disclosure matters that are "specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy."

The issue in this case is the scope of judicial review of the Army's determination that it is entitled to claim such exemption.

The Ninth Circuit gives lip service to the statutory requirement of de novo judicial review by holding in principle that "judicial review de novo with the burden of proof on the agency should be had as to whether the conditions of exemption in truth exist." See p. 23 of Appendix hereto. The court's subsequent discussion and holding, however, confines the scope of judicial review to the narrow question of whether a claimed exemption is "arbitrary or capricious."[4] See p. 25 of Appendix hereto. The court purports to create its own exemption to the explicit statutory standard of *"de novo"* review by distinguishing the exception provided in the interest of national defense or foreign policy from the other exceptions provided in § 552(b).[5] It makes this distinction

Footnotes at end of article.

on the ground that "[u]nder the others (with the exception of the third) the very basis for the agency determination—the underlying factual contention—is open to judicial review (Citations). Under (b)(1) [the exemption in question] that is not so." Appendix p. 24. The rationale of the court's distinction—that the factual basis underlying executive determinations in the international realm is foreclosed to judicial scrutiny—conflicts with constitutional principles of judicial review.[6]

The Ninth Circuit opinion proceeds to analyze the Army's claimed exemption according to whether it is "arbitrary or capricious." In so doing it unilaterally formulates a special and restrictive standard of review not contemplated and, in fact, expressly excluded by the applicable statutory language. However, even in applying such special standard the Ninth Circuit's opinion conflicts with accepted constitutional principles respecting the judicial duty and obligation to ascertain whether the executive has exercised its decision-making prerogative in a reasonable manner.[7]

In this case the Ninth Circuit appears to have charted a different course for the court because of the Army's claim that considerations of national defense and foreign policy apply. The Ninth Circuit agreed with the District Court that the Army's claim to exemption was neither arbitrary nor capricious, based upon the Army's showing. In so holding it was satisfied "that judicial inquiry into this narrow area does not, at least in this case, warrant *in camera* examination of the file." Appendix p. 25. Thus the Ninth Circuit relied, as did the District Court in reaching its decision, on the Army's own conclusion that it is entitled to the exemption for secrecy in the interest of national defense or foreign policy.

The circumstances of the instant case are not comparable to those existing in other cases in which courts have shielded the executive from disclosure without requiring substantiation of the privilege. Where courts have not seen fit to examine the factual basis asserted for an executive exemption, the urgency of surrounding circumstances has obviated the need for such an inquiry by disclosing the existence of some reasonable basis for the executive claim.[8] The Supreme Court, in *United States v. Reynolds*, 345 U.S. 1 (1953) affirmed its obligation to determine the reasonableness of a claim of privilege,[9] and was able to fulfill that obligation without examining the document in question because of the overly sensitive and threatening nature of the surrounding circumstances.[10] In the instant case, however, there are no such apparent or demonstrated circumstances on which the Ninth Circuit could premise its finding of reasonableness.[11] Moreover, that court actually recognized that existing circumstances suggest a contrary finding in conceding that "the passage of time may cast doubt on the continuing need for secrecy. . . ." (Appendix). Notwithstanding such doubts and the absence of any evidence or affirmative showing of jeopardy, or even consequence to the national defense or foreign policy, the court found that the Army, by its claim to exemption alone had made "more than a sufficient showing." (Appendix).

The question is whether a reviewing court can properly discharge its responsibility under the Information Act to determine whether material has been "improperly withheld" by relying solely on the unsupported claims of the agency which seeks to avoid disclosure. Even in terms of its own specially-invoked standard of "arbitrary or capricious," the Ninth Circuit's holding conflicts with the constitutional standard of judicial review; the holding represents a rejection of the court's responsibility to require a reasonable basis for executive action. "A finding without substantial evidence to support it—an arbitrary or capricious finding—does violence to the law." *Federal Radio Comm'n. v. Nelson Bros., B. & M. Co.*, 289 U.S. 266, 277 (1932). The unique standard of judicial deference thus fabricated threatens the careful delineation on which the doctrine of separation of powers is premised and subverts the clear intent of a statute which expressly provides for *de novo* judicial review in cases where information is withheld. For these reasons petitioner requests that certiorari be granted to review the judgment below.

2. The decision below presents an important first impression issue of statutory construction by severely constricting the public's right to obtain information under the Freedom of Information Act.

"In exercising the equity jurisdiction conferred by the Freedom of Information Act, the court must weigh the effects of disclosure and nondisclosure according to traditional equity principles and determine the best course to follow in the given circumstances. The effect on the public is the primary consideration. *Gen. Servs. Administration v. Benson*, 415 F. 2d 878, 880 (9th Cir. 1969).

Supreme Court review of the Ninth Circuit's opinion is necessary to enable the public to utilize the Information Act in accordance with legislative intent.[12] Since the effect on the public is the primary concern, courts abdicate their responsibility to the public interest by deferring to an agency, which by refusing to disclose, has already subordinated the public's interest.

The court below deferred entirely to the Army's judgment in this case, without even addressing the following questions as to the Army's authority, under applicable rules, to withhold information.

(1) Does the Act require a specific Presidential determination that requested information be kept secret?

No Executive Order specifically decrees that the Operation Keelhaul file or the contents thereof be kept secret in the interests of national defense or foreign policy. The Army, rather, premises its claim to exemption on the asserted authority of an Army official to conclude that secrecy in a particular instance is required under the terms of an Executive Order which generally provides for classification of certain documents.[13] Thus the instant case raises the question of the extent of agency prerogatives in classifying materials when direct Presidential sanction is wholly lacking.[14]

Major General Wickham, who signed the affidavit asserting exemption from disclosure is neither the head of the Department of the Army nor of the Department of Defense. Thus, the case also raises the issue of whether the official claiming the exemption may be someone other than the political head of the department having control over the matter, as required by *United States v. Reynolds*, 345 U.S. 1, 7–8 (1953) and the case cited therein.

These companion questions relating to the degree of deference which a court should properly accord a claim of exemption will remain unanswered and troublesome in future cases unless this Court undertakes to resolve them.

(2) Does information generated by Allied Force Headquarters derive from an "international organization"?

The Army asserts that Allied Force Headquarters is an "international organization" within the meaning of Executive Order 10501.[15] With respect to information originated by "international organizations," sections 3(e) and 4(a) of such order provide a means of circumventing the stringent standards governing top secret classifications[16] by requiring, respectively, as protective a classification by the United States as that required by the originating entity, and excluding such material from automatic downgrading or declassification. The Ninth Circuit accepted the Army's assertion on this point without discussion, and this significant question of statutory construction deserves this Court's attention.

(3) The most far-reaching and crucial question in terms of the efficacy of the Freedom of Information Act in accomplishing its avowed purpose[17] is whether a United States agency can deny access to information by asserting a foreign privilege. The Army maintains that British permission is a necessary precondition to divulgence of the requested file.[18] The basis of the Army's assertion is Army Regulation 380–6, paragraph 4(b), providing that records of combined or foreign origin "are not subject to unilateral regrading action by the United States." (Major General Wickham's Affidavit, Record p. 74). Under the Army's construction of its regulations, disclosure requirements can be effectively thwarted by merely "attributing" information to any one of a wide variety of foreign governments or entities.[19]

The Ninth Circuit assumed, without discussing, the validity of requiring a foreign government's approval of disclosure, a requirement which would quickly destroy the force of the Information Act since the Army would hold that such approval must be obtained before the Information Act applies.[20] In effect, such a requirement would subject an American citizen's rights under a U.S. statute to the sovereignty of a foreign power, regardless of the reasonableness of requiring a foreign government's approval under the circumstances of each individual case. Thus an American citizen's rights may be effectively defeated by a requirement that, in any given case, lacks a reasonable basis for its imposition. There may be no rational ground for requiring another government's approval, as in this case where no showing has been made of any British restrictions currently in force, on any basis for British objection to disclosure.[21]

The Ninth Circuit's approach, if followed, would unreasonably render rights conferred by the Information Act subject to recognition by a foreign government which has no rational interest in preventing disclosure. The resulting anomaly between the Act's legislative purpose and such restrictive implementation is apparent. Because the Information Act was designed to apply the democratic conviction in the free market place of ideas and an open society to the individual citizen, its application is of immediate significance to the nation as a whole. It is imperative that this Court examine and resolve the varying statutory interpretations in order that the purpose which the Act was intended to achieve may be ascertained and realized.

CONCLUSION

For these reasons, Petitioner requests that certiorari be granted to review the judgment of the Court of Appeals for the Ninth Circuit.

FOOTNOTES

[1] Reference is to the certified transcript of record in this case, previously transmitted to the Court.

[2] NATIONAL ARCHIVES AND RECORDS SERVICE, GENERAL SERVICES ADMINISTRATION, VOL. II FEDERAL RECORDS OF WORLD WAR II, MILITARY AGENCIES 769 (National Archives Pub. No. 51–8, 1951).

[3] The relevant provisions of the Information Act are set out above under the heading "STATUTORY PROVISIONS INVOLVED."

[4] A review standard based on the criteria "arbitrary and capricious" is severely restrictive in scope in comparison with the standard of *"de novo"* determination provided by the Freedom of Information Act. *"De novo"* signifies "anew, afresh; a second time." BLACK'S LAW DICTIONARY 483 (4th ed. 1951). The Supreme Court, in *Fed. Radio Comm'n* v. *Nelson Bros. B. & M. Co.*, 289 U.S. 266, 276 (1932), found the "capricious and arbitrary" standard to be a "limitation . . . the District Court to receive additional evidence and enter a new judgment based on what it considered just.

[5] The other exemptions are contained in § 522(b)(2)-(9) as follows:

"(b) This section does not apply to matters that are—

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells."

[6] This Court has established that, although the President's power in the field of international relations is "delicate, plenary and exclusive," it is one "which, of course, *like every other governmental power*, must be exercised in subordination to the applicable provisions of the Constitution." *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936) (Emphasis added).

[7] Because executive action is subject to the constitution, *id.*, the court must determine the reasonableness of such action in order to find that the requirements of due process are satisfied.

[8] *See United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936) (involving a charge of conspiracy to sell arms of war to a belligerent in violation of a Joint Resolution of Congress and a presidential proclamation); *Chicago & S. Air Lines* v. *Waterman S.S. Corp.* 333 U.S. 103 (1948) (involving the operation of air routes in overseas and foreign transportation) in which the Court stated:

"That aerial navigation routes and bases should be prudently correlated with facilities and plans for our own national defenses and raise new problems in conduct of foreign relations, is a fact of common knowledge" (at p. 108);

and *United States* v. *Reynolds*, 345 U.S. 1 (1953) (involving newly developed secret Air Force electronic devices and a "time of vigorous preparation for national defense").

[9] Mr. Chief Justice Vinson emphasized:

"Judicial control over the evidence in a case cannot be abdicated to the caprice of executive officers. . . . It may be possible to satisfy the court, from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged. When this is the case, the occasion for the privilege is appropriate. . . ." (at pp. 9–10).

[10] The Court noted "In the instant case we cannot escape judicial notice that this is a time of vigorous preparation for national defense." 345 U.S. at 10.

[11] It is now fifteen years after release of the papers concerning the Yalta Conference, treating among other sensitive subjects, the repatriation of Soviet nationals. See Dept. of State Public. 6199, FOREIGN RELATIONS OF THE UNITED STATES, THE CONFERENCES AT MALTA AND YALTA *1045* (1955). In addition, the four documents that were declassified after twenty years of secrecy reveal no basis for the Army's continued withholding of others. Their nature, in fact, provides strong basis for questioning the Army's reasonableness in withholding them so long. These documents consist of (1) a request for interpreters, (2) a request for authorization concerning immigration of Soviet citizens not encompassed by the forcible repatriation provisions of the Yalta Agreement, (3) a message confirming the defeat of proposals to submit names of prospective immigrants to countries of origin, and (4) a letter describing the form of certificate to be issued to individuals found to be non-Soviets. (Items number (2) and (3) were originally classified only as secret.)

[12] "It is the purpose of the present bill . . . to establish a general philosophy of full agency disclosure. . . ." S. REP. No. 813, 89th Cong., 1st Sess. (1965). Professor Davis, referring to the differences between the Senate and House committee reports (H.R. REP. No. 1497, 89th Cong., 2d Sess.) states:

"In general, the Senate committee is relatively faithful to the words of the Act, and the House committee ambitiously undertakes to change the meaning that appears in the Act's words. The main thrust of the House committee remarks that seem to pull away from the literal statutory words is almost always in the direction of nondisclosure. The *Attorney General's Memorandum* consistently relies on such remarks by the House committee." Davis, *The Information Act: A Preliminary Analysis*, 34 U. CHI. L. REV. 761, 763 (1967).

[13] Exec. Order No. 10,501 as amended, 3 C.F.R. 979, 50 U.S.C.A. § 401 (1970 Supp.) (1953), Record, pp. 67–85.

[14] The statutory burden of showing the necessity of a secrecy classification is more easily discharged where Presidential expertise is invoked as supportive of such classifications, even indirectly. The degree of Presidential involvement in decision-making is directly related to the court's willingness to defer. (*See, e.g., Chicago & S. Air Lines v. Watermann S.S. Corp.*, 333 U.S 103, 109 (1948) in which the Court refused to overturn a Civil Aeronautics Board order denying the right to one applicant to operate foreign overseas air routes, emphasizing that, with respect to such applications, "Presidential control is not limited to a negative but is a positive and detailed control over the Board's decisions, unparalleled in the history of American administrative bodies".

[15] 22 U.S.C.A. § 288 provides a definition of "international organization" as "a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress . . . and which shall have been designated by the President by appropriate Executive order. . . ." Allied Forces Headquarters does not fall within this definition of "international organization," and there has been no Presidential designation.

[16] *See,* Exec. Order No. 10,501 §§ 3(e), 4(a) as amended, Record, pp. 69, 82. Section 1(a) of such order otherwise provides:

"Except as may be expressly provided by statute, the use of the classification Top Secret shall be authorized, by appropriate authority, only for defense information or material which requires the highest degree of protection. The Top Secret classification shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation such as leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States or its allies, a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense."

[17] "An exploration of the legislative history behind this enactment reveals that the premier purpose of the Act was to eludicate the availability of Government records and actions to the American citizen. In addition, Congress sought to eliminate much of the vagueness of the old law (citation." *American Mail Line, Ltd. v. Gulick*, 411 F2d 696, 699 (D.C. Cir. 1969).

[18] The Army makes this argument with respect to the entire file, notwithstanding the fact that Major General Wickham's affidavit states only that the file contained "many"—not all—individual top secret documents. In addition, it is possible that some of the file's contents are entirely American-originated, since records of "unintegrated United States Staff sections" were transferred to the U.S. FEDERAL RECORDS OF WORLD WAR II, *supra* note 2.

[19] Under Army Regulations 380–6 material. "Originated by or containing classified information *clearly* attributed to foreign governments or their agencies, or to international organizations and groups, including the Combined Chiefs of Staff" may be declassified only by the originating entity. Record, p. 147.

[20] Such a construction would clearly conflict with the legislative purpose of "eliminating vagueness", *American Mail Line, Ltd.* v. *Gulick*, 411 F2d 696, 699 (D.C.Cir. 1969) in that the American citizen can hardly be expected to have a very clear understanding of foreign laws relating to information disclosure.

[21] Even at the end of the war the British apparently considered the file to be of only historical significance since, when transferred to Britain, it was relegated to the Historical Section of the British Cabinet Office, FEDERAL RECORDS OF WORLD WAR II, *supra* note 2. The Army's claim of British privilege is especially incongruous in view of the fact that it transferred the file to the National Archives, reserving only the right to rule on requests for disclosure. Major General Wickham's Affidavit, Record, pp. 73, 74.

[Appendix—United States Court of Appeals for the Ninth Circuit]

JULIUS EPSTEIN, PLAINTIFF-APPELLANT, v. STANLEY RESOR, SECRETARY OF THE ARMY, DEPARTMENT OF DEFENSE, DEFENDANTS-APPELLEES

[February 6, 1970]

No. 24,275 On Appeal from the United States District Court for the Northern District of California.

Before: Merrill, Koelsch and Hufstedler, Circuit Judges.

Merrill, Circuit Judge:

This suit was brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (a) (3)[1] to enjoin appellee, as Secretary of the Army, from continuing to withhold from appellant documents contained in an Army file.

Appellant, a historian, is research associate at Stanford University's Hoover Institution on War, Revolution and Peace. His special interest concerns war refugees. He is preparing a book on the forced repatriation of anti-Communist Russians following World War II, and for this purpose desires to examine the Army file designated "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul."

This file was generated over twenty years ago by the Allied Force Headquarters of World War II. That agency had classified the entire file as top secret. At the close of the war, the British Government received the original and the United States Department of the Army received a photoprint copy. The file contains a number of individual documents, some of which are of British or combined United States-British origin. Upon its receipt the Army maintained the top secret classification under Executive Order 10501 and it has not yet been declassified.

After storage as a historical record with the Army the file was finally stored with the National Archives and Records Service, General Services Administration. The classification of the file was reviewed by the Army in 1954 and the classification was retained. In 1967 appellant sought declassification. The file again was reviewed and again the classification was retained.

In February, 1968, appellant again requested release of the file. In response he was advised by the Adjutant-General of the Army that a complete re-examination of the file had been directed; that the 1967 action had been based on the contents of the file in its entirety; that the current review of the file was proceeding on a paper-by-paper basis. In March, 1968, this action was brought.

Appellees sought summary judgment. In support of their motion they filed an affidavit of the Adjutant General. That affidavit, under date of May 29, 1968, stated that the paper-by-paper review of the file was still in progress. It went on:

"This review of individual papers has been completed with the Department of the Army and coordination is now in progress with the Joint Chiefs of Staff and the Department of State to verify the position of the United States Government with respect to each paper. The outcome of this effort will determine the possibility of requesting a review and redetermination of the classification of some or all of the documents by the British Government. This Department will continue on its present course of coordinating the declassification of the files with the concerned agencies. The complexity of interests in these files indicates considerable time will pass before a final determination is made. In the meantime, the documents remain classified Top Secret * * *."

The District Court granted summary judgment in favor of appellees. 296 F.Supp. 314 (N.D. Cal. 1969). The American Civil Liberties Union of Northern California, as amicus curiae, appears in support of appellant.

The appeal presents a question as to the scope of judicial review. Section 552(a)(3) provides that "the court shall determine the matter de novo and the burden is on the agency to sustain its action."

Appellees insist, however, that this subsection does not apply here. They point to § 552(b) which states that "[t]his section does not apply to matters" in nine enumerated categories.[2] Appellees contend that agency determination that the material sought falls within one of the nine exempted categories takes the case out of subsection (a)(3) and precludes the broad judicial review by that subsection. They assert that we are here faced with an agency determination that the (b)(1) exemption applies.

Unquestionably the Act is awkwardly drawn. However, in view of the legislative purpose to make it easier for private citizens to secure Government information, it seems most unlikely that it was intended to foreclose an (a)(3) judicial review of the circumstances of exemption. Rather it would seem that (b) was intended to specify the bases for withholding under (a)(3) and that judicial review de novo with the burden of proof on the agency should be had as to whether the conditions of exemption in truth exist. *See American Mail Line, Ltd. v. Gulick*, 411 F.2d 696, 702 (D.C. Cir. 1969). The District Court was, then, in error in holding to the contrary, 296 F.Supp. at 217.

This being so, appellant argues, the District should have taken the file for a determination *in camera* as to whether, under (b)(1) and the applicable executive standards, this file should, after twenty-four years, still be classified as "top secret" in the interests of the national defense or foreign policy.

Here we part company with appellant.

Section (b)(1) is couched in terms significantly different from the other exemptions. Under the others (with the exception of the third) the very basis for the agency determination—the underlying factual contention—is open to judicial review. *See General Services Administration v. Benson*, 415 F. 2d 878 (9th Cir. 1969); *American Mail Line, Ltd. v. Gulick*, 411 F. 2d 696, 702 (D.C.Cir. 1969). Under (b)(1) this is not so. The function of determining whether secrecy is required in the national interest is expressly assigned to the executive. The judicial inquiry is limited to the question whether an appropriate executive order has been made as to the material in question.

This is not inconsistent with the legislative purpose. It simply recognizes the proposition that the question of what is desirable in the interest of national defense and foreign policy is not the sort of question that courts are designed to deal with. As has been stated, the judiciary has neither the "aptitude, facilities, nor responsibility" to review these essentially political decisions. *Chicago & Southern Air Lines, Inc. v. Waterman S.S. Corp.*, 333 U.S. 103, 111 (1948); *see also United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 320–22 (1936).

Upon the narrow question remaining for judicial review, we note that the executive determination of top secret classification does not rest on an ancient order unrelated to the conditions of today. The classification has been updated and the process of current review is continuing. Nor is the agency hiding material under a filing system that gives top-secret classification to material simply because it relates, for filing purposes, to other material that is truly top secret. A paper-by-paper review was in operation in May, 1968. Nor do we find a foot-dragging passing of responsibility for ordering declassification to other departments or nations. The Army has reached a decision and is seeking verification by the Joint Chiefs of Staff and the Department of State. Intercession with the British Government would, we are assured, follow a favorable decision by the agencies of the United States.

The District Court ruled that under (b)(1) it had authority to determine whether classification was arbitrary or capricious. It held that upon appellees' showing, classification could not be so characterized. In both respects we agree with the court's rulings. Further we agree that judicial inquiry into this narrow area does not, at least in this case, warrant *in camera* examination of the file.

The origin of the file's contents itself is sufficient to dispel any suggestion that the original classification was arbitrary or capricious. While the passage of time may cast doubt on the continuing need for secrecy, appellees have made more than a sufficient showing that questions bearing on that need persist and require resolution by the executive.

We conclude that subsection (b)(1) has been shown by the Army to apply and to justify withholding the material in question.

Judgment affirmed.

FOOTNOTES

[1] "* * * [E]ach agency, on request for identifiable records made in accordance with published rules * * * shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action." For a discussion of the Act, *see* Davis, *The Information Act: A Preliminary Analysis*, 34 U. Chi. L. Rev. 761 (1967).

[2] "(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells."

[U.S. District Court for the Northern District of California]

JULIUS EPSTEIN, PLAINTIFF, *v.* STANLEY RESOR, SECRETARY OF THE ARMY, DEPARTMENT OF THE ARMY, DEPARTMENT OF DEFENSE, DEFENDANTS

No. 48962, memorandum and order.

Plaintiff, an historian who is now a research associate at Stanford University's Hoover Institution on War, Revolution and Peace, brings this action pursuant to Section 3 of the Administrative Procedure Act, 5 U.S.C. § 552, to enjoin the Secretary of the Army from withholding a file described as "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul." The file was generated by the Allied Force Headquarters of World War II and has been classified Top Secret since 1948. The classification was made pursuant to the provisions of Executive Order 10501, 3 C.F.R. 484, (Supp. 1968).

Subsection (a) of Section 3 of the Administrative Procedure Act provides in part:

"[E]ach agency, on request for identifiable records . . . shall make the records promptly available to any person. On complaint, the District Court of the United States . . . has jurisdiction to enjoin the agency from withholding any records and to order the production of any agency records improperly held . . . In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action . . ."

Subsection (b) of Section 3 provides:

"This section does not apply to matters that are—

"(1) specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy; . . ."

The defendants have moved to dismiss the action for lack of jurisdiction of the subject matter, or, in the alternative, for summary judgment. Plaintiff contends that the Top Secret classification on the file he seeks, is unwarranted and that this Court has the power to hold a trial de novo on the merits of this classification. He contends that such power is based on Section 3 of the Administrative Procedure Act. The Court is of the opinion that Congress did not intend to subject such classifications to judicial scrutiny to that extent.

Before discussing the purpose and effect of Section 3 of the Act, the Court directs its attention to the affidavit of Congressman John E. Moss, which plaintiff filed in support of his contentions. The affidavit has been introduced to give aid to the Court in interpreting the provisions of Section 3 of the Act. Congressman Moss' affidavit states:

"[S]pecifically, it was my intent as the principal coauthor of the legislation to grant to the appropriate District Court the broadest latitude to review all agency acts in this regard, including the correctness of a designation by an agency bringing documents within an exemption found in Section '(e)' of the Act; and that the powers granted to the Court and the burdens placed upon the

Government in Section '(c)' were meant to include rather than exclude the exemption."

Statements made by legislators in debate can be a part of the legislative history which guides courts in statutory construction. See *Bindczyck v. Finucane*, 342 U.S. 76 (1951). On the other hand, statements made by a legislator after enactment of a statute and not a part of the records of the legislative body are entitled to little or no weight at all. *National School of Aeronautics v. U.S.*, 142 F. Supp. 933 (Ct. Cl. 1956). See also, *United States v. United Mine Workers of America*, 330 U.S. 258 (1947). Such statements are not offered by way of committee report and are not offered for response by other members of the law-making body. The intent which is helpful in interpreting a statute, is the intent of the legislature and not of one of its members. For purposes of statutory construction, a legislative body can only speak through a statute, with the words that are used in light of the circumstances surrounding its enactment. For this reason, the Court has not considered the affidavit prepared and submitted by the Honorable John E. Moss solely for purposes of this lawsuit after the legislation in question was enacted.

Prior to amendment by Section 3 of the Act in 1966, this Section was described by Senator Long as:

". . . full of loopholes which allow agencies to deny legitimate information to the public. Enumerable times it appears that information is withheld only to cover embarrassing mistakes or irregularities. . . ." Senate Rep. No. 813, 89th Cong. 1st Sess., 111 Cong. Rec. 26821 (1965).

Senator Long went on to say in support of the amendment:

"It is the purpose of the present bill . . . to establish a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language and to provide a court procedure by which citizens and the press may obtain information wrongfully withheld. . . . *Id.* at 26821.

This purpose of full disclosure was accomplished by giving the United States District Courts jurisdication to determine de novo whether information was being properly withheld with the burden of the withholding agency to sustain its action. 5 U.S.C. § 552(a)(3). This jurisdiction does not apply to information that falls within the exemptions set forth in subsection (b) of Section 3. To hold that the agencies have the burden of proving their action proper even in areas covered by the exemptions, would render the exemption provision meaningless. If a determination de novo is made by this Court on whether the Top Secret classification by the Department of Army is proper, with the burden on the Secretary to sustain its action, the Court would be giving identical treatment to information withheld by an agency whether it fell within the exemption or not. Apparently, Congress did not intend such a result.

It may be argued that the exceptions enumerated in Section 3 are set forth merely to designate the various grounds on which information may be withheld and that the burden is on the agency to show that the information properly falls within the exception, with the district court having jurisdiction to make the determination de novo. That this position is unwarranted is shown by the clear expression of Congress in Subsection (b) of Section 3, "This section *does not apply* to matters that are [listed below.]" It is further shown by the statements of Congressman Gallagher on the floor of the House:

"There has been some speculation that in strengthening the right of access to Government information, the bill, as drafted, may inadvertently permit the disclosure of certain types of information now kept secret by Executive order in the interest of national security.

"Such speculation is without foundation. The committee, throughout its extensive hearings on the legislation and in its subsequent report, has made it crystal clear that the bill in no way affects categories of information which the President—as stated in the committee report—has determined must be classified to protect the national defense or to advance foreign policy. These areas of information most generally are classified under Executive Order No. 10501." 112 Cong. Rec. 13659 (June 20, 1966).

On the other hand, it is equally without merit to say that Congress intended absolutely no effect by the Act on information that falls within the areas covered by the exemptions. The district courts at least have jurisdiction to determine whether the exemption applies in a given situation. In furtherance of this jurisdiction, it is reasonable to say that Congress intended the courts to determine whether classifications within the first exemption is clearly arbitrary and unsupportable. Otherwise, the agencies could easily frustrate the purpose of full disclosure intended by Congress merely by labeling the information to fall within the exemption.

In determining when information need not be disclosed if *classified* "top secret in the interest of national defense of foreign policy," guidance is set forth in the Act itself. Section 3 provides that the section does not apply to matters that are *"specifically required* by Executive order to be kept secret in the interest of the national defense or foreign policy." The Secretary of the Army has asserted the privilege of nondisclosure pursuant to Executive Order No. 10501 which reads in part:

"Except as may be expressly provided by statute, the use of the classification Top Secret shall be authorized, by appropriate authority, only for defense information or material which requires the highest degree of protection. The Top Secret Classification shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation such as leading to a definite break in diplomatic relations affecting the defense of the United States or its allies, a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense." Exec. Order 10501, §1(a).

Section 2 of the Executive Order further provides:

"In the [Department of the Army] the authority for original classification of information or material under this order may be exercised by the head of the department, agency, or governmental unit concerned or by such responsible officers or employees as he, or his representative may designate for that purpose."

By this Executive Order, the President has delegated authority to the Department of Army to classify matters Top Secret. The exercise of this authority is, as it must be, discretionary in nature. Judgment in this area is best rendered by those best equipped with the necessary facilities to do so. The function of this Court is similar to that described in *United States* v. *Reynolds*, 345 U.S. 1. (1953), by Mr. Chief Justice Vinson:

"The court itself must determine whether the circumstances are appropriate for the claim of privilege, and yet do so without forcing a disclosure of the very thing the privilege is designed to protect. . . . Regardless of how it is articulated, some like formula of compromise must be applied here. Judicial control over the evidence in a case cannot be abdicated to the caprice of executive officers. Yet we will not go so far as to say that the court may automatically require a complete disclosure to the judge before the claim of privilege will be accepted in any case. It may be possible to satisfy the court, from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matter which, in the interest of national security, should not be divulged. When this is the case, the occasion for the privilege is appropriate, and the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers." *Id.* at p. 8–10.

The *Reynolds* case was decided before the amendment to Section 3 of the Administrative Procedure Act was adopted and dealt with information being sought by discovery procedures. There is no reason for denying application of the principles announced in *Reynolds* to this case. Professor Davis seems to accept this viewpoint in his discussion of the first exemption in Section 3 of the Act:

"The Department of Justice as recently as 1965 took an official position that in withholding information 'the Executive is accountable only to the electorate. Under the separation of powers concept, Congress cannot transfer responsibility for Executive records to the courts.' That position seems to me extreme, just as is the opposite position that the courts may take the whole power away from the executive would be extreme; the long-term constitutional solution is likely to follow the middle position of the *Reynolds* case that the executive determines the scope of the privilege, subject to a judicial check whenever a court has jurisdiction." Davis, The Information Act: A Preliminary Analysis, 34 U. Chi. L. Rev. 761, 764–5 (1967).

It is the opinion of this Court that Congress has granted it jurisdiction to determine whether the first exemption of Section 3 applies in this case. Plaintiff admits that the information he seeks has been classified Top Secret by the Department of the Army. The question remaining is whether or not this information is "required by Executive order to be kept secret in the interest of the national defense or foreign policy." In answering this question, the Court is limited to determining whether the Secretary of the Army has acted capriciously in exercising the authority granted to him by Executive Order 10501.

Although the information before the Court is not extensive, it is sufficient for rendering a decision on the issue of summary judgment. The ultimate facts are practically uncontested. The affidavit produced by Major General K. Wickham states that the documents in question are photographic reproductions made from microfilm copies of records generated by the Allied Force Headquarters which directed the allied military operations in the Mediterranean Theater of Operations. It further states that by direction of the Combined Chiefs of Staff, the original records were released to the United States Government. Top secret classification "was required because the files contained many individual top secret documents of combined or British origin." Plaintiff, in his brief, states that the file is believed to contain information dealing with about 900,000 anti-Communist Russians who were forcibly repatriated from Germany to the Soviet Union at the end of the Second World War, and were either executed or died in slave camps after their repatriation.

The general subject matter of the file in question is described in the preamble to House Resolution 24, 86th Congress, 1st Sess. (1959). Plaintiff has appended to his brief a daily copy of the Congressional Record which describes Congressman Bosch's presentation of the remarks prepared by plaintiff in support of H.R. 24. In these remarks, the plaintiff himself had quoted and used the preamble to H.R. 24 which reads:

"Whereas this forced repatriation of prisoners of war and civilians cannot be justified by the agreement on prisoners of war, made public by the Department of State on March 8, 1946; and

"Whereas the forced repatriation of prisoners of war who had enlisted in the enemy's army was in contradiction to the opinion of the Judge Advocate General of the Army, as expressed during the last 40 years; and

"Whereas the forced repatriation of millions of anti-Communist prisoners of war and civilians represent an indelible blot on the American tradition of ready asylum for political exiles; and

"Whereas the forced repatriation and annihilation of millions of anti-Communist prisoners of war and civilians of Russian, Ukrainian, Polish, Hungarian, Baltic, and other origin is still poisoning our spiritual relations with the vigorously anti-Communist peoples behind the Iron Curtain, and is therefore impeding our foreign policy . . ." 105 Cong. Rec. A3226 (1959).

The Court concludes that the information above speaks for itself and thus finds that the circumstances are appropriate for the classification made by the Department of the Army in the interest of "the national defense or foreign policy."

Accordingly, the motion to dismiss the complaint is denied, and the motion for summary judgment is granted in favor of the defendants.

Dated: February 19, 1969.

[U.S. District Court for the Northern District of California]

JULIUS EPSTEIN, PLAINTIFF *v.* STANLEY RESOR, ETC., DEFENDANT

Civil No. 48962, findings, conclusions and judgment.

This action having come regularly before the Court on the alternative motions of the defendant for dismissal for lack of jurisdiction or summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure; and

The motions having been made and argued by the attorneys for the respective parties, and supplemental memoranda and affidavits thereafter presented and the motions duly submitted; and

The Court being fully advised in the premises, entered its Memorandum and Order on February 19, 1969 which is hereby incorporated as though fully set forth herein, and pursuant to which the Court hereby *finds* and *concludes* that:

1. The Court has jurisdiction of the action under Title 5, United States Code, Section 552(a)(3); and

2. There is no genuine issue as to any material fact and the defendant is entitled to a judgment as a matter of law.

Wherefore, it is hereby ordered, adjudged, and decreed that:

1. The motion of the defendant to dismiss the action for lack of jurisdiction is denied; and

2. The alternative motion of the defendant for summary judgment in his favor and against the plaintiff is granted, and this judgment shall be entered accordingly with costs and disbursement to be taxed by the Clerk in favor of the defendant.

Dated: April 14, 1969.

[In the Supreme Court of the United States, October Term, 1969, No. —]

JULIUS EPSTEIN, PETITIONER, *v.* STANLEY RESOR, SECRETARY OF THE ARMY; DEPARTMENT OF THE ARMY; DEPARTMENT OF DEFENSE, RESPONDENTS

Brief of Amicus Curiae in Support of Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Amicus Curiae urges that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit, entered in the above entitled case on February 6, 1970.

STATEMENT OF AMICUS CURIAE

This brief is submitted with consent of the parties as provided under Rule 42 of the Rules of this Court. Letters of consent from each party's counsel are on file with the Clerk of this Court.

The American Civil Liberties Union of Northern California is a non-partisan, nonprofit organization dedicated solely to the protection and preservation of the individual liberties guaranteed by the Bill of Rights. We have traditionally been especially concerned with the free exercise of opinion and argument upon which the First Amendment and our form of representative democracy are based.

The exercise of opinion and argument so necessary to a free and open society means little if the relevant facts of government are hidden from the people. In recognition of this, Congress enacted the Freedom of Information Act, effective Independence Day, 1967, so that public access to the facts of government could be guaranteed. In that same spirit, because access to information is critical to an enlightened electorate and essential to the exposure of truth in the marketplace of ideas, we submit this brief in the conviction that it will aid this Court in determining the important issues here presented.

REASONS FOR GRANTING THE WRIT

I. This case affords an opportunity to articulate rules that will prevent the freedom of information act from being vitiated by indiscriminate claims for exemptions.

INTRODUCTION

"Openness is a natural enemy of arbitrariness, a natural ally in the fight against injustice." Davis, Discretionary Justice 226, 111–116 (1969). "Sunlight is said to be the best of disinfectants; electric light the most efficient policeman." Brandeis, Other Peoples Money 62 (1933).

The old Army file in this case, however, has not seen the light of day for over 23 years. Mr. Epstein began requesting it for his historical research in 1954 (R. 185–199; 31–45) and formally requested it several times again in 1967 and 1968. (R. 1–2, 29, 35, 42, 196, 198.) The Army replied that the entire file is top secret and that declassification review will take "considerable time." (R. 26, 40, 197.)[1]

The courts below, however, excused the Army from any "foot-dragging" and, without even looking at the file, concluded that the Army's action was not arbitrary or capricious and hence should be upheld summarily.

The summary judgment for the Army, affirmed on appeal, is wrong: It vitiates the purpose of the Freedom of Information Act that "disclosure be the general rule not the exception."[2] It pays lip service only to the de novo test of judicial review required by the statute, 5 U.S.C. § 552(a)(3), and substitutes a virtually unenforceable "arbitrary and capricious" test for reviewing claims to the secrecy exemption, § 552 (b)(1); this test is not found in the statute and is precluded by it. The judgment defeats the statutory purpose of expeditious disclosure, § 552(a)(3), and encourages long delays whenever a department official thinks he can show that "questions bearing on that need [for secrecy] persist and require resolution by the executive." (Slip. Opn. p.5.) It encourages classification and retention of documents as "top secret" in direct disregard of the strict tests of Executive Order 10501 (see f.n. 1, supra). It breathes life in the notion that judges cannot review claims of secrecy because they are "essentially political" (Slip. Opn., p. 4) even though this notion has been squarely rejected by this Court, *United States v. Reynolds*, 345 U.S. 1 (1953) and was rejected early in our country's history by Chief Justice Marshall at the trial of Aaron Burr. *United States v. Burr*, 25 Fed.Cas. 30, 37–38 (No. 14692d); 187, 191–192 (No. 14694) (C.C. Va. 1807). See Berger, *Executive Privilege v. Congressional Inquiry* 12 U.S.L.A.L. Rev. 1044, 1107–1110 (1965); Hardin, *Executive Privilege in the Federal Courts*, 71 Yale L.J. 879, 899–990 (1962).

Finally, the judgement makes no sense. How can judges decide important questions without having the crucial facts before them? There was no compelling national interest to be served by precluding not only disclosure in court but also review in camera of the old file. A citizen's right to know, a historian's scholarly research, the open disclosure policy of Congress, and the interest, vital to our judicial process, of having an adequate record to review were all sacrificed for a false sense of security.

1. Rules governing exemption claims and judicial review under the Freedom of Information Act should be but have not yet been articulated by this Court.

The judgement below, unless reversed, will encourage indiscriminate claims for exemption and defeat the purpose of the Freedom of Information Act. This Court can prevent such a result by granting the writ, reversing the judgment, and articulating rules governing exemption claims and judicial review under the Freedom of Information Act.

This Court has not articulated such rules. The absence of rules encourages conflict, confusion, and frustration of the statutory purposes of open disclosure. See, *e.g.*, two recent reviews of the lower court cases which reveal that the agencies and the lower courts have acted too often to uphold secrecy and deny disclosure. Note, *The Freedom of Information Act: A Critical Review*, 38 Geo. Wash. L. Rev. 150 (1969); *The 1966 Freedom of Information Act—Early Judicial Interpretations*, 44 Wash. L. Rev. 641 (1968–69). The exceptions are few and far between. *American Mail Line Ltd. v. Gulick*, 411 F. 2d 696 (D.C. Cir. 1969); *General Services Administration v. Benson*, 415 F. 2d (9th Cir. 1969) (in camera review).

Three pertinent rules could be articulated, for example, for cases such as this one:

(a) A federal agency that claims that its information must be kept secret in the interest of the national defense or foreign policy must satisfy a federal district court on de novo review that such secrecy is specifically required by Executive Order; the court's responsibility is not limited to determining whether the agency action was "arbitrary" or "capricious". 5 U.S.C. §§ 552(a)(3), 552(b)(1); S. Rept. No. 813, 89th Cong., 1st Sess. (1965); Exec. O. 10501; *United States v. Reynolds*, 345 U.S. 1 (1953); *American Mail Line v. Gulick*, 411 F. 2d 696 (D.C. Cir. 1969).

(b) The Court reviewing the claim for exemption must have an opportunity to examine the document in camera unless a compelling national interest would be imperiled by even such limited disclosure. *United States v. Reynolds*, 345 U.S. 1 (1953); *General Services Administration v. Benson*, 415 F. 2d 878 (9th Cir. 1969). If we are concerned, as we must be, and as the court was in the *Reynolds* case, and as Congress was in passing the Freedom of Information Act, "that executive caprice might be substituted for honest judgment, the only way for the court to probe the claim of privilege is to take a look at the information in question. . . . In the last analysis, if the court does not examine the information to weigh need for disclosure against the public interest in secrecy, the executive determines the question of privilege." Hardin, *Executive Privilege in the Federal Courts*, 71 Yale L.J. 879, 894–895 (1962).

(c) A claim to the secrecy exemption, like a claim of executive privilege, is not to be lightly invoked. There must be a formal claim for it, lodged by the head of the department which has control over the matter, after actual personal consideration by

that officer. *United States v. Reynolds*, 345 U.S. 1, 7–8 (1953); see point II, *infra*.

The foregoing is simply a suggested formulation. The overriding point is that it is time for this Court to advance the statutory purpose of disclosure by reversing the unjust result in this case and providing guidance to the lower courts and to the agencies so as to clarify this important but confused area of the law.

2. Freedom of information is an increasingly vital check on arbitrary government action.

Without adequate information, arbitrary government action cannot be effectively reviewed. Effective review is aided by the trend "toward enlargement of the class of people who may protest administrative action", *Ass'n of Data Processing Service Organizations, Inc. v. Camp*, 38 L.W. 4193 (1970), but it will be frustrated if the agencies can effectively deny information to those with standing to protest. "A popular government without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance; And the people who mean to be their own governors, must arm themselves with the power which knowledge gives." Ltr. from James Madison to W. T. Barry, Aug. 4, 1822, in The Complete Madison 337 (Padover ed. 1953).

3. The formulation of guidelines will facilitate judicial review.

It is reasonable to anticipate that agency records and disclosure actions will improve if the agencies have a clear responsibility not to make indiscriminate claims to exemptions under the Freedom of Information Act and to justify the claims they do make before a federal court if they are challenged. Improved agency records and action will reduce the need for judicial review and will facilitate the judicial review that remains necessary.

II. This case affords an opportunity to harmonize the secrecy exemption under the Freedom of Information Act with this court's rules on executive privilege.

In *United States v. Reynolds*, 345 U.S. 1 (1953), a litigant sought reports concerning experimental electronic equipment on a military airplane that crashed. The government's claim of secrecy under the executive privilege doctrine was made by a cabinet level officer after a personal review of the file.[3]

The Court in *Reynolds* found that the information was of immediate and current value to the military; that under the facts there involved this could be determined without seeing the report itself; that its disclosure might compromise the nation's defense; and that alternative sources of information were available, namely the surviving crew members, which the government offered to make available. Given that context and the alternative sources of information, in camera review was deemed unnecessary.[4]

The instant case affords an opportunity to harmonize the secrecy exemption under the Freedom of Information Act with the rulings of the *Reynolds* case on executive privilege.

These rulings should be applied as minimum standards for claiming the secrecy exemption and reviewing such claims under the Freedom of Information Act.

Prior to the Freedom of Information Act, disclosure was not required "of information held confidential for good cause found" or matters relating to "any function of the United States requiring secrecy in the public interest," and there was no provision for judicial review of an agency's decision that there was "good cause" or a need for secrecy. Act of June 11, 1946, ch. 324, Section 3, 60 Stat. 238. The Freedom of Information Act was designed to reverse the thrust of the earlier statute which had been construed to authorize widespread withholding of agency records. S.Rep. No. 813, 89th Cong. 1st Sess. 5 (1965). The "secrecy" exemption in particular was changed to "delimit more narrowly the exception and to give it a more precise definition." S.Rep., *supra* at 8. The Act gave standing to ordinary citizens to obtain judicial review of agency nondisclosure no less than the review available to litigants under the *Reynolds* case.

Applying the standards of the *Reynolds* case will fulfill these statutory purposes, clarify the rules for claiming the secrecy exemption, and facilitate judicial review of such claims.

The foregoing analysis can be tested by applying the *Reynolds* standards to the instant case.

In this case the secrecy privilege was claimed by the Adjutant General of the Army. Although he is charged with the authority to release information from the archives (R. 23), he is not the head of the Department of the Army or the Department of Defense. His affidavit does not reflect the personal action of the head of the department affected that is necessary to obtain the privilege of the secrecy exemption.

On the merits, the same kind of circumstantial review made in *Reynolds*, without examining the documents themselves, perhaps is possible in this case but it leads to the opposite result: It is implausible, for example, that the British will go to war with us if the Operation Keelhaul file is disclosed to a reputable historian; conversely our government is totally dependent upon the British for secrecy because they have the original of the file. If our relations with other nations might be affected, we are at the mercy of Her Majesty's government. It is possible, perhaps, that some nation or nations would be upset to learn what we and others did 20-odd years ago, but not overwhelmingly likely. The Army can scarcely be said to have carried its burden of showing that it is essential that this information be "kept secret in the interest of the national defense or foreign policy." It is ironic indeed that the Freedom of Information Act, which became effective on a day celebrating nearly 200 years of independence from the British, has been interpreted below to uphold the United States Army's notion that British consent to the release of a 23-year old file is required before Congress purpose of making United States records public can be served.[5]

It is remotely possible that the Army could show, by an in camera disclosure to the trial court, that a few documents should be kept secret. Showing the file to the trial judge and having him react to the assertion that our national defense or foreign policy will be compromised will not be a significant breach in the secrecy wall. It is admitted that the file exists, and that the British have the original. The file has only historical value because it has been moved to the National Archives. A careful examination cannot possibly harm the nations national defense or foreign policy interests and that kind of examination is precisely what Congress wanted when it passed the Freedom of Information Act.[6]

Under the *Reynolds* case and the statute, the courts below failed to discharge their statutory and judicial responsibilities to determine the question of secrecy. If the courts could not reject the Army's claim entirely, they could, at the very least have required the Army to produce the file for review in camera and independent judicial judgment. *United States* v. *Reynolds, supra; General Services Administration* v. *Benson*, 415 F. 2d 878 (9th Cir. 1969); *Hardin, Executive Privilege in the Federal Courts*, 71 Yale L.J. 879, 894–895 (1962).

CONCLUSION

A rational determination of the issues in this case is essential to ensure that citizens will have the access to information that the Freedom of Information Act was meant to give and to prevent the Act from being vitiated by indiscriminate claims to secrecy and administrative delay. The petition for a writ of certiorari should be granted and the judgment of the Court of Appeals reversed.

Dated, May 6, 1970.

Respectfully submitted.

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FOOTNOTES

[1] After the trial, the Army released four documents from the file (reproduced as Appendix A in the brief of amicus curiae in the 9th Circuit). These documents are: a request for interpreters; two papers originally classified "secret" only; and one paper originally unclassified. These papers, hidden from view for over 23 years, reflect the Army's judgment, accepted without question by the courts below, of what meets the President's test that "Top Secret classification shall be applied only to that information or material the defense aspect of which is paramount and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation such as leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States or its allies, a war, or the compromise of military or technological developments vital to the national defense." Exec. O. 10501 § 1(a) (R.68). In the Court of Appeals, amicus curiae set out the numerous failures of the Army to comply not only with the Executive Order but also with its own regulations governing classification and declassification of documents. (AC brief pp. 24–49.)

[2] Sen. Jud. Comm., Subcomm. on Admin. Pract. & Proc., *The Freedom of Information Act (Ten Months Review)*, p. 3, 90th Cong., 2d Sess. (1968); S.Rep. No. 813, 89th Cong., 1st Sess. (1965); Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act ii (1947) quoting President Johnson's statement in signing the bill that "the United States is an open society in which the people's right to know is cherished and guarded." See Davis, *The Information Act: A Preliminary Analysis*, 34 U.Chi.L.Rev. 761 (1967); Note, *The Freedom of Information Bill*, 40 Notre Dame Law. 417 (1965) (extensive discussion of bill and related earlier proposals); Note, *Freedom of Information: The Statute and the Regulations*, 56 Georgetown L.J. 18 (1967); Note, *The Information Act: Judicial Enforcement of the Records Provision*, 54 Va. L.Rev. 466 (1968); Note, *The Freedom of Information Act: A Critical Review*, 38 Geo. Wash. L.Rev. 150 (1969).

[3] "The privilege belongs to the government and must be asserted by it; it can neither be claimed nor waived by a private party. It is not to be lightly invoked. There must be formal claim of privilege, lodged by the head of the department which has control over the matter, after actual personal consideration by that officer." 353 U.S. at 7–8. See also *Machin* v. *Zuckert*, 316 F. 2d 336, 338 (D.C. Cir.) (formal claim of privilege by Secretary of the Air Force), *cert. denied*, 375 U.S. 896 (1963); *Carl Zeiss Stiftung* v. *V.E.B., Carl Zeiss, Jena*, 40 F.R.D. 318, 323 (D.C.D.C. 1666), *affirmed per curiam* 384 F. 2d 979 (D.C. Cir.), *cert. denied*, 389 U.S. 952 (1967) (affidavit of Attorney General in his capacity as head of the Department of Justice).

[4] See also *United States* v. *Burr*, 25 Fed. Cas. 187, 191–192 (No. 14694) (CC. Va. 1807) (Marshall, C.J.); Berger, *Executive Privilege*

v. *Congressional Inquiry*, 12 U.C.L.A.L. Rev. 1044, 1107–1110 (1965); Hardin, *Executive Privilege in the Federal Courts*, 71 Yale L.J. 879, 899–900 (1962); L. Jaffe, *Judicial Control of Administrative Action* 363–364 (1965).

[5] It bears noting that the Army made no showing that a claim of privilege by a British official would be sustained by a court. See *Crosby* v. *Pacific S.S. Lines*, 133 P. 2d 470, 475 (9th Cir.), *cert. denied*, 319 U.S. 752 (1943) (claim of British official to privilege denied). See also *Conway v. Rimmer* (1968), All. E.R. 874–H.L., which established the principle of substantial judicial review of claims of executive privilege and effectively overruled *Duncan* v. *Campbell, Laird & Co., Ltd.* (1942), 1 All. E.R. 587–H.L.

[6] Presumably, the Army's principal expertise on the implications of disclosing the file would be in the national defense area rather than the foreign policy area. However, the file is very old and the national defense implications, if any, of releasing it seem remote. Presumably, also, the Army's reluctance to release the file does not arise out of any desire to hide error or inefficiency of the Army or an allied component of Allied Force Headquarters (AFHQ) such as the British, for to do so would directly contradict Department of Defense policy that a claim that information is exempt from disclosure under the Freedom of Information Act "in no event" shall be "influenced by the possibility that its release might suggest administrative error or inefficiency or might embarrass a component or an official of that component." 32 C.F.R. Section 286.4(c), reproduced in House Comm. on Gov't Operations, *Freedom of Information Act (Compilation and Analysis of Departmental Regulations)*, p. 46, 90th Cong., 2d Sess. (1968). One would think also that the Army might be glad to release the file to clear away any suggestion that it might have used force or cooperated in the use of force in the repatriation of persons to the Soviet Union. Repatriation by force was not provided for in the Yalta agreements, and official Army history makes clear that Allied policy was to protect "displaced persons from forcible repatriation." Coles & Weinberg, *United States Army in World War II, Civil Affairs: Soldiers Become Governors*, Department of the Army (1964), pp. 582, 648; Dept. of State Public. 6199, *Foreign Relations of the United States, The Conferences at Malta and Yalta 1945*, pp. 985–987 (1955). It would seem unlikely also that the Army desires to protect Soviet Communists from disclosure about their use of force. The Army surely is opposed to Communist aggression. Moreover, a decision to protect Soviet Communists would not seem to be one of national defense. Besides, the story of the Communists' use of force has already been documented in some detail. See, *e.g.*, the four-volume collection, translated from the German, entitled *Documents on the Expulsion of the German Population from Eastern and Central Europe* (Schneider ed., 1960–61); Bouscaren, *International Migrations Since 1945*, pp. 47–66 (1963).

[In the Supreme Court of the United States, October Term, 1969, No. 1533]

JULIUS EPSTEIN, PETITIONER, *v.* STANLEY RESOR, SECRETARY OF THE ARMY, ET AL.

(On petition for a writ of certiorari of the U.S. Court of Appeals for the Ninth Circuit)

Brief for the respondents in opposition

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 20–25) is reported at 421 F.2d 930. The opinion of the district court (Pet. App. 26–34) is reported at 296 F. Supp. 214.

JURISDICTION

The judgment of the court of appeals was entered on February 6, 1970. The petition for a writ of certiorari was filed on May 6, 1970. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the requested file, which is security-classified pursuant to Executive Orders 10501 and 10964, falls within the exemption in the Freedom of Information Act for matters that are "specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy."

STATUTE INVOLVED

In pertinent part, the public information section of the Administrative Procedure Act (the "Freedom of Information Act"), P.L. 90–23, 81 Stat. 54 (5 U.S.C. (Supp. IV) 552 *et seq.*), provides:

"Public information; agency rules, opinions, orders, records, and proceedings.

"(a) Each agency shall make available to the public information as follows:

* * * * *

"(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. * * *

* * * * *

"(b) This section does not apply to matters that are—

"(1) specifically required by Executive order to be kept in the interest of the national defense or foreign policy."

* * * * *

STATEMENT

1. For a number of years petitioner has been attempting to obtain the disclosure to him of a file which he describes as "Army document: 'Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul,'" File No. 383.7–14.1 (R. 29).[1] Petitioner's requests were denied because of the "current high security classification of the file" (R. 185–193). After Congress enacted the Freedom of Information Act, which became effective on July 4, 1967, petitioner invoked that statute in support of his request for disclosure (R. 35, 46). That request was also denied, on the ground that the requested file is exempt from disclosure under the Act as matter which, under 5 U.S.C. 552(b)(1), is "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy" R. 24–52).

Petitioner thereafter brought this action in the district court, pursuant to the Freedom of Information Act, to compel the respondents to disclose the requested file to him (R. 1–2). The district court granted a motion for summary judgment and dismissed the action, on the ground that the respondents had appropriately invoked the foregoing exemption (Pet. App. 26–34). The court of appeals affirmed, holding that "[t]he origin of the file's contents itself is sufficient to dispel any suggestion that the original classification was arbitrary or capricious," and that the respondents had "made more than a sufficient showing" that questions bearing on "the continuing need for secrecy * * * persist and require resolution by the executive" (Pet. App. 25).

2. The basis of the security classification of the requested file is set forth in an affidavit of Major General Kenneth G. Wickham, Adjutant General of the Army (R. 23–27). The Allied Force Headquarters ("AFHQ") was the unified inter-allied command (British and American) that planned and supervised ground, air, naval and service operations and military government during World War II in the North African Theatre of Operations and later the Mediterranean Theatre.[2] After AFHQ was discontinued the Combined Chiefs of Staff[3] directed that AFHQ's original records be transferred t the British Government and that microfil copies of the records be released to the Wa Department of the United States Govern ment. The Adjutant General's affidavit state that the file requested by petitioner is pa of the foregoing AFHQ records that were re leased to the United States War Departmen by the Combined Chiefs of Staff, and tha the requested file, as received by the Wa Department, was classified as "Top Secret since it contained many individual "To Secret" documents of combined (British an American) and British origin. The Adjutan General's affidavit further states that th requested file, in the possession of the Unite States Government, has continued to b security-classified because of the require ments of Executive Orders 10501 and 1096 (see Pet. App. 22; R. 24, 26–27).[4]

Executive Order 10501, as amended by Ex ecutive Order 10964, requires the securit classification of, and exempts from auto matic downgrading or declassification, cer tain defined categories of information, in cluding defense "[i]nformation or materia originated by foreign governments or inter national organizations and over which th United States Government has no jurisdic tion, information or material provided fo by statutes such as the Atomic Energy Act and information or material requiring specia handling, such as intelligence and cryptography."[5] Army Regulation 380–6, which implements these executive orders, lists the "Combined Chiefs of Staff" as an example of an international organization which is outside the jurisdiction of the United States (R. 161).[6]

Executive Orders 10501 and 10964 forbid the disclosure to petitioner of the requested file for two reasons. First, the file was received by the United States Government from the Combined Chiefs of Staff, an "international" organization, as a security-classified "defense" document, and the British Government (the other member of the Combined Chiefs of Staff (has refused to remove the security classification of the file.[7] Second, independently of the international nature of many of the papers in the file,[8] we are informed by the Department of the Army that the file has been security-classified, pursuant to Executive Orders 10501 and 10964, because of considerations of intelligence and cryptography (see Section 4(a)(1) of Executive Order 10501, as amended by Executive Order 10964). It should also be added, as the court of appeals noted (Pet. App. 24–25), that the Department of the Army has reviewed the file continuously, in cooperation with other agencies of the United States Government, in the hope that a procedure could be developed to declassify all, or a portion of, the papers in the file (see R. 24–52, 185–193). To date, however, those efforts have yielded only the declassification of four United States-originated items, involving no problems of intelligence or cryptography, which were furnished to petitioner on August 22, 1969.[9]

ARGUMENT

The Freedom of Information Act expressly exempts from its coverage matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy" (5 U.S.C. 552(b)(1)). The court of appeals was plainly correct in holding that this exemption applies to the file sought by petitioner. The requested file—which pertains to "defense" information—was received by the War Department of the United States Government from the Combined Chiefs of Staff (an "international" organization composed of British and American representatives) as a security-classified document. And, insofar as the file contains papers originated by the British Government (the other member of the Combined Chiefs of Staff), Executive Order 10501, as amended by Executive Order 10964, forbids the disclosure of the file until

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Footnotes at end of article.

such time as the British Government agrees to remove the security classification. Certainly, our nation's foreign policy cannot be conducted effectively if it fails to honor its international commitments.[10] Moreover, independently of the international nature of the file, the foregoing executive orders forbid the disclosure of the file because of considerations of intelligence and cryptography.

There is no merit in petitioner's contention (*e.g.*, Pet. 10) that the courts below should have reviewed the correctness of the executive judgment that documents of the type here involved must be kept secret in the interest of the national defense or foreign policy. As the court of appeals noted, under the exemption involved here the "function of determining whether secrecy is required in the national interest is expressely assigned to the executive," and "[t]he judicial inquiry is limited to the question of whether an appropriate executive order has been made as to the material in question" (Pet. App. 24). The correctness of this reading of the Act is confirmed by the express language of the exemption, by its legislative history,[11] and by the settled principle of judicial refusal to review the discretion of the executive in the areas of national defense and foreign relations. See, *e.g.*, *Chicago & Southern Air Lines* v. *Waterman S.S. Corp.*, 333 U.S. 103, 111; *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 304, 320–322; *Johnson* v. *Eisentrager*, 399 U.S. 763, 789; *Orloff* v. *Willoughby*, 345 U.S. 83; *Panama Canal Co.* v. *Grace Line, Inc.*, 356 U.S. 309, 317–318.

Finally, we note that petitioner can derive no comfort from *United States* v. *Reynolds*, 345 U.S. 1. The *Reynolds* case antedated the Freedom of Information Act and concerned instead a formal claim of executive privilege asserted by the government as a defense to discovery in a Tort Claims Act suit. The claim of executive privilege was sustained by this Court, without requiring *in camera* inspection, where there were circumstances "indicating a reasonable possibility that military secrets were involved * * *" (345 U.S. at 10–11). The instant case, however, involves an explicit exemption to the Freedom of Information Act which, Congress made clear, is independent of the doctrine of executive privilege (see note 11, *supra*). Moreover, as the court of appeals correctly concluded, the government in the instant case has appropriately established that the file requested by petitioner falls within the exemption to the Act on which it relied.[12]

CONCLUSION

For the reason stated, the petition for a writ of certiorari should be denied.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.
WILLIAM D. RUCKELSHAUS,
Assistant Attorney General.
MORTON HOLLANDER,
LEONARD SCHAITMAN,
Attorneys.

JUNE 1970.

FOOTNOTES

[1] "R." refers to the record in the court of appeals, a copy of which has been lodged with the Clerk of this Court.

[2] See *Federal Records of World War II, Vol. II, Military Agencies* (G.S.A., 1951), pp. 767, 769.

[3] The Combined Chiefs of Staff was established by the President of the United States and the British Prime Minister as a result of a United States-United Kingdom military staff conference held shortly after Pearl Harbor. The Combined Chiefs of Staff, which continued throughout the war, reported to the President and the Prime Minister. It collaborated in the formulation and execution of policies and plans concerning the strategic conduct of the war, the broad program of war requirements, the allocation of munitions resources, and the requirements for overseas transportation for the fighting services of the allied nations. See *Federal Records of World War II, Vol. II, Military Agencies, supra*, pp. 2-3.

[4] The file is stored in the National Archives (R. 23). A great number of other classified documents are also stored in the National Archives and its record centers, including documents dating to 1966.

[5] Section 3 of 18 Fed. Reg. 7049, 3 C.F.R. (1949–1953 Comp.) 979; Section 4(a)(1) of 26 Fed. Reg. 8932, 3 C.F.R. (1959–1963 Comp.) 486.

[6] The common understanding that the Combined Chiefs of Staff is an "international" group is also evidenced by Department of Defense Directive 5200.10, p. 5 (July 26, 1962), and Department of Defense Directive 5200.9, p. 4 (September 27, 1958).

[7] As a result of recent inquiries by the United States Government, the British Government has agreed to change the file's classification from "Top Secret" to "Secret". However, the British Government has refused to remove entirely the security classification (now "Secret") of the file.

[8] As noted below, certain of the papers were originated solely by the United States Government and are subject to disclosure by the United States to the extent that other security considerations (*e.g.*, cryptography and intelligence) are not applicable.

[9] The fact that these items (reprinted in Appendix A to the brief of the *amicus curiae* in the court of appeals) were originated solely by the United States Government permitted the United States to disclose them to petitioner once it was determined that United States intelligence and cryptography considerations were not an obstacle to disclosure.

[10] 5 U.S.C. 552(b)(4), another exemption provision, explicitly recognizes the obligation of the United States Government to honor the confidentiality of documents submitted by *private citizens*. *See General Services Administration* v. *Benson*, 415 F.2d 878, 881 (C.A. 9). *A fortiori*, the government must honor its *international* commitments.

[11] See, *e.g.*, H. Rep. No. 1497, 89th Cong., 2d Sess., pp. 9–10; 112 Cong. Rec. 13659 (Rep. Gallagher). Moreover, Representative Moss, Chairman of the House Government Information Subcommittee, stated, during Hearings Before a Subcommittee of the House Committee on Government Operations, on H.R. 5012, *et al.*, 89th Cong., 1st Sess., Part 1, March 30, 1965, pp. 14–15, that:

"We do not challenge that right to withhold for the national interest, because we specifically require it by Executive order to be kept secret in the interest of the national defense or foreign policy. *Now, that is very broad.* That means that *any of these documents that are of sufficient significance to the security of this Nation or to the interests of this Nation as it deals with other nations can, by appropriate designation, be excluded from the provisions of this act.*

"We recognize that there are going to be certain needs to keep some of this information locked up. And *the Executive order which is applicable in this instance I believe is Executive Order 10501, where the President authorizes the departments and agencies to appropriately classify and lays out the guidelines for classification* * * *.

* * * * *

"The whole object of the Executive order is to have a category in which you can place and identify this information, so that it is secure.

"Now, what hardship is imposed there? What infringement of the Executive right or responsibility is diminished by this provision of the proposed legislation?" [Emphasis added.]

Representative Moss also stated during the House hearings that 5 U.S.C. 552(b)(1) "was intended to specifically recognize that Executive order [No. 10501]" (*id.* at 52), and is drafted "in conformity with that Executive order" (*id.* at 105).

[12] We recognize that, under the Freedom of Information Act, "the burden is on the agency to sustain its action" in denying disclosure (5 U.S.C. 552(a)(3)). The House Government Operations Committee explained that "[t]he burden of proof is placed upon the agency which is the only party able to justify the withholding. A private citizen cannot be asked to prove that an agency has withheld information improperly because he will not know the reasons for the agency action." H. Rept. No. 1497, 89th Cong., 2d Sess., p. 9. The Senate Judiciary Committee similarly explained that the burden of proof provision was added because the individual "will not know the reasons for the agency action." S. Rep. No. 813, 89th Cong., 1st Sess., p. 8. But here the government has explained why the file sought by petitioner falls within 5 U.S.C. 552(b)(1). Moreover, petitioner's claim under the Act is not affected by his status as a historian. Indeed, one of the fundamental purposes of the Act was to eliminate the test of whether an individual is "properly and directly concerned" (see S. Rep. No. 813, *supra*, pp. 5–6; H. Rep. No. 1497, *supra*, p. 1).

In any event, pursuant to Executive Order 10816 certain kinds of classified documents can be made available for use by scholars; in the instant case, however, a determination was made that, because of the highly sensitive nature of the requested file, no such exception could be made here (see R. 193).

OFFICE OF THE CLERK, SUPREME COURT OF THE UNITED STATES,
Washington, D.C., June 15, 1970.

Re *Epstein* v. *Resor, etc., et al.*, No. 1533, October Term, 1969.

PAUL N. MCCLOSKEY, Sr., Esq.
Menlo Park, Calif.

DEAR SIR: The Court today entered the following order in the above-entitled case:

"The petition for a writ of certiorari is denied. Mr. Justice Douglas is of the opinion that certiorari should be granted. Mr. Justice Marshall took no part in the consideration or decision of this petition."

Very truly yours,

JOHN F. DAVIS, *Clerk.*
By C. T. LYDLENE,
Assistant Clerk.

URBAN PROPERTY INSURANCE BILL

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

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

Mr. HALPERN. Mr. Speaker, I rise in support of the pending Housing and Urban Development Act of 1970 and, in particular, that provision in the act which calls for the direct Federal writing of essential property insurance.

I want to urge, first, that we make this bill our first item of business when we reconvene in November. It is absolutely essential for the property owners and businesses in my district, as well as in the entire Metropolitan New York City area and in the major cities of at least six other States. According to this week's issue of Time magazine, it has become virtually impossible for the individual homeowner or businessman to obtain insurance coverage against crime and vandalism in these cities across the Nation.

We must protect our citizens from the increasing crime rates. Now, when a family or business is robbed or burglarized,

they become double victims—first, a victim of the actual losses occurred, and second, they become a victim of the insurance industry which will immediately cancel their crime insurance policy after a claim is received, leaving them virtually defenseless against any subsequent crime losses.

I strongly urge support for the measure introduced by the gentleman from Illinois (Mr. ANNUNZIO), which will go a long way toward eliminating this double jeopardy for crime victims. Under the proposed law, which has received the blessing of a majority on the Banking and Currency Committee, the Department of Housing and Urban Development would be empowered to write essential property insurance, including crime lines, if insurance rates in the private market exceed 175 percent of the manual rates.

Under the bill, private homeowners could obtain up to $25,000 insurance on single-family homes and commercial establishments could get up to $1 million. The bill also requires the private insurance industry pools, the so-called FAIR program designed to bring insurance into high-risk areas, to offer burglary and theft insurance, vandalism and malicious mischief insurance, and coverage during construction or rehabilitation.

Lest I be accused of mounting a full-scale attack on an industry in which I was personally involved, let me say a word on behalf of the insurance carriers. It is well known that, in many areas, the industry is losing a lot of money on its claims, and for some kinds of insurance these losses far offset gains across the nation. The insurance carriers are faced wih raising their premiums to levels that nobody can pay or simply not offering certain kinds of insurance in some areas. In a situation like this, it is time for the Federal Government to step in.

I recently received a letter from a constituent who lives in Floral Park, L.I. He writes of his own personal experience of having paid for insurance on his home for more than 20 years and receiving a cancellation notice soon after submitting his first claim for a small burglary loss. His letter explains his frustration, which is shared by other citizens across the country and, without objection, I insert it into the RECORD at this point:

FLORAL PARK, N.Y.,
August 13, 1970.

HON. SEYMOUR HALPERN,
Jamaica, N.Y.

DEAR CONGRESSMAN: I wish to bring to your attention a situation which exists with reference to insurance companies in general which I believe requires investigation and immediate action. The voting public will eventually be annoyed and aroused enough to vote only for those people who really do something to correct unfair practices against the taxpayers.

The point in fact is that I have carried home owners insurance for over twenty years and never had a claim. In May of this year, on a Saturday afternoon in broad daylight, my home was burglarized. My insurance covers me for only $350.00, which was paid. Now, as per the enclosed photostat, the insurance company is not renewing the policy. The same practice holds true for automobile insurance as well.

The crime rate, particularly in New York City, has risen sharply and the non-existent police protection has made it actually dangerous for law abiding citizens to walk the streets. It is a fact that in our community and many others, women will not venture out alone after dark. Our taxes and insurance premiums keep going up while the services are declining. I do hope that the voting public will eventually put people in Congress, Albany, etc., who will begin to protect the law abiding taxpayers rather than the criminals.

I am sending this same letter to various heads of agencies, etc., and including newspapers.

I would be grateful for your intervention, assistance or action and would appreciate a reply to me.

Very truly yours,

FRANK F. LAST.

THE HONORABLE SAMUEL N. FRIEDEL

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. GARMATZ) is recognized for 10 minutes.

Mr. GARMATZ. Mr. Speaker the Sunpapers have finally paid a long withheld and overdue tribute to an outstanding Congressman. I refer, of course, to our colleague, SAM FRIEDEL. Unfortunately the high praise, which came more in the nature of a eulogy, appeared in an editorial after Representative FRIEDEL had conceded defeat by the insignificant total of 38 votes in the recent primary election held in Maryland. Perhaps the Sunpapers were merely salving their own conscience after nearly two decades of castigation directed toward a man who has served his constituency at the city, State, and Federal level as well as any man could and perhaps better than most.

It would have been more seemly if the editors of the Sunpapers had deigned to mention some of Representative FRIEDEL'S accomplishments on behalf of the electorate over the years of his service in this House. They might have mentioned for instance that, as Chairman of the Transportation and Aeronautics Subcommittee, Mr. FRIEDEL has championed Friendship Airport for many years and was largely responsible for increasing the number of flights into and out of that airport in 1 year from 220 daily to 330 daily; as well as having nonstop flights to London, Bermuda, Freeport, Honolulu, Mexico, Jamaica, Quebec, Nassau, and Puerto Rico operate from Friendship. He was in a position to continually aid the airport and consequently the people of Maryland.

They might have mentioned that almost single handedly SAM FRIEDEL fought for and secured passage of a law enabling one-quarter of a million Marylanders to continue to deduct ground rent payments for income tax purposes. They might have mentioned that SAM FRIEDEL just this year secured passage of a law—Public Law 91-287—which will save the taxpayers of the country millions of dollars annually by permitting the destruction of useless papers and releasing thousands of feet of rented storage space. They might have mentioned that he was responsible in large measure for keeping the majority of social security employees in Baltimore by offering a floor amendment to an appropriation bill which prevented a large-scale transfer of em ployees to Washington which had be contemplated by the then Republican a ministration of 1954. Or they might ha mentioned that SAM FRIEDEL, played important role in having the social sec rity buildings constructed in the Bal more area by having language inserted the 1957 appropriation bill requiring in mediate selection of a site which had be delayed for 5 years. They might ha mentioned that it was SAM FRIEDEL who efforts were responsible for having t Navy repair and transport the histor ship, *Constellation,* to Baltimore a ultimately transfer it by gift to the Sta of Maryland and city of Baltimore. Th relic of our country's naval history no rests in Baltimore Harbor, the site of i origin, for all to see.

Mr. Speaker, as you are well aware th list is a long one and I have mentione only a few of SAM FRIEDEL'S accomplish ments. However, there is one thing fu ther that I must point out. One of th sins of Representative FRIEDEL was, ac cording to the editorial referred to, tha he had accumulated 18 years consecutiv service and the Sunpapers decided i their wisdom that was enough. Enoug for what, I am not sure.

In any event, as a result of these 1 years of service, SAM FRIEDEL ha achieved the following positions of dis tinction from which he was in a positio to aid his constituents, as we all kno and the Sunpapers should be mad aware, far more than a freshman Mem ber could ever hope to, until he, too, ha accumulated many years of service in thi body. He is chairman of the House Ad ministration, chairman of the Subcom mittee on Transportation and Aero nautics, chairman of the Joint Commit tee on Printing, vice chairman of th Joint Committee on the Library, an ranking member of the House Interstat and Foreign Commerce Committee. Thi unprecedented leadership took Mary landers years to achieve but it has beer lost overnight. Certainly the Sunpapers can take pride in the role they played in helping the citizens of Maryland t lose the distinction held by our State a a result of SAM FRIEDEL'S important po sitions.

I insert the Sunpapers editorial at this point in the RECORD. It is as follows:

[From the Baltimore Evening Sun, Oct. 6 1970]

STATESMAN

This newspaper withheld support from Representative Friedel in his 1970 campaign for renomination, not in disapproval of his progressive voting record and certainly not unmindful of the extraordinarily close personal ties he maintained with his constituents in the Seventh district. We acted in the conviction that 18 years in Congress was enough, that the district's changed and younger voices must be attended. Now that Mr. Friedel has cooled off a potentially explosive situation by stepping aside, we salute him for a final demonstration of selfless statesmanship.

It was not easy for the congressman. A lesser man would have balked at the frail margin, 38 votes, by which Mr. Friedel ran second. Still further temptation to resist arose from the chaotic Election Day conditions, and a man of greater vanity but smaller responsibility might well have held out for the whole bitter sequence of challenges, recounts, court actions and appeals.

t Mr. Friedel recognized the destructive ssibilities of this course: he knows too well racial embers smoldering just beneath surface of his district. Whatever the cost pride, he declined to stir them to flames. We hope this show of quiet fortitude will t be lost on the pair now left to fight it out the Friedel seat in the general elections xt month. Both Mr. Mitchell and Mr. rker have permitted themselves flashes of ist provocation; each has forsworn any ther relapse, but the lure lingers on. The t is that the Seventh district is caught s year in a perhaps decisive shift of its nter of political gravity, from the Jewish ters who have sustained Mr. Friedel since 52 to the Negro voters who gave Mr. Mitch- the Democratic nomination last month. ere is no blinking the facts of political e, and this is one. But there is no excuse racial demagoguery on either the white or e black side in a moment when the racial lance is still in question. Too much is at ke for the whole city, in terms of the long- nge racial good will stored up, for some sguided outburst to spill it away now.

Mr. Mitchell and Mr. Parker are entrusted th a grave public responsibility to carry rough to a constructive end a delicate un- ding of Baltimore history. Representative iedel has shown them the way.

MYLAI TRIAL OF SERGEANT MITCHELL AND THE CIA

The SPEAKER. Under a previous or- r of the House, the gentleman from ouisiana (Mr. RARICK), is recognized r 30 minutes.

Mr. RARICK. Mr. Speaker, because of ie significance of the Mylai incident, any Americans are vitally interested in ie trial of S. Sgt. David Mitchell which taking place at Fort Hood, Tex.

Yet, for some strange reason, news overage, at least in our area of the Na- on, has been suppressed or blacked out.

The morning Washington Post con- ained the statement:

Colonel George R. Robinson, the military udge, denied a defense request that sub- oenas be issued for Richard Helms, direc- or of the Central Intelligence Agency, and van J. Parker of the same agency.

The city edition of the Washington Daily News, on page 2, contained a slightly more detailed news release, in- dicating that CIA subpenas were re- uested to gain evidence of the assassi- ation plan called Operation Phoenix. The Washington Daily News clipping ollows at this point:

[From the Washington Daily News, Oct. 14, 1970]

PLOT CHARGED TO CIA IN VIET KILLINGS

FT. HOOD, TEX.—The chief defense attorney or My Lai massacre defendant David Mitch- ll claims the CIA developed a plan to as- assinate South Vietnamese civilians sus- ected of helping the Viet Cong.

Ossie Brown attempted to subpoena two op CIA officials to testify to Sgt. Mitchell's ourtmartial. Mr. Brown said the CIA agents ould tell about an alleged CIA plot to as- assinate civilians who were aligned with the outh Vietnamese communists.

Mr. Brown said yesterday the CIA carried ut "a systematic program of assassination nd elimnation of Viet Cong and suspected Viet Cong."

"Here are the CIA and the army condoning uch acts as this in one instance, then in an- ther instance trying this man for allegedly assaulting 30 people in the same area," Mr. Brown said.

But Col. George Robinson rejected Mr. Brown's motion to subpoena CIA director Richard Helms and Evans Parker, who, Mr. Brown said, headed the assassination plan called Operation Phoenix.

Mr. Brown and Sgt. Mitchell's attorneys planned to confer in closed session today with Col. Robinson in an attempt to clear the legal technicalities blocking the opening of the trial.

Mr. Brown said testimony in the case could begin today. But army prosecutor Capt. Michael Swan said it will probably be tomorrow before the first witness can be called.

Strangely, as if someone decided that the Mitchell trial was not newsworthy, the final edition of the same newspaper which came out only hours later, for suburban Washingtonians, did not contain any mention of the Mylai trial. Feeling that this is bizarre behavior for a newspaper to delete news once it had been printed in its earlier edition, I then obtained a copy of the Washington Evening Star. Equally bizarre, not one word appeared in this evening paper.

The only plausible explanation for the killing of news stories about the Mylai trials at Fort Hood must be the reference to the CIA and that operation in Southeast Asia known as Operation Phoenix or Phuong Huong. If this be the case, one need only look to the record of past attempts to try American military men in the infamous Green Beret case. Time and the place lead to the reasonable conclusion that the political and military identities were the same.

Those of us who followed, with great scorn, the Green Beret preliminaries recall that the case was dismissed when the CIA agents and their leader, Richard Helms, refused to accept subpenas and to testify in the Green Beret case. In fact, such statements were issued by Army Secretary Stanley R. Resor and approved by President Nixon. The justification given for the CIA refusal was that the appearance of CIA personnel as witnesses was not in the interest of national security.

Yet, in the presently underway trial of Sergeant Mitchell, at Fort Hood, Tex., we read in the brief report of the news media that the defense counsel, Mr. Ossie Brown, was denied the military court's subpena power of the CIA director and Evans Parker, who is said to have headed Operation Phoenix.

Before dismissing the Green Beret case, Army Secretary Resor had stated:

Except where the most compelling reasons exist, our carefully developed legal procedures should not be shortcut . . . . A trial . . . will provide a chance for full exploration of matters bearing on innocence, guilt, excuse, justification, mitigation, or extenuation.

If this is the Army's position, how can Mr. Resor expect Sergeant Mitchell to defend himself on innocence, excuse, justification, mitigation, or extenuation, when he is denied benefit of witnesses within reach of the military tribunal, who his defense counsel, Ossie Brown, feels are necessary to exonerate an American soldier who has fought for his country and now must feel that his country is fighting him?

The Army's denial of a defense counsel's motion for subpena of witnesses and the mysterious and sporadic news reporting to the American people can but make one wonder just what is taking place at Fort Hood, Tex.

Why is the military so anxious to suppress CIA testimony in the Mylai case when all evidence bears out their involvement in the Green Beret case which occurred at similar time? Why is the Army so interested in shielding the CIA, even at the expense of destroying their own system of military justice in order to get a conviction against a staff sergeant? Who is in command of this trial?

Can the great reluctance on the part of the Army to permit the CIA to testify at the Mylai trial be because of a desire to avoid explaining that Mylai was certified as a free-fire zone? By whom and to whom?

Is this military justice or a kangaroo court?

I publicly urge the CIA to come forward and participate in this trial to prevent further persecution of this soldier and miscarriage of justice.

Mr. Speaker, several newsclippings pertaining to the CIA involvement with the Green Beret case follow:

[From the New York Times, Oct. 1, 1969]

BEHIND THE INTELLIGENCE CURTAIN—SOME LIGHT IS SHED ON VIETNAM SETUP BY BERET CASE

(By Joseph B. Treaster)

The Green Beret case has lifted slightly the curtain of secrecy that has hidden most of the vast allied intelligence operation in Vietnam.

Major revelations about the intelligence network had been expected from the court-martial of six of the eight men involved in the case, all members of the Army Special Forces, or Green Berets. But the Secretary of the Army, Stanley R. Resor, announced Monday that he had decided to drop all the charges in view of the fact that the Central Intelligence Agency would not permit members of its staff to testify.

On the other hand, answers to some of the questions raised by the case have emerged from a series of interviews with civilian and military veterans of Vietnam. The interviews, conducted by a correspondent of The New York Times who recently returned from the war zone, have also yielded a general picture of an elaborate, often inefficient intelligence community.

The themes of inefficiency of work done at cross-purposes and of noncooperation found an echo in the Green Beret case, in which the South Vietnamese victim was said to have been not only a double agent—working for both the enemy and the allies—but also, according to some reports, an operative employed by different allied agencies.

"If I've ever known a division of bureaucracy to be compartmentalized and filled with internal suspicions, it is the intelligence community," said one middle-level State Department official who has served in Vietnam. "They do not always do kind things to one another. For instance, if I had some good agents in one area of the country and you had one that was getting a lot of good stuff, I might try to blow his cover and put him out of action. Same government, same objectives, different teams."

NO WAY OF CHECKING

"Sometimes three or four agencies in Vietnam employ the same Vietnamese agent," the official went on. "The agencies won't open their personnel registries to one another so there is just no way of checking."

In the sketchy reports on the recent Green Beret case, there have been repeated references to two secret intelligence-gathering units, Detachment B-57 and the Studies and Observation Group, or S.O.G.

Five of the Special Forces soldiers in the now-closed case are reported to have been as-

signed to Detachment B–57. One, Maj. David E. Crew, was the detachment commander.

Available information indicates that B–57 is an Army unit manned by 25 to 50 Americans and responsible for operating networks of Vietnamese agents—perhaps several hundred—throughout Vietnam and the border regions of Laos, Cambodia and North Vietnam.

The bulk of its work is believed to be in South Vietnam and the objective to obtain tactical intelligence known as O.B. or order of battle, information. It tries to chart troop movements, identify units and commanders, determine supply levels and uncover other data that can be used to calculate when and where the enemy is likely to strike (which is known as I.O.H., for imminence of hostility).

On the organization charts, Detachment B–57 is listed as a part of the Fifth Special Forces Group, which has its headquarters at the former resort city of Nhatrang, on the South China Sea. But informed sources say that, in effect, the Fifth Special Forces is a cover for B–57.

WHERE ORDERS COME FROM

The commander of the Fifth does not give orders to B–57, which does not contribute to the primary mission of the Green Beret outfit—advising Vietnamese irregulars in remote camps. Orders for B–57 are believed to originate in the intelligence section of the headquarters of Gen. Creighton W. Abrams, commander of American troops in Vietnam.

Some dispatches from Saigon identified B–57 as a part of the Studies and Observation Group, an element of the American command. Subsequent investigation indicates that they are separate units. Both seek tactical intelligence, but S.O.G. also engages in sabotage and places emphasis on operations outside South Vietnam.

The Studies and Observation Group, which seems to have no less sensitive a mission than B–57, operates without cover from offices in central Saigon in the compound from which Gen. William C. Westmoreland once ran the war. It is listed as a staff section of the American command and draws personnel and necessities from all branches of the armed forces.

There are thought to be as many as 2,000 Americans and many more Vietnamese in S.O.G. Informed sources say that the Americans seldom if ever go into North Vietnam on missions except for brief helicopter trips to emplace or recover teams.

SPECIAL FORCES MEN VEXED

The group's commander, an Army colonel, has an Air Force colonel as his deputy, and there is a "civilian special assistant" who presumably serves as liaison with the C.I.A.

Because of their extensive training in guerrilla warfare. Special Forces soldiers are assigned to both B–57 and S.O.G. But many Special Forces officers are privately rankled over the fact that a high percentage of the men in B–57 are from the Military Intelligence Corps and, technically, are not permitted to wear the green beret.

"This is not a Special Forces organization," a senior Green Beret officer said recently. "They wore the beret and looked like us, but they weren't." He was furious because his élite group had been linked to cloak-and-dagger activities.

Vital as they are, B–57 and S.O.G. are like the exposed peak of an iceberg. Much more work, less spectacular but no less necessary, goes on unnoted.

"A lot of it is just day-to-day plugging," said a former province senior adviser. "The little things they put together don't make headlines and by themselves they're not very important. But eventually you get a picture."

The intelligence community ranges from the barefoot woodcutter who is paid a few piasters for reporting a visit by a Vietcong tax collector to the C.I.A. station chief who works in the United States Embassy behind a door marked "Office of the Special Assistant."

The landscape of Vietnam and the border regions are studded with electronic sensors that beep information into the banks of computers. Radar, cameras, infrared detectors and a growing array of more exotic devices contribute to the mass of information. Not long ago reconnaissance planes began carrying television cameras.

There are a few swashbuckling extroverts and romantics in the intelligence community, but the great majority are more diligent than adventurous—more akin to university researchers than fighter pilots. Many are faced with an element of risk, but if they are conscientious in detail—in other words, good agents—the risk seldom if ever becomes a real threat.

FILMSY COVERS ADOPTED

Perhaps motivated by the old feeling that there is something unsavory about spying, many American intelligence people in South Vietnam adopt flimsy covers. Employes of the C.I.A. often identify themselves as members of the United States aid mission. Many are known as advisers to the Public Safety Department, the Military Security Service, which is the Vietnamese F.B.I., or the division that handles defectors.

Most military intelligence men are believed to operate in uniform and without cover identification; those who wear civilian clothes and use assumed names maintain that they work for nonmilitary organizations.

Whether he uses cover or not, the military man can usually be spotted because of his short haircut, his G.I. eyeglass frames and, quite often, his military-style shoes.

The civilian "spook" is obvious more often than not because of his standard uniform: white short-sleeved shirt draped over dark, shapeless trousers to conceal the snubnosed .38-caliber pistol clipped to his belt, plus sunglasses and, if he is wearing one, a narrow tie in a dark solid color.

COMPUTERS WHIRR AND BLINK

A focal point of the allied intelligence operation is a windowless, white stucco buildings not far from Tansonnhut Air Base at Saigon. Day and night in its antiseptic interior a family of blinking, whirring computers devours, digests and spews out a Gargantuan diet of information about the enemy.

The fact plant, known as CICV, or the Combined Intelligence Center, Vietnam, was established late in 1966 by Maj. Gen. Joseph A. McChristian, then the senior United States intelligence official, and was intended to serve as the end of the line for all allied intelligence agencies.

It has three principal sources: the American and South Vietnamese military systems and a conglomerate of allied civil and military organizations that work together to destroy the Vietcong's underground government.

To ease the burden on the center, General McChristian also set up CDEC, the Combined Document Exploitation Center; CMIC, the Combined Military Exploitation Center, and the CMIC, the Combined Military Interrogation Center. The work of each is explicit in its title.

As field units uncover the enemy's documents, capture weapons and question prisoners, the raw material is supposed to be forwarded to the most appropriate agency. The routing is not always the same; sometimes the material comes directly from combat units, sometimes it passes through the highest American or Vietnamese headquarters.

RIVALRY, DISTRUST, SUSPICION

The "hotter" the information the more likely it is to go to an independent American or South Vietnamese office instead of the combined center; in that way the men who make the find can act on it and perhaps record a victory for their "team."

Such rivalry, colored with distrust and suspicion, makes it difficult for the combined facilities to function as planned.

Some observers believe it likely that groups of Vietnamese who work for different agencies pool their information and present individual reports to their employers.

Some Americans find it difficult to trust any Vietnamese. Even during the time of General McChristian, the American command had a built-in deterrent to the success of the combined center: Routinely, officers stamped on sensitive documents "Secret—No Foreign," and the information could not be forwarded to the joint center.

CONCEALING THE SOURCE

"There is a certain kind of information that neither side will turn over," a high-ranking Army officer explained. "They won't turn in political intelligence and we won't turn in information gathered with special secret equipment. One reason for our position is not to disclose the source. Their reasoning is obvious."

To trace Vietnamese intelligence data that should go into the combined center, American advisers duplicate the reports of their counterparts and introduce them into their own channels. Informed sources maintain that the Vietnamese, for their part, have managed to penetrate American intelligence operations as interpreters, chauffeurs and handymen to learn the contents of "Secret—No Foreign" documents.

Such conditions have contributed to a proliferation of intelligence operatives. The C.I.A. is believed to have more employes in Vietnam than it has ever had in a foreign country, and the military effort is even greater.

In mid-1967 the Americans initiated another attempt at sharing intelligence, first called ICEX, for Intelligence Coordination and Exploitation, and later Phuong Huong, or Phoenix. The program was originally financed by the Central Intelligence Agency and the American military command.

INTO A SINGLE HEADQUARTERS

Its key feature was that South Vietnamese and American agencies were taken out of separate offices and brought together in a single headquarters, eliminating a number of problems in communications and inertia.

To provide immediate response, so-called provincial reconnaissance units were set up. C.I.A. agents recruited defectors and other Vietnamese wherever they could, gave them the latest equipment and trained them in small-unit tactics and the fine art of silent killing.

[From the Washington Post, Sept. 30, 1969]

ARMY DROPS CASE AGAINST EIGHT BERETS HELD IN MURDER—RESOR CITES CIA REFUSAL TO TESTIFY

(By George C. Wilson)

The Army yesterday dropped its case against the Green Berets accused of murdering a suspected South Vietnamese double agent—an action which closes the official curtain on a dark side of the Vietnam war.

Army Secretary Stanley R. Resor, in a statement handed to Pentagon newsmen at 2:20 p.m., said he had dismissed the charges after learning that the Central Intelligence Agency would not let its personnel testify at the trial.

"It is my judgment that under these circumstances the defendants cannot receive a fair trial," Resor said. His decision, according to a Pentagon spokesman, was supported by Defense Secretary Melvin R. Laird.

Resor's decision was a clear victory—and greeted as such—by the eight Green Berets who were charged with murder after a South

etnamese named Thai Khac Chuyen was lled on June 20.

Six of the eight Green Berets were accused the Army of drugging Chuyen and shooting him with a pistol. The first trial—of three the officers—was scheduled to start Oct. at the Army's logistical base at Longbinh.

Gen. Creighton W. Abrams, U.S. commander in Vietnam, is believed to have been he main impetus for the Army lodging harges against the Green Berets. Resor acked him up despite heavy pressure to op the case.

Just 11 days ago, on Sept. 18, Resor took hard line on the case, refusing to bow to ressure to call it off.

"Except where the most compelling reasons xist," he said, "our carefully developed gal procedures should not be short cut . . . trial . . . will provide a chance for full xploration of matters bearing on innocence, itigation or extenuation."

Yesterday's dismissal of the murder harges leaves hanging such questions as the xtent of American involvement in slayings n Vietnam and whether officials in Washngton are fully informed about them.

Now that the Army has closed its book n the case, the worldwide speculation about hese and other questions is likely to arise new.

Resor tried to head off such speculation y declaring that the Army does not condone uch acts as those alleged in the charges gainst the Green Berets.

Here is the full text of Resor's statement:

"I have been advised today that the Cenral Intelligence Agency, though not directly nvolved in the alleged incident, has deterined that in the interest of national seurity it will not make available any of its ersonnel as witnesses in connection with he pending trials in Vietnam of Army peronnel assigned to the 5th Special Forces roup.

"It is my judgment that under these circumstances the defendants cannot receive a air trial. Accordingly, I have directed today hat all charges be dismissed immediately. The men will be assigned to duties outside f Vietnam.

"While it is not possible to proceed with he trials, I want to make it clear that the cts which were charged, but not proven, epresent a fundamental violation of Army egulations, orders and principles.

"The Army will not and cannot condone nlawful acts of the kind alleged. Except in he rare case where considerations of naional security and the right to a fair trial annot be reconciled, proceedings under the Uniform Code of Military Justice must take heir normal course.

"It would be unjust to assess the culpaility of any individual involved in this matter without affording him an opportunity o present his defense in a full and fair rial. Under our system of jurisprudence, very man accused of wrong-doing is presumed to be innocent until he is proven guilty. The determination of guilty may be made only by a court which has access to all information with respect to the alleged offense."

Chairman L. Mendel Rivers (D.-S.C.) of the House Armed Services Committee drew a burst of applause when he announced the Resor decision in the House.

[From the New York Times, Oct. 2, 1969]

WHITE HOUSE CONFIRMS THAT NIXON WAS INVOLVED IN DECISION TO DROP CHARGES AGAINST GREEN BERETS

(By James M. Naughton)

WASHINGTON, October 1.—The White House acknowledged today that President Nixon was involved in shaping the decision to drop murder charges against eight Special Forces soldiers in South Vietnam.

Ronald L. Ziegler, the White House press secretary, said Mr. Nixon had "approved" the refusal by the Central Intelligence Agency to provide witnesses against the soldiers, accused of murdering an alleged Vietnamese intelligence agent.

"C.I.A. Director [Richard] Helms made the decision that, in light of national security interests, C.I.A. personnel should not appear as witnesses," Mr. Ziegler said. "The C.I.A. informed the White House and the President approved this decision."

The refusal to provide witnesses from the agency was the crucial factor leading to abandonment of the courts-martial of six Green Beret officers. Secretary of the Army Stanley R. Resor cited the agency's position as the reason for dropping the charges last Monday.

Originally, eight men were implicated in the alleged killing, but charges against two of them, Chief Warrant Officer Edward M. Boyle and Sgt. 1st Cl. Alvin L. Smith, Jr., were held in abeyance pending the other trials.

Confirmation of the President's role in the decision came after two days of White House denials that Mr. Nixon had become involved in the original decision to try the Green Berets or the subsequent decision to drop the charges.

Mr. Ziegler said he "did not know" of the President's review of the C.I.A. position when he issued the denials.

After conceding Mr. Nixon's part in the agency's decision, Mr. Ziegler continued to insist this morning that the Army had acted on its own in following up the decision by dropping the charges.

He said there had been no attempt by the White House to persuade the Army to act one way or another.

This afternoon, Mr. Ziegler said that the Army's decision to drop the charges was made known to the White House before it was announced to the public last Monday. Although there was no intention on the Army's part to submit the issue to the President for a final decision, Mr. Ziegler said, "the President could have overruled" the Army if he had chosen to do so.

Despite the decision to free the soldiers, it appeared that the controversy was not over in Washington.

Representative Peter W. Rodino Jr., Democrat of New Jersey, who first protested the treatment of the men, said today that he would continue to press for clear answers from the Army about the case.

Representative Rodino contended that the soldiers had been in confinement for nearly two months before the situation came to the attention of Mr. Resor and Secretary of Defense Melvin R. Laird. This raised serious doubts, Mr. Rodino said, about whether the military truly was under civilian control.

The six Green Beret officers who were to have stood trial for the alleged murder of Thai Khac Chuyen, a reputed Vietnamese double agent said to have been killed last June 20, were Col. Robert B. Rheault, commander of the Special Forces in Vietnam at the time of the alleged murder; Maj. David E. Crew; Capt. Leland J. Brumley; Capt. Budge E. Williams, and Capt. Robert F. Marasce.

[From the New York Times, Aug. 15, 1969]

4 BERETS LINKED TO A SECRET UNIT—MEN IN VIETNAM CASE SAID TO HAVE SERVED IN GROUP WITH TIES TO C.I.A.

(By James P. Sterba)

SAIGON, SOUTH VIETNAM, August 14.—Reliable sources said today that at least four of the eight Special Forces soldiers facing possible murder charges in the fatal shooting of a Vietnamese national worked in highly secret intelligence and guerrilla operations with special ties to the Central Intelligence Agency.

Informants here and in Nhatrang, the headquarters of the fifth Special Forces Group, said that several of those detained by the Army in the case were members of the "B–57 detachment" of an organization known as the Special Operations Group, or S.O.G.

The organization, the informants said, conducts clandestine operations, ranging from intelligence gathering to kidnapping, on special assignments from the United States military command in Vietnam and the Central Intelligence Agency.

Maj. Thomas C. Middleton Jr., one of those being held, was formerly head of all intelligence operations for the Fifth Special Forces Group, according to organization charts in Nhatrang.

Capt. Leland J. Brumley, another officer of the Special Forces, or Green Berets, who has been detained in the case, was listed on the same charts as head of the counter-intelligence section under Major Middleton.

Maj. David E. Crew was reported by the informants to have been the former commander of the B–57 detachment. Sgt. Alvin L. Smith Jr. worked in the detachment under Major Crew. Others in detention are also believed to have been attached to this unit.

Besides the B–57 detachment, S.O.G. consists of at least two other detachments, labeled B–52 and B–55.

ASSIST VARIOUS AGENCIES

Although the specific details of the operations of these detachments were not available, the informants said they performed missions on assignment for high-ranking members of the United States intelligence establishment in South Vietnam. The missions included intelligence-establishment in South Vietnam. The missions included intelligence-gathering, sabotage, kidnapping and, not too infrequently, the "elimination" of certain persons in South Vietnam and the bordering countries of Laos, Cambodia and North Vietnam.

The Special Forces, along with Air Force commandos and navy, sea, air and land teams known as SEAL's perform a variety of tasks for United States military-intelligence headquarters in South Vietnam, the Central Intelligence Agency and the National Security Agency.

The organization known as S.O.G. is said to work only on delicate assignments ordered directly by high officials. In general it works at a higher level than the intelligence-gathering units of Army divisions. The Commander of the Special Forces, now Col. Alexander Lemberes, is said to be the only colonel in South Vietnam with his own 12-button telephone. He reports directly to the staff of Gen. Creighton W. Abrams, bypassing several generals in the normal chain of command.

The Special Forces make use of aircraft supplied by the 14th Special Operations Wing of the Air Force, based in Nhatrang.

WORK OF THE "BLACK CATS"

Tucked in back of the airfield proper, there is a section used exclusively by the Special Forces. There one can see huge transport planes with black and green camouflage paint and slip-in and slip-out insignia. Usually transport planes are painted brown and green and have fixed insignia.

The clandestine Special Forces units also make use of black, unmarked helicopters piloted by Vietnamese or volunteer Air Force pilots called "black cats."

Special Forces troops employed in the secret missions are usually career men and they are said to be volunteers. They employ a variety of weapons ranging from tranquilizer guns and drugs to more conventional materiel.

Unlike normal Army intelligence units, the sources said, the Special Forces maintain close liaison with the military-intelligence headquarters within the Military Assistance Command of Vietnam and with the Central Intelligence Agency. Most regular Army intelligence units report to divisional commanders.

The distinct role of the Special Forces is explained in part by history. Before the big build-up of conventional ground forces in South Vietnam, the Special Forces worked almost exclusively for the C.I.A., according to one long-time member of the group. Outside South Vietnam, he said, this still remains the case.

ACTIVITIES ARE WORLDWIDE

For example, the First Special Forces, based on Okinawa, maintains the 46th Special Forces Company just outside Bangkok, Thailand, for intelligence and other mission in that area.

The Eighth Special Forces is in Panama, serving intelligence and guerrilla warfare needs in Latin America.

There are four other Special Forces units in the United States. Three are stationed at Fort Bragg, N.C., and one is at Fort Devens, Mass. They are reported to be available for assignment all over the world.

[From the New York Times, Oct. 1, 1969]

BERET CASE RAISES MANY ISSUES—FIRST ARE QUESTIONS OF RESPONSIBILITY AND INFLUENCE

(By Max Frankel)

WASHINGTON, September 30.—From mysterious start to melodramatic finish, the case of the Green Berets has been a case of "Who's in charge here, anyway?"

Who has charge—and responsibility—for the Army men detached from their service for unmentionable operations of the Central Intelligence Agency? Who is accountable for political and cloak-and-dagger activities by Americans in a nominally sovereign South Vietnam?

Do powerful members of Congress exert more influence than the President's Cabinet over the processes of military justice? Who determines when the C.I.A. acts—or refuses to speak—in the national interest? And who is truly responsible for acts of horror by men engaged in horrible enterprises in a horrible war?

A DIFFICULT CONTENTION

Those questions hung like barnacles to the case of the Special Forces soldiers charged with the murder of a South Vietnamese agent—with single, double or even triple loyalties. The Army appeared to believe for a time that it could stage a conventional court-martial to determine the "facts" of a single death. But it was forced to retreat because too many men and institutions were unwilling or unable to cope with the larger questions.

From the moment that the Secretary of Army, Stanley R. Resor, dismissed the murder charges yesterday on the ground that the C.I.A. had refused to supply witnesses for the trial, Washington had difficulty with the White House contention that President Nixon was in no way involved in the matter. Many were surprised, in fact—after all the debates here over "control" of the supersecret agency—that any President would let stand the impression that the C.I.A.'s definition of the national security was not subject to his approval.

Mr. Nixon's spokesman backed away a step today, saying that he had no personal knowledge of the President's involvement.

The White House was never enthusiastic about a long and public trial of the case, of the country's cloak-and-dagger operations, of the Army and the C.I.A., and perhaps of the war itself. The intelligence agency did not invite scrutiny. And a great many members of Congress, reflecting significant public sentiment, portrayed the prosecution as merely persecution.

But the Army's senior officers here and in Vietnam seemed determined to press the charges for a variety of reasons. Secretary Resor argued to the end that the killing was murder rather than just bitter duty. Others in the Army appeared intent on asserting their command responsibilities over the Special Forces, for which a special standing of privilege is often claimed.

The defendants are said to have told their families that Gen. Creighton W. Abrams, the United States commander in Vietnam, resented their less-than-candid accounting to him in this and other cases.

WARM SUPPORTERS DEFECT

It may not be clear for some time how much the political pressures counted in the President's calculations. Arrayed against the Army were some of the Pentagon's warmest supporters on other defense issues.

Yet the arguments of the C.I.A. itself probably would have carried the day. Even if it had felt compelled at first to clear up its own complicity and to assist at the trial, it was faced with some of the country's best trial lawyers threatening to make public the most sensitive information.

The impression here, from the Congressional end of town to the Pentagon, was that the national-security argument had resolved the last doubts in the White House.

As has been the case so often before, the arguments of national security are shutting out large questions of governmental operations. Legislators who are pleading for investigation of the military's legal systems, of command control over secret operations, of secrecy itself as practiced by privileged Government units, are finding little sympathy among the most influential of their colleagues and no encouragement from the Administration.

[From the Star-Ledger, July 9, 1970]

CONSTITUTIONAL TEST OF VIET WAR—LAIRD SUBPENAED TO TESTIFY IN MY LAI MASSACRE TRIAL

(By Kenneth Reich)

ATLANTA.—Secretary of Defense Melvin R. Laird and other high figures of the U.S. defense establishment have been subpenaed to appear at a hearing before a three-judge federal court panel called here next Wednesday on the constitutionality of the Army's My Lai court-martials.

Most of those subpenaed were served Tuesday and yesterday in Washington, D.C.

The specific case before the panel concerns the army plan to try Sgt. Esequiel Torres, 22, of Brownsville, Tex., on charges of at least three murders in the alleged massacre, but the effect of a decision in this matter could reach to the whole range of cases pending in the My Lai affair.

Last week, U.S. District Judge Albert Henderson ruled here that Torres could not be tried by court-martial until the panel had ruled on constitutional questions about the legality of the Vietnam war as well as whether the accused was receiving equal protection under the Uniform Code of Military Justice.

It was the first time a civilian judge had intervened in the pretrial stages of a military court-martial. In addition to Henderson, named to the panel were U.S. Circuit Court Judge Griffin B. Bell and U.S. District Judge Sidney O. Smith.

Torres' attorney is Charles L. Weltner, a former Democratic Congressman from Atlanta who served following the Korean War in the Army's Judge Advocate General Corps.

He told Judge Henderson that the war was being conducted "without constitutional or other lawful authority."

In addition to Laird, also subpenaed for the hearing were the Army Chief of staff, Gen. William C. Westmoreland; the head of the Central Intelligence Agency, Richard Helms; and the Secretary of the Army, Stanley R. Resor, among others.

Attorneys for the government are expected to move in court to crush the subpenas. A lengthy legal battle could ensue.

Weltner said the men are wanted to testify on the official American policy on killings of civilians in Vietnam. In his petition to the court, he had argued that "the official policy of the U.S. government, its tactics, strategies and procedures, resulted in the indiscriminate destruction of human lives, including thousands of non-combattants . . ."

He said in the courtroom that he intended to show that it was the policy of the Army to destroy civilians in 'free fire zones' such as My Lai and that the purpose of the CIA's Operation Phoenix was the destruction of life.

"They wanted to punish him (Torres) for doing what other people received medals for doing," Weltner said.

In an interview this week, the attorney asserted, "half the people in My Lai were on the CIA's assassination list anyway. That's the information I have from someone who was there.

"They take a Mexican-American kid of 19 years old (at the time of the incident, March 16, 1968), who can hardly speak English. They take a poor, simple kid who's out there getting his head shot off—Torres has a Purple Heart—and they put him on trial.

"They aren't going to try any generals. They may try a captain. They're desperately trying to find a scapegoat to hang this on."

UNPRECEDENTED NATIONAL PERIL

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD), is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, by my speech on this floor last June 23, I sought to direct the attention of the Congress to the extremely serious and imminent danger which threatens the defense of this Nation and which jeopardizes the lives and property of our fellow citizens. The reality of this fatastic peril to which we are subjected by the machinations of the Atomic Energy Commission and its hierarchy can hardly be exaggerated, notwithstanding Dr. Glenn Seaborg's sustained publicity effort, drumming away to persuade us that all AEC decisions are good for America.

The district which I represent here in Congress, Luzerne, Carbon, and Columbia Counties in Pennsylvania, is about 125 miles west of New York City. We in my district are seriously alarmed that some 30 million people will one day flood over us in desperation, should any one of the super-lethal nuclear power reactors be blasted by conventional explosives and dusted over the New York metropolitan area.

This unprecedented national peril exists as a direct result of having already emplaced some 20 huge experimental nuclear power reactors within our most densely populated industrial regions, not to mention the projection of an additional 100 soon to be constructed. Incredibly, AEC licensing regulations specify:

An applicant for a license to construct and operate a nuclear power plant is not required to provide design features or other measures for the specific purpose of protection against the effects of attacks and destructive acts, including sabotage, by an enemy of the United States.

Even more incredibly, a letter dated September 23 from the Department of Defense states:

In regard to defense of nuclear plants against an enemy submarine attack utilizing conventional weapons, no specific coun-

termeasures are taken to prevent attack on these facilities as such. . . . Further, there is no particular reason to single out nuclear reactors for such consideration.

At full fission product inventory, the Calvert Cliffs nuclear power reactors, now abuilding 40 miles from the city of Washington, will each contain about 6,000 pounds of plutonium. If pulverized and dusted over the surroundings, this amount of plutonium would equate to the alpha-active fallout from several thousand nuclear blasts of atomic weapons. Just to refresh our memories as to the awful toxicity of plutonium, according to international studies, this alpha particle emitting, bone-seeking cancer inducing agent is in the order of billions of times more lethal per unit weight than the most virulent chemical poison. A single pound of plutonium, if suitably distributed in the air we breathe and in the water we drink, is sufficient to wipe out the population of the entire world.

The principal reason given by the AEC for urging the construction of the Calvert Cliffs type of power reactor, which is notoriously inefficient in converting uranium to electric energy, is that "fast breeder" reactors, if and when developed for the commercial generation of electric energy, will each require some 3,000 pounds of plutonium as the fissile core. Light water reactors are a convenient source of large quantities of plutonium. And here we get another peek at what these secretive, supergrade, self-appointed decisionmakers have in store for us: While there is no doubt that either of these nuclear reactor types can be totally demolished and pulverized by conventional explosives, the fast reactor with the ton-and-a-half plutonium core is immensely more dangerous because it can by explosive compression, be caused to actually fission and vaporize the entire structure, becoming thereby, history's "dirtiest" and most effective radiological warfare weapon.

Mr. Speaker, to show by example one of the terrible traps already set for us, I am advised that repeated hits on Consolidated Edison's Indian Point nuclear powerplant by submarine-launched missiles delivering large conventional warheads could, under suitable conditions of wind and weather immediately, cancel out the New York metropolitan area as a viable section of the United States, with the attendant loss of millions of lives, following the unavoidable inhalation of pulverized plutonium and other alpha-emitting dusts. In answer to my direct question in regard to effects of demolishing the Indian Point plant, an assistant to the Secretary of Defense has recently replied:

It is true that, in the extreme situation which you postulate, extensive areas could be contaminated to lethal levels of radioactivity.

Somehow, or for some reason, this assistant to the Secretary of Defense skipped entirely any comment on the more certain and widespread effects upon the population which would result from the inevitable ingestion and inhalation of plutonium particles.

Quite evidently, the combined Armed Forces of the United States of America are powerless to absolutely guarantee against the pulverizing demolition of any coastally exposed nuclear installation by conventional explosives, deliverable by rocket from submarines now on station off both our coasts. Even more chilling is the distinct possibility that some of these Russian-built missile-firing submarines are already leased to North Vietnam. In the event of such non-Russian bombardment of our nuclear Trojan horses, how do we reply in kind? How do we retaliate? How do we prevent the panic-stricken exodus from all other nuclear-powered industrial regions following the initial catastrophic demonstration of nuclear reactor vulnerability to conventional weaponry?

Now in the face of all this, we learn that Pennsylvania has been selected to have an enormous, first of its kind, experimental "fast breeder power reactor" on the Susquehanna River at Meshoppen, 35 miles north of my office in Wilkes-Barre. This nuclear experiment is to have as its fissionable core, a ton and a half plutonium. If sabotaged and explosively compressed, which I am assured can be accomplished in a variety of ways, this neighborhood gem will instantly become a huge, incomparably dirty atomic bomb. The resulting permanent, and a couple of centuries is fairly permanent so far as I am concerned, poisoning of the Susquehanna watershed from New York State to the mouth of Chesapeake Bay would probably eliminate this large and heavily populated section of the United States as a habitable region.

Should my worst fears be realized, a guerrilla group will some day sabotage a nuclear reactor in one of our more heavily populated areas. Following catastrophic proof to our citizenry that nuclear reactors are, indeed vulnerable to conventional explosives and weaponry, we as a nation, without effective means of retaliation, shall be forced to capitulate upon threat of successive, unpreventable destruction of our nuclear Trojan Horses.

As to the loss of credibility currently bemoaned by the hierarchy of the Atomic Energy Commission, I intend to examine on this floor the multitude of half truths and misleading statements which have contributed to this monstrous abuse of the public trust.

THE RUSSIAN INCURSION IN THE CARIBBEAN

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise because of one reason, and only for one purpose. I have seldom taken advantage, especially at a terminal point, either prior to a recess or an adjournment, to impose myself upon this body.

But for several weeks now I have been speaking about the implications of the Russian incursion in the sense of establishing submarine tenders and submarine bases fit for the Polaris type of submarine in the warm waters of the Caribbean.

Yesterday, the Russian Government apparently through its official organ was reported as officially saying that it does not have such intentions and that it is not in the process now, nor has it been in the past, in such type of construction on the island of Cienfuegos where all of the discussion has been centered here for the past few weeks.

Past history and the actual, faithful, and reliable reports that some of us have received indicate that at best this is a mischievous denial. It is a legalistic denial. They may be specifically talking about all of the uproar with respect to the supposed or alleged or actual construction of the submarine base tender at Cienfuegos.

But what surprises me is that all the other available information concerning other construction for that type of submarine and for other submarines in other sections of Cuba is not receiving the attention that we should be giving it.

The history of the Americas, and particularly at this time when we are commemorating October 12, the discovery of Americas day, reveals that it has been in a constant process of churning out events of great implication.

We have tended in our history to be self-centered. As a result, we have considered even the Caribbean and the Central Americas and the South America portions as appendages or sort of backdoor areas. But with the world shrunk, as it is now, and with the implications of the military activities that have been activated over the last 6 months on Cuban soil, there is no question but that there is an imperative need to make sure that this whole matter is not swept under the rug, as is attempting to be done now. There are grave implications to the future safety of the United States and the Americas in what is going on in Cuba today.

There is no question that the actual number of Russian military personnel just between the months of June and September was increased to almost 30,000.

Now this is not an ordinary movement. There must be some reason for it. It coincides with the photographic evidence of the construction at Cienfuegos which is now being denied.

But nothing is being said about the base at Mariel and nothing is being said about the other bases in other sections of Cuban soil, and I call upon the President once again to clearly set forth exactly what the extent of this threat is and call upon him to speak forthrightly and clearly and informatively to the American people.

MUHAMMAD ALI

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

Mr. KOCH. Mr. Speaker, it is reassuring that the courts will examine the legality of the action of the New York State Athletic Commission in revoking the license of Muhammad Ali to box in New York. It has been very disturbing to see the display of arbitrary power by

the New York State Athletic Commission and a host of other agencies in this country in refusing to allow Muhammad Ali to pursue his regular employment. If a governmental agency abruptly prohibited you from working at your regular job, you might think that this was a rather unusual state of affairs in a free country.

What have been the reasons for doing this to Muhammad Ali? Apparently, the sole basis is that he was convicted in 1967 for refusal to submit to the draft and he has not yet served his sentence. It strikes me as odd that a boxer should be prohibited from boxing because he has been convicted of a crime particularly in view of the conspicuous presence in the ring of a wide assortment of convicted felons. Quite obviously the capricious expulsion of Muhammad Ali is based on unstated reasons having less to do with crime than with someone's concept of patriotism. In fact, Muhammad Ali should not be categorized with convicted criminals since he has filed an appeal of his conviction which has not yet been resolved by the higher courts. Because a number of complex issues are involved, there is a clear possibility that the courts will ultimately find in his favor. In that event Muhammad Ali would have been deprived of the opportunity to make a normal living during some of his prime years.

It is clear to me that the New York State Athletic Commission had no reasonable grounds for denying Muhammad Ali a license and, until his case is finally resolved in the courts, he should be treated on the same basis as other members of the boxing world.

SALT TALKS

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

Mr. KOCH. Mr. Speaker, we will soon resume the strategic arms limitation talks—SALT—with the Soviet Union. In view of the enormous complexity of the matters involved in these talks and the almost total secrecy surrounding them, I obviously cannot, and would not want to, comment on the detailed course of negotiation. However, it is incumbent upon me to make known my views on certain matters which go to the heart of the issues involved at SALT.

First, I agree with Secretary of State Rogers that these may be the most important negotiations ever entered into by the United States. I wholeheartedly support the principle of negotiating with the Soviet Union with a view toward limiting our strategic arsenals. I further believe that these negotiations should continue regardless of our present differences over the Middle East and Vietnam which may otherwise strain our relations. These talks are of the highest importance to the future of our society, not only because they relate to diminishing the drain of billions of dollars for arms, but also because they may make a vital contribution to the military security of the United States.

The second point which should be made is that the administration's deployment of an ABM system and of the MIRV missile is fundamentally inconsistent with our objectives at SALT. I fear that these developments may hinder the possibility of progress at the talks, and I continue to urge that the administration halt, now, the deployment of the ABM and MIRV's, pending developments at Helsinki and the response of the Soviet Union.

I oppose the ABM for reasons entirely independent of its possible adverse consequences for the SALT talks. It represents a proposal of enormous cost and unknown reliability. I am also troubled by the supposed justifications for the system. The reasons supporting it seem to shift with the seasons. First we were told that it would be a thin system to protect against a Chinese attack. Now, however, we are deploying four installations to protect Minuteman missiles against a Russian attack. This is a decidedly different and more open-ended proposition. We have no realistic idea as to the total cost of a system to defend against a Russian attack. Indeed, experience has taught us that the initial estimates on sophisticated and complex weapons—around $40 billion in this case—are generously understood. More important, we have no reasonable assurance that an ABM system deployed against the U.S.S.R. would even work. Many leading scientists have argued persuasively against the viability of an ABM system because of the relative ease with which offensive capability can be improved to penetrate it. The result of a fully deployed ABM would thus be not greater security, but a new wave of costly buildups resulting in each side's developing a new generation of the sophisticated weapons needed to break the other's defense.

The administration argues that the ABM will be a good "bargaining chip" at SALT—we can give it up for something. I do not believe that nations construct their security systems on such simplistic notions. A nation will add to or alter its armaments on the basis of a complex calculation of its adversaries' capability and intentions, not in an old fashioned horse trading session. The administration's argument also assumes that it is credible for the United States to threaten to spend countless billions of dollars on an ultimately useless system which now elicits the opposition of almost half the U.S. Senate. The use of this kind of bargaining technique is an unnecessarily dangerous ploy in an already dangerous area. We may talk ourselves into actually deploying the system we are threatening which, for the reasons I have given, is not desirable.

I believe, to the contrary, that developing any ABM is a futile exercise and may undermine the U.S. objectives in the SALT talks. It is inconsistent with our purpose of cooling off the arms race, while the Soviet Union will merely push forward with countervailing developments of its own. This is not the way to end the arms race.

Development of the MIRV also introduces a new and unstabilizing element into the balance of power. A full-scale deployment of MIRV's, by either the Soviet Union or the United States, would compound geometrically the difficulties of inspection and the resulting uncertainty involved in estimating the other side's offensive capacity. It also could appear to give such overwhelming striking power as to tip the relatively stable balance now existing. If such a deployment were made by the United States, the Soviet Union would surely not fail to respond. This is also not the way to end the arms race.

Ultimately, our security rests on our ability to deter an attack through the maintenance of the proper amount and mix of power so as to enable us to retaliate with unacceptable damage to any attacker. We presently have this ability and, in seeking to maintain sufficient deterrence, it would be desirable to maintain roughly the present level of arms until a mutual reduction of arms can be renegotiated. Accordingly, I propose that we halt all further work on the ABM sites started, all work on further deployment of the ABM and all testing and deployment of MIRV's. This halt should continue for a period of time adequate to judge the Soviet response. If they respond by limiting developments of their own we may stabilize the arsenals of the super powers at the existing plateau; we may gain a respite from an accelerating arms race. If the Soviet response is inadequate, we have lost only lead time in developing those weapons which may be genuinely necessary for our security.

It is reported that the United States has outlined a proposal at the SALT talks for an overall limitation on the number of long-range missiles and bombers, with each nation being free to choose its own mix of these weapons. The U.S.S.R. reportedly is interested in this proposal. I fervently hope that some agreement along these lines will be reached. I believe that the chances of securing such an agreement and, more important, the chances of that agreement being meaningful in enhancing security and halting the drain on national treasuries, will be better served by stopping the ABM and the MIRV.

DID DELBERT CLINE HAVE TO DIE?

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

Mr. HECHLER of West Virginia. Mr. Speaker, almost 2 months have passed since a 43-year-old Logan County coal miner named Delbert Cline was killed at the Paragon Mine of the Amherst Coal Co. at Slagle, W. Va.

Because of the circumstances of this unfortunate and unnecessary accident, I have written a lengthy letter to Secretary of the Interior Walter J. Hickel, dated October 6, 1970, which contains some comments and questions on the lack of enforcement of the Federal Coal Mine Health and Safety Act of 1969. The official accident report is attached to this letter.

I am also including with this letter and accident report a very human article in the United Mine Workers Journal of September 15, 1970, and also a perceptive article by that great reporter Ward Sin-

clair, appearing in the Louisville Courier-Journal of October 4, 1970:

CONGRESS OF THE UNITED STATES,
Washington, D.C., October 6, 1970.

Hon. WALTER J. HICKEL,
Secretary of the Interior,
Department of the Interior,
Washington, D.C.

DEAR SECRETARY HICKEL: I have carefully reviewed the report of the Bureau of Mines of a fatal machinery accident of August 20, 1970, at the Paragon Mine of the Amherst Coal Company at Slagle, in Logan County, West Virginia. The miner killed was Mr. Delbert Cline who had 23 years experience as a coal miner. For 18 of his 23 years, he worked at the Paragon Mine. He was a mining machine helper at the mine. He was 43.

The mine employs 183 miners. It works a total of three shifts per day, five and six days a week. It produces an average of 3,000 tons a day of coal which is loaded mechanically.

On Thursday, August 20, 1970, Delbert Cline was riding on a permissible-type 15-RU-MS-19 Joy mining machine which was operated by Mr. Ray Adkins. The machine was being moved toward No. 4 entry. Mr. Adkins stopped the machine briefly by releasing the tram control levers so he could lower a line curtain to permit access to No. 4. But the machine jumped out of gear and started moving rapidly backward.

The vertical clearance from the top of the machine to the mine roof was about 48 inches. The machine moved backward until it came to rest against the inby corner of No. 5 entry, crosscut left. Mr. Cline was pinned between the machine and rib. He died two hours later in Logan Medical Foundation Hospital.

I am deeply concerned about aspects of this accident which relate to the Bureau's enforcement of the Federal Coal Mine Health and Safety Act of 1969, and about the Bureau's investigation of this accident. I therefore would appreciate your prompt response to the following:

A. The last inspection of the Paragon Mine by the Bureau prior to the accident was completed on July 1, 1970. It was a PBR inspection that took about four days. I understand that under the 1952 law, it normally took 12 days to make a complete inspection of this mine. The last prior fatal accident at the mine occurred on August 11, 1968. The Bureau lists this mine as one that is subject to the spot inspection provision of section 103(i) of the Act.

1. Please provide to me a copy of the inspection report of July 1, 1970.

2. (a) Why didn't the Bureau conduct the spot inspections required by the Act prior to the accident?

(b) How many spot inspections have been conducted at the mine since the accident? Please supply dates.

3. When was the last complete inspection of this mine?

4. Please provide to me the Bureau's latest list of coal mines in the Nation that are subject to section 103(i) of the Act and the reasons why each is so subject. Also, please provide to me a statement of the Bureau's criteria for determining which mines are subject to that section of the Act.

5. I understand that the Bureau has developed a practice of conducting spot inspections at some mines every ten days, in addition to the section 103(i) spot inspections.

(a) Please provide to me the Bureau's latest ten-day spot inspection list of coal mines in the Nation and the reasons why each is so inspected. Please provide to me a statement of the Bureau's criteria for determining which mines are subject to a spot inspection every ten days.

(b) In view of the fact that the Bureau lacks insepctors to conduct the required four complete inspections of each mine per year and the required section 103(i) spot inspections, isn't the ten-day spot inspection practice, as worthy as it may be, a misplacement of priorities? If not, why not?

6. Assistant Secretary Dole's report of coal mine health and safety activities for the week of September 20–26, 1970, states that there have been 1,601 spot inspections and 855 regular and PBR inspections thus far in Fiscal Year 1971.

(a) How many of the spot inspections were performed (i) under section 103(i) of the Act, and (ii) as ten-day spot inspections?

(b) How many of the 855 were PBR inspections?

(c) How many complete inspections have been made to date in West Virginia? Please supply the name and address of each mine, the date of each inspection, and the length of time each such inspection took.

7. Please provide to me a copy of the accident investigation reports of the Bureau for each of the 53 fatalities thus far in Fiscal Year 1971.

B. Mr. Cline received severe internal injuries to his chest and shoulders which led to his death at about 12:55 P.M. on August 20. Yet, the mine operator did not notify the Bureau of the accident until 3:15 P.M. that day.

1. Why did it take so long for the mine operator to notify the Bureau?

C. In my letter to you of September 11, 1970, I stated:

"One of the most important revelations to come to the attention of Congress through the recent Senate committee hearings was the fact that the Bureau of Mines, in investigating coal mine accidents, *permits* and *encourages* operators and representatives of labor to be a part of the investigatory panel." ((Underlining supplied.)

The investigation of Mr. Cline's unfortunate accident serves to buttress this statement. Instead of the Bureau of Mines conducting an investigation as required by law, an investigating committee performed the investigation according to the Bureau's report. The committee included ten company officials four United Mine Workers representatives, four West Virginia Department of Mines inspectors, and two Federal inspectors. (The list of the Committee is attached.) None of the operator's officials on the committee are identified on the list as safety officials.

1. (a) Has the Paragon Mine designated, under section 107(d) of the Act, an official "as the principal officer in charge of health and safety" at the mine?

(b) If the answer to (a) is yes, please identify that person and explain why he was not present during the investigation.

(c) If the answer to (a) is no, please state whether a notice of violation has been issued to the operator by the Bureau for failure to do so? If not, why not?

Mr. Ray Adkins, who was the operator of the machine that crushed Mr. Cline, is included as one of the U.M.W. representatives on the Bureau's investigating committee. There is no evidence that Mr. Adkins acted improperly at the time of the accident.

2. Is it always the Bureau's practice to have persons involved in the accident and who are material witnesses form a part of the committee investigating the accident? Please explain.

3. (a) Did the mine operator, independently of the Bureau, investigate the accident and keep a record thereof as required by section 111(a) of the Act? If so, please provide to me a copy thereof.

(b, If not, has the Bureau issued a notice of violation for failing to do so? If not, why not?

D. The Bureau's investigation report describes the crucial portion of the accident as follows (p. 5):

"Adkins stopped the machine momentarily by releasing the tram control levers with the thought in mind of lowering the line curtain to permit access of the machine into No. 4 entry. When Adkins stopped the machine and before he made an effort to leave the control station, the machine jumped out of gear and started moving backward gaining momentum rapidly. *Adkins stated that when the need arose he had always made a practice of braking machines in motion to a stop, by lowering the cutter bar to the mine floor, and that he made an attempt to stop the machine by reaching for the cutter bar control lever but apparently missed the lever as he stated he was not familiar with the machine controls. (The machine was equipped with hydraulic brakes; however, the brakes were completely worn out and were not connected to the master hydraulic control valve due to parts of the linkage being missing.) Adkins stated further that most of his mining machine experience was with 11-RU type machines (which have similar controls as the 15-RU type) with slight variations and that he had only operated this 15-RU type machine to cut three places 8 days prior to the accident,* and the seven places he had cut the day of the accident.

"The aforementioned events occurred quickly once the machine started moving backward, and Cline apparently did not attempt or have time enough to remove himself from his position on the machine to a safe place." (Emphasis supplied.)

Thus, the report clearly demonstrates that Mr. Adkins was untrained for the job of operating this type of mining machine. Moreover, even if he were adequately trained by the operator and sought to use the brakes to stop the machine it would have been an empty gesture for the bakes could not work.

The Bureau's report also states (p. 6):

"During the investigation, *it was stated by company officials and employees alike* that the practice of helpers riding mining machines *was known and apparently condoned* by all as attempts were not made by either to stop this dangerous practice." (Emphasis supplied.)

Thus, the Bureau found that—

(a) the *operator* failed to train adequately persons who operate the mining machinery before allowing them to operate such machinery;

(b) the *operator* did not properly maintain the brakes, so that even if trained adequately Mr. Adkins could not have used them effectively; and

(c) the *operator* knew of and condoned the "dangerous practice" of miners riding on machines.

Despite these three findings, the Bureau lists the cause of accident as follows (p. 6):

"Cause of Accident

"This accident was *caused* by the victim placing himself in a precarious position by riding on a piece of equipment designed to transport an operator only." (Emphasis supplied).

The report the states that (p. 6):

"*Contributing factors* were management's failure to establish and firmly enforce rules prohibiting this unsafe practice, failure to provide proper training for personnel operating equipment which would ensure familiarity with the operating controls, and failure to maintain an effective braking system." (Emphasis supplied.)

The Bureau apparently believes that Mr. Cline himself, and not the mine operator, was responsible for his death. The mine operator's failures were considered, by the Bureau, as secondary or contributing causes.

1. (a) Was this white-wash a committee finding or a finding of the two inspectors?

(b) What is the basis for finding that the operator's failures merely contributed to Mr. Cline's death?

(c) If Mr. Adkins was properly trained, and if the brakes worked, isn't it quite pos-

sible that Mr. Cline would still be alive today, even if he did place himself in this "precarious position"?

(d) If the operator had a rule prohibiting persons other than the mining machine operator from riding on such equipment and enforced the rule, isn't it also possible that Mr. Cline would be alive today?

Mr. Secretary:

I call upon you (i) to initiate promptly a further investigation of this accident in light of the above comments, (ii) to reverse these absurd findings, and (iii) to find that the operator's negligence not Mr. Cline's placing himself in a "precarious position", was the primary cause of the accident.

E. The Bureau's inspector issued on August 20, 1970, a notice of violation of section 305(g) of the Act stating that the brakes on "No. 51 mining machine and the No. 7 coal drill . . . were not maintained in proper working condition, in that the brakes on the *mining machine* were worn beyond effectiveness and parts of the mechanical linkage was missing, and the brakes on the *coal drill* were rendered inoperative by a missing brake hub key, and improper adjustment." (Emphasis supplied.) This condition was abated the next day.

1. Since there were two violations of section 305(g), why was only one notice issued?

2. On May 7, 1970, Under Secretary Fred J. Russell revised the Department's schedule of civil penalties (35 F.R. 7182) so that, if the operator paid $4.00 for each of these violations within 30 days after "receipt of the notice of violation by the mine operator", he could not be assessed a higher civil penalty under section 109 of the Act. (See Attached schedule as amended.)

The Department, under this illegal schedule, could thus not apply the factors set forth in section 109(a) of the Act, including a determination of "whether the operator was negligent", and assess a much more meaningful penalty, not to exceed $10,000. This $4.00 fee schedule was in effect through September 30, 1970.

Even under the original schedule (which is now in effect), the operator could pay a mere $25.00 for each violation within 30 days and the Department could not apply these factors and assess the higher penalty.

The Federal district court in Virginia issued an injunction prohibiting enforcement of the illegal fee schedule as to 77 plaintiffs. The Paragon Mine is not one of those 77. But the Department has applied the injunction nationwide, so neither fee schedule applies here. But this tragic accident serves to illustrate what many observers have been contending for several months now, namely that this fee schedule is illegal and inequitable and will not serve as a deterrent to the operators.

Mr. Secretary:

I call upon you (i) to rescind this illegal fee schedule, and (ii) to establish a procedure for assessing civil penalties that assures full consideration of all the statutory factors, provides an opportunity for the operator to know through an initial decision the Government's findings as to those factors and to consider whether or not he will request a public hearing thereon, and provides an opportunity for such a hearing if requested.

3. What actions have the Department taken to assess civil penalties against the operator in this case?

F. Section 75.512 of the Department's proposed regulations of August 14, 1970, (35 F.R. 12930) should be amended to provide, under section 305(g) of the Act, that:

"75.512–3. Electric equipment shall not be considered to be in a safe operating condition if (a) any person, other than the operator of such equipment, rides on such equipment, or (b) any person operating such equipment is not properly trained and thoroughly familiar with, and knows the limitations of, such equipment. A record of weekly examinations and tests under section 75.512–2 shall be kept by the operator."

G. The accident report sets forth three recommendations to management which are designed to prevent future occurrences of this type.

1. Have each of these recommendations been adopted by management? If not, please explain why not.

Sincerely,

KEN HECHLER.

LIST OF PERSONS INVESTIGATING FATAL ACCIDENT AT PARAGON MINE AUGUST 20–21, 1970 (P. 3 & 4 OF BUREAU'S ACCIDENT REPORT)

The investigating committee consisted of:

Company Officials: Charles E. Stanley, Division Manager, Rum Creek; A. E. Newland, Service Administrator; Jess Trent, Division Service Superintendent; Howard Epperly, Superintendent; Shilo Daniels, Mine Foreman; Allen Webb, Chief Electrician; Ed Harrison, Section Foreman; Albert Barker, Section Foreman; Frank Floyd, Engineer; Charles Stone, Jr., Engineer.

United Mine Workers of America: F. L. Philyaw, Safety Coordinator, District 17; James T. Brown, Chairman, Safety Committee; Noah Rainwater, Safety Committeeman; Ray Adkins, Mining Machine Operator.

West Virginia Department of Mines: Pat Heatherman, Inspector-at-Large; Arnold Cook, Assistant Inspector-at-Large; Lowell Spears, District Mine Inspector; Adrian Neace, Mine Electrical Inspector.

United States Bureau of Mines: Thomas W. Gay, Federal Coal-Mine Inspector; Tennis H. Hatfield, Federal Coal-Mine Inspector (Electrical).

PART 301.—PROCEDURES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

PENALTIES: SCHEDULE OF PAYMENTS

[Schedule of payments set forth in section 301.50 subpart F (assessment of penalties), of pt. 301, appearing in the issue of the Federal Register for Saturday, Mar. 28, 1970 (F.R. Doc. 70–3789), at p. 5257. is hereby amended to include footnotes 1, 2, and 3]

Nature of violation	1st violation in the mine within preceding 12 months	2d violation in the mine within preceding 12 months	3d and each additional violation in the mine within preceding 12 months
Mine operators:			
Violation or violations resulting in imminent danger	[1] $500	$1,500	$3,000
Violation caused by unwarrantable failure	[2] 100	200	400
All other violations	[3] 25	50	100
Miners: Smoking or carrying of smoking materials, matches, or lighters	5	25	50

[1] Except that for the period Mar. 30, 1970 through Sept. 30, 1970, this payment shall be $20.
[2] Except that for the period Mar. 30, 1970 through Sept. 30, 1970, this payment shall be $4.
[3] Except that for the period Mar. 30, 1970 through Sept. 30, 1970, this payment shall be $1.

REPORT OF FATAL MACHINERY ACCIDENT

(By Thomas W. Gay, Federal Coal-Mine Inspector)

INTRODUCTION

This report is based on an investigation made pursuant to the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742).

On Thursday, August 20, 1970, at approximately 12:55 p.m., Delbert Cline, mining machine helper, received severe internal injuries to his chest and shoulders when caught between the mining machine he was riding and the coal rib. The accident occurred in the last open crosscut between the Nos. 4 and 5 entries on the No. 593 road section in the Paragon mine. As a result of the injuries, Cline died about 2 hours later in the Logan Medical Foundation Hospital.

Cline, age 43, had 23 years mining experience, of which approximately 18 years was with this company employed as a general inside laborer and mining machine helper. He currently had been working 3 months as a machine helper. He is survived by his widow.

The Bureau of Mines was notified of the occurrence by Alfred Newland, service administrator, about 3:15 p.m., August 20, 1970, and an investigation of the accident was made the same day and completed the following day.

Information for this report was obtained from statements of company officials and employees and from an examination of the accident area.

GENERAL INFORMATION

The Paragon mine, at Slagle, approximately 5 miles north of Yolyn, West Virginia, is entered through three drifts, two slopes, and three shafts into the Cedar Grove coalbed, which averages 48 inches in thickness locally. A total of 183 men, 175 underground and 8 on the surface, is employed on 3 shifts a day, 5 and 6 days a week. The daily production averages 3,000 tons of coal, all loaded mechanically.

The mine is being developed by a room-and-pillar method. In the accident area, entries were being driven on 70-foot centers in sets of six, and crosscuts were turned on 70-foot centers. Entries and crosscuts were driven 20 feet wide, and roof bolts were used as a sole means of roof support.

The section was utilizing conventional equipment, and coal was transported from the faces in shuttle cars that discharged onto a belt conveyor. The mine uses a combination system of transporting coal to the preparation plant, part being transported by belt conveyors and part by mine cars hauled by locomotives. All working sections have track installations which are used to transport employees and supplies.

Electric power at 4,160 volts alternating current is conducted underground and reduced to 440 volts by portable power centers, located near the working sections for operation of the electric face equipment, and 230 volts alternating current is supplied for the operation of 100 kw. rectifiers, which furnish 275 volts direct-current power for the operation of shuttle cars. Direct-current power at 275 volts is supplied by rotary converters and rectifiers. This power is transmitted throughout the track-haulage system and is used to operate the track-haulage equipment and several pumps.

The machine involved in the accident was a permissible-type 15–RU–MS–19 Joy mining machine, serial No. 17483, which was powered by 440 volts alternating current. The machine measures approximately 34 inches in height, 9 feet wide, and 36 feet in length, which includes an 11-foot cutter bar. All operations of the machine with the exception of cutting coal is accomplished by means of hydraulic-powered components. The machine is controlled including tramming and steering by manipulating levers which activate the various hydraulic components. The operating deck measures approximately 29 inches in height from the deck to the machine top, 31 inches in width, and 24 inches in depth and is located about midpoint of

the machine on the left side facing the cutter bar. A similar compartment is provided directly across the machine from this compartment whereby dual controls may be installed and the machine operated from either side; however, the machine was equipped with controls to permit operation from the left side only. It was in the compartment directly across from the operator that Cline was riding when the accident occurred. The machine is equipped with two tram gear cases which have a high and low gear arrangement, and the gear desired is selected by manually operating a lever. During the investigation, it was stated by the operator that the machine had jumped out of tram gear when the accident occurred and to his knowledge this was the first such occurrence; however, officials and employees alike stated that to their knowledge the machine had never been known to have jumped out of tram gear nor had any difficulty with the gearing been reported. A careful examination of the gearing and associated apparatus did not reveal any defects or abnormal operation.

The investigating committee consisted of:

Company Officials: Charles E. Stanley, Division Manager, Rum Creek; A. E. Newland, Service Administrator; Jess Trent, Division Service Superintendent; Howard Epperly, Superintendent; Shilo Daniels, Mine Foreman; Allen Webb, Chief Electrician; Ed Harrison, Section Foreman; Albert Barker, Section Foreman; Frank Floyd, Engineer; Charles Stone, Jr., Engineer.

United Mine Workers of America: F. L. Philyaw, Safety Coordinator, District 17; James T. Brown, Chairman, Safety Committee; Noah Rainwater, Safety Committeeman; Ray Adkins, Mining Machine Operator.

West Virginia Department of Mines: Pat Heatherman, Inspector-at-Large; Arnold Cook, Assistant Inspector-at-Large; Lowell Spears, District Mine Inspector; Adrian Neace, Mine Electrical Inspector.

United States Bureau of Mines: Thomas W. Gay, Federal Coal-Mine Inspector; Tennis H. Hatfield, Federal Coal-Mine Inspector, (Electrical).

The general management structure for the Paragon mine consists of a mine superintendent, general mine foreman, chief electrician, second-shift mine foreman and maintenance foreman, third-shift mine foreman and maintenance foreman, and section foreman for all production crews.

The company is a member of the West Virginia Mine Safety Association, and weekly safety meetings are conducted with all employees.

A procedure of reporting and recording all accidents that result in injuries is followed, and injuries at this mine during 1970 occurred at a frequency rate of 73.94 per million man hours of work time. The last fatal accident at this mine occurred August 11, 1968.

The last Federal inspection was completed July 1, 1970.

DESCRIPTION OF ACCIDENT

The No. 593 road section crew with Foreman Ed Harrison entered the mine at 7 a.m. and began normal coal-production activities which continued throughout the morning and until about 1 p.m. Ray Adkins, mining machine operator, and Delbert Cline, helper, had just finished undercutting their seventh coal face which was the face of the No. 5 entry, and Adkins trammed the mining machine backward until the cutter bar was free of the cut of coal.

Adkins secured the machine and Cline proceeded to detach the water hose from the machine and wet the roof, ribs, coal face, and coal fines.

When Cline had finished the wetting operation, he boarded the mining machine in order to ride to the adjoining No. 4 entry. With the machine tram gears placed in the high gear position, Adkins backed the machine toward the outby crosscut as far as needed and then reversed the direction of travel by turning the machine toward the left, cutter bar first, into the crosscut separating the Nos. 4 and 5 entries. Adkins stated that, as the turn of the machine into the crosscut was nearing completion, it became apparent that the cutter bar of the machine would stike the left rib of the crosscut if the direction of travel was not altered. In order to avoid striking the coal rib, he activated the steering mechanism and turned the machine sharply toward the right and away from the left coal rib. This action started the machine into a steady right turn which would result in the machine entering No. 4 entry if the course of travel was continued; however, Adkins stated that as the right turn was started he noted that a line curtain in No. 4 entry placed near the crosscut would have to be moved in order for the machine to enter the entry.

Adkins stopped the machine momentarily by releasing the tram control levers with the thought in mind of lowering the line curtain to permit access of the machine into No. 4 entry. When Adkins stopped the machine and before he made an effort to leave the control station, the machine jumped out of gear and started moving backward gaining momentum rapidly. Adkins stated that when the need arose he had always made a practice of braking machines in motion to a stop, by lowering the cutter bar to the mine floor, and that he made an attempt to stop the machine by reaching for the cutter bar control lever but apparently missed the lever as he stated he was not familiar with the machine controls. (The machine was equipped with hydraulic brakes; however, the brakes were completely worn out and were not connected to the master hydraulic control valve due to parts of the linkage being missing.) Adkins stated further that most of his mining machine experience was with 11–RU type machines which have similar controls as the 15–RU type with slight variations and that he had only operated this 15–RU type machine to cut three places 8 days prior to the accident, and the seven places he had cut the day of the accident.

The aforementioned events occurred quickly once the machine started moving backward, and Cline apparently did not attempt or have time enough to remove himself from his position on the machine to a safe place. The vertical clearance from the top of the mining machine to the mine roof measured approximately 14 inches, and the thickness of the coalbed in the accident area measured approximately 48 inches. An approximate 10.2 percent descending grade of the mine floor existed from the 12-foot centerline of the No. 5 entry crosscut left to the face of the No. 5 entry, and the mining machine was being trammed up at approximate 3.5 percent ascending grade through the crosscut toward the No. 4 entry. The grade was practically level near where the crosscut intersects the No. 4 entry.

The machine moved backward in an arc approximately 21 feet due to the previous positioning of the steering mechanism to make a right turn into No. 4 entry and came to rest against the inby corner of No. 5 entry crosscut left, thereby pinning Cline between the machine and coal rib. Adkins could see that Cline was pinned and apparently seriously injured so he ran to No. 6 entry to obtain help. Within a matter of seconds, Ed Harrison, the foreman, and other crew members arrived on the scene. Harrison instructed Adkins to move the machine by using the hydraulic controls so that Cline could be freed. This Adkins did and Cline was removed. First-aid was administered, and Cline was made as comfortable as possible. Meanwhile, the mine dispatcher and officials were informed of the accident. Cline was transported to the surface and placed in an awaiting ambulance and transported to a local hospital where he later expired.

During the investigation, it was stated by company officials and employees alike that the practice of helpers riding mining machines was known and apparently condoned by all as attempts were not made by either to stop this dangerous practice.

CAUSE OF ACCIDENT

This accident was caused by the victim placing himself in a precarious position by riding on a piece of equipment designed to transport an operator only. Contributing factors were management's failure to establish and firmly enforce rules prohibiting this unsafe practice, failure to provide proper training for personnel operating equipment which would ensure familiarity with the operating controls, and failure to maintain an effective braking system.

RECOMMENDATIONS

Compliance with the following recommendations may prevent similar accidents in the future:

1. Management shall adopt and enforce a rule prohibiting persons other than the operator in the performance of his duties from riding mining machines.

2. Persons shall be trained and thoroughly familiar with and know the limitations of each piece of mining equipment before they are permitted to operate the equipment.

3. Equipment shall be frequently examined and maintained in proper working condition and any defects found shall be corrected before the equipment is put back in operation.

ACKNOWLEDGMENT

The cooperation of company officials and employees, members of the United Mine Workers of America, and the representatives of the West Virginia Department of Mines during this investigation is gratefully acknowledged.

[From the United Mine Workers Journal, Sept. 15, 1970]

IN MEMORY OF DELBERT CLINE, COAL MINER

(By William J. Walsh)

(EDITOR'S NOTE.—Late last month the Assistant Editor of the *Journal* received a letter from William J. Walsh of Columbus, Ohio. It is a stirring memorial to his brother-in-law, Delbert Cline, who was killed in a machine accident at the Amherst Coal Company's Paragon Mine at Slagle, W. Va. On Labor Day, the Assistant Editor made a speech at a rally at Logan, W. Va., sponsored by Mr. Cline's Local Union 6712. He had been a prime mover of these rallies for years and at the beginning of the speaking program everyone present stood for several moments in his memory. Present at the rally were his father, his brother, and his widow. We feel that the memorial printed here typifies the feelings of all coal miners and their families when someone is killed in the industry.)

Shortly after noon on Thursday, August 20, 1970, a defective cutting machine owned by the Amherst Coal Company's Paragon Mine at Slagle, W. Va., took the life of Delbert Cline, age 43. This wasn't just another unfortunate mining accident. It was a tragedy. For, you see, Mr. Cline was one of those very rare individuals who could have been easily singled out as a man deeply involved in helping others. This involvement was manifested in many ways. He was commander of his local VFW Post, West Virginia's national VFW Aide-de-Camp, member of the Disabled American Veterans and the American Legion, member of the Paragon mine safety committee and chairman of the mine committee. As Financial Secretary of his Local Union (6712, District 17), he was frequently called upon to assist his friends and associates in applying for their pension. He was loved and trusted by these people as few men ever are. He was an acquaintance of the late Mr. Yablonski and, at the same time, a personal friend and supporter of Mr. Boyle. Most importantly, Mr.

Cline was a completely devoted husband, father, grandfather and son. His father, at 76, and himself a retired miner, has lived to see two of his sons killed in similar mining accidents. This last one was the unkindest, having occurred only five months following the death of his wife. As one might guess, it was Delbert that the old man most depended upon during these past months. . . .

The person who has suffered the greatest loss, however, is Mrs. Cline. Their's was an almost unique relationship. They were nearly inseparable. Everywhere Delbert's many activities took him, his wife, Lorie, went with him. Because that's the way they both wanted it. As his wife's brother, I always wondered about this tremendous marriage. After all, Lorie had been the victim of an acute and incurable disease, diabetes, since she was eight. And diabetes does have its own complications which at times can be quite severe. But I watched him administer her insulin injection, take her to Johns Hopkins and St. Mary's when her situation got out of hand, visit her every weekend when she was in the Beckley Tuberculosis Sanitorium and, in general, nursed her for almost 23 years.

With that much compassion always present, I shouldn't have been too impressed by Delbert's attitude toward his fellow-miners. In its own way, this attitude was almost as considerate as that held for his wife. How many times have I been visiting with Delbert when someone would drop in to ask his help. Some of these people could hardly read or write and often their pension eligibility was impaired by their delinquency in paying their Union dues or some other technicality.

I never saw him turn anyone down. He would cancel a personal engagement, interrupt a meal or simply take time out from his leisure to resolve the matter or offer sound advice. Taking money out of his own pocket to permit pension application was not unusual. So, when I attended his funeral, I wasn't too surprised to see a number of grown, tough mining men cry like babies. They had, in fact, lost an irreplaceable friend. It was something I shall never forget. Nor will my own sons, aged 12 and 13. At the risk of offending my brother, I must say that my sons considered their Uncle June (Delbert was known as Junior to most people in Logan County, West Virginia) the greatest. He just had this thing with kids. On many past occasions I have asked my boys "if you had your choice of going anywhere right now, where would it be?" The answer was always "Lorie's and June's." Delbert was simply always doing something with them that they wanted to do, like shooting guns. He taught them both how to handle firearms. . . .

DEATH WAS QUICK

As to the accident itself, I gathered from talking to the man who was operating the cutting machine on which Delbert was filling in as helper, that death was instantaneous. Although I never worked in a coal mine, I have been through a few and grew up in the various little coal camps which are strung up and down every creek in Logan County. I felt with this somewhat limited knowledge, I could acquirre a mental picture of the circumstances involved and establish to some degree or another whether the accident might have been prevented. The cutting machine operator had been a friend of Delbert's and a co-worker at the Paragon mine for about 18 years. I've seen few grown men so remorseful as was he. Although it was obviously agonizing for him to go once more through the painful details, he was most understanding of my interest. The day of the accident (the day before this conversation) he had furnished a hand-written report to the Federal mine inspectors. He let me read his carbon copy of this report. I didn't understand all of the terms but with his help, I determined that he and Delbert were working in a section that was about 48 inches high and approximately 20 feet wide. The machine was stopped and the operator had moved from his operating station to clear a ventilation curtain. Delbert was off to one side of the machine when it unexpectedy started moving. Although it was not mentioned in the report, I was able to verify that the equipment had no brakes and the auxiliary controller was missing. I gathered in my discussions with the operator that under these circumstances, you try to quickly lower the cutting bar . . . . and this drag will tend to slow or stop the equipment. In any event, the moving equipment trapped Delbert against the rib or side of the wall, crushing his chest. I suppose the whole unfortunate event transpired within seconds. After discussing the matter with the cutting machine operator for about 15–20 minutes, I asked him if, in his opinion, the accident might have been avoided if the equipment had been in proper working order. He thought this question over for perhaps a minute, then told me that he honestly didn't know. I believed him. Later during the final viewing of the badly disfigured and darkened body, I observed this man crying aloud. I suspect he was placing partial blame on himself. No one else, including Delbert's wife would ever agree with this.

So the equipment was repaired the evening of Delbert's death. A piece of equipment which, according to several of the Union employes, had been without brakes for at least three months is now in safe operating condition. Delbert, a novice cutting machine helper, but an experienced safety committeeman, would be pleased. I'm sure he would also have been pleased with the 40 or so cars full of friends and relatives in his funeral cortege. Most of all, he would have been impressed with the beautifully executed military ceremony.

The only question that will continue to nag at me is whether this untimely conclusion to such a dynamic life was really necessary. . . .

[From the Louisville Courier Journal and Times, Oct. 4, 1970]

A BIT OF LAXITY—ANOTHER MINER JOINS GRIM ROLL OF STATISTICS

(By Ward Sinclair)

WASHINGTON—Just before 7 o'clock on the morning of Aug. 20, husky Delbert Cline went down into the Paragon mine in Logan County, West Virginia, to take his place on the line as a mining machine helper.

Less than seven hours later Delbert Cline, son and brother of coal miners and a veteran of 23 years in the trade himself, had become another statistic on the industry's somber rolls.

All morning long Cline and Ray Adkins, the machine operator, were chopping out coal with their 36-foot-long machine. Then at 12:55 p.m. the accident occurred.

The machine crushed Cline against the wall of the working area. They carried his battered body to the surface, put him in an ambulance and took him to a hospital. He died a few hours later.

Thus, the name of Junior Cline (everyone in Logan County called him Junior) was added to the list of men who are dying in the mines of West Virginia, Kentucky and Pennsylvania this year.

It is a startling death rate—higher than 1969 in West Virginia and Kentucky—because 1970 was supposed to be the year of change, the year of reform, the year when the much-needed new Federal safety law would finally spare more life and limb.

But it has not turned out that way. The story of Junior Cline's accident, as reconstructed from the official reports at the U.S. Bureau of Mines, is a microcosm of the larger story of what continues to happen to life and limb in coal country.

Cline's bother-in-law, William J. Walsh of Columbus, Ohio, told it as well as anyone. In a touching memorial printed by the United Mine Workers Journal, Walsh said, "This wasn't just another unfortunate mining accident. It was a tragedy".

Delbert Cline was an important man in Switzer, his community, and in Logan County. He was an official in veterans organizations, financial secretary of his local union. He was chairman of the mine committee and a member of the Paragon safety committee.

Union members and pensioners came to him for advice. Friends remembered that he took money from his own pocket to help pension applicants. Kids always flocked around Cline's home. Men wept openly at his funeral.

"The only question that will continue to nag at me is whether this untimely conclusion to such a dynamic life was really necessary", said brother-in-law Walsh.

The investigation report by the Bureau of Mines provides a tentative answer: No, it wasn't really necessary; it was preventable.

But the report, by describing in detail the events leading up to the accident, still raises questions, such as those about how the coal mine safety law is being applied.

The Paragon mine, operated by the Amherst Coal Co. at Slagle, W. Va., is a large mine. It works three shifts, with 183 men, turning out about 3,000 tons of coal every day with a highly mechanized operation.

It's a highly volatile mine—liberating so much methane gas that the law says it should be spot-inspected every five working days. It has not been, because the bureau says it has insufficient personnel.

Paragon also has had its accident problems. This year, it has an injury-accident frequency rate of 73.94 per million man hours. Last year, the national average in underground mines was 47.13 per million man hours.

Eighteen of Delbert Cline's 23 years as a miner had been with Amherst. His current job—he'd held it only three months—was a mining machine helper, assisting the operator in keeping the vehicle going and helping keep the working area cleaned.

Adkins, the operator, told the investigators he had worked with this type of machine only infrequently. His experience was with another, but similar, mining machine.

The accident took place when Adkins and Cline stopped their machine to move to another area of the mine. Cline was seated on one side of the vehicle—a dangerous practice that is frowned on by most mine operators and safety experts.

Adkins told the inspectors that the machine jumped out of gear and quickly began rolling backard. He tried to stop the machine by lowering a cutter bar to the floor, which would act as a brake.

The report said the operator "apparently missed the lever as he stated he was not familiar with the machine controls." The machine kept rolling, rammed the wall and crushed the seated Cline.

"Cline apparently did not attempt or have time enough to remove himself from his position on the machine to a safe place," the report said.

The machine was equipped with hydraulic brakes, the report went on to say, but they were "completely worn out" and were not connected to the master hydraulic control valve because some parts were missing.

The new safety law doesn't say anything about operators being properly trained for the machines they're using. It doesn't ban men from riding on the mining machines. But it does say that equipment must be properly maintained.

Union men told William Walsh that the machine had been without brakes for three months. The type of inspection done by the bureau would not necessarily have determined beforehand that the brakes were bad.

In any case, Amherst was cited for a violation of the law in the Cline death: failure

to maintain the brakes. The company repaired the machine in less than 24 hours. The fine would have been $4 had the bureau's penalty schedule not been suspended by a federal court last spring.

The law doesn't go into makeup of investigating teams. The Cline accident was investigated by 20 men—10 of them company officials, four from the union (including Adkins), four from the state and two from the bureau.

The federal men reported that although officials and workers knew that helpers often rode on the machines, it was "apparently condoned by all as attempts were not made by either to stop this dangerous practice."

RULES RECOMMENDED

One recommendation that resulted was that management adopt and enforce a rule banning riders, other than the actual operator, on the machines.

Another was that operators should be trained and thoroughly familiar with and know the limitations of each piece of equipment before they're allowed to operate it.

And, the federal men said, equipment should be frequently examined and kept in proper working order, with all defects being corrected before the machinery is used.

Cause of the accident? Delbert Cline, the federal men said, put himself "in a precarious position by riding on a piece of equipment designed to transport an operator only."

The faulty machine, the inexperienced operator, the company failure to enforce safety rules, the bad brakes were listed as "contributing factors."

ASSESSMENT QUESTIONED

Questioned about this assessment, a Bureau of Mines official here said, "I'd have put the victim last on the list of causes. . . . If equipment is bad or rules are broken, it's management's responsibility."

What about the investigating team that included the machine operator, plus 10 company officials? "I don't like that either," the spokesman responded, "but company people are traditionally on these investigations. . . . That's the way it has been."

Among the 10 who took part in the investigation were the division manager of Amherst, the service administrator, the superintendent and the foreman. None of the 10 carried the title "safety director."

MARY McCONNELL BORAH

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

Mr. HANSEN of Idaho. Mr. Speaker, this weekend, on October 17, her friends and admirers from around the country will celebrate the 100th birthday anniversary of one of America's "first ladies." She was "Little Borah" to her friends when her husband was a ruler in the Senate establishment. To the late Senator William E. Borah, the "Lion of Idaho," she was a loving wife, a constant companion, a devoted follower.

Mr. Speaker, today I wish to honor and to pay tribute to Mary McConnell Borah, one of Idaho's most beloved daughters, in observance of the 100th anniversary of her birth.

In a recent interview for the Lewiston, Idaho, Tribune, Mrs. Borah said:

As of now I seem to have earned the title of Methuselah. But please don't ask my rules for reaching such an astonishing age, for I assure you I have none. I have never partaken of the grain, the grape or the weed, but many who have reached the century mark plus agree that they have always smoked, imbibed and frolicked about, so this abstemious record perhaps is not all the reason I'm still here.

Now that Mrs. Borah has reached that century mark, we can look at her long and rich and active life and say that it alone stands as a tribute to her more eloquent than anything words can express.

"Little Borah" has said she was "cradled in politics." Her father, W. J. McConnell, fought for Idaho's statehood and was its first U.S. Senator and third Governor.

It was while her father was running for the Senate that she met "Billie" Borah, a young lawyer from Boise who was working on the campaign. But it was not until after McConnell returned to Idaho as Governor that she became "Mrs. Borah."

In 1907, William Borah, the fiery politician, went to Washington to become Borah of Idaho, U.S. Senator for 33 years. Chairman of the Senate Foreign Relations Committee, he led the fight against Woodrow Wilson's dream of a League of Nations, fearing the dangers of entangling alliances. He was called the Great Isolationist. But he was a champion of world peace and was responsible for the 1922 Disarmament Conference. He sponsored legislation creating the Department of Labor and the Constitutional Amendment for the election of Senators by popular vote.

Time magazine called him "a theatrical, compelling, blackmaned orator." Michigan's Arthur Vandenberg said he was "a serious, intense and lonely statesman." Alone, except for "Little Borah."

Bill Borah was a giant. In Idaho, they named a mountain after him. He had no close friends, yet on the day of his death, the Senate was so grieved it met for only 6 minutes, gave up its usual weekend recess, and voted to reconvene the next day—a Saturday.

"Little Borah" stayed in Washington after her husband's death. Her friends were here, and she felt at home here. She was one of Washington's most enthusiastic hostesses, and equally charming and popular as a guest. Every President since Teddy Roosevelt has played host to Mrs. Borah.

A few years ago, she moved with her sister to a nursing home in Oregon. It is there that she will celebrate her 100th birthday this weekend, still bringing warmth into the lives of others through the example of her own rich and happy life.

"Little Borah" recently said:

My life has been so full and complex I have taken little time to think of myself and therefore I became 100 years old without particularly noticing it.

I accept my situation as the will of the Great Creator who may intend that my years may be of some inspiration to those who feel that aging is a calamity and that after 30 the lights go out . . . they really don't, you know. The evening of life brings its own lamps.

Mary Borah's light shines a little brighter than the rest.

MRS. MARY BORAH COMPLETING 100 YEARS OF LIFE

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

Mr. McCLURE. Mr. Speaker, it is indeed a most pleasant and proud moment when a Member of Congress can congratulate a constituent on completing 100 years of life. On the 17th of this month, Mrs. Mary Borah, wife of the late Idaho Senator, will celebrate her 100th birthday. It is with a sense of gratitude that the people of Idaho offer Mrs. Borah tribute and compliments on achieving this mark.

For nearly the first half of this century, Mrs. Borah was an active part of both Idaho and the national political scenes. Mrs. Borah was 21 when Idaho gained its statehood in 1890 and her father, William J. McConnell, became its first Senator. Two years later, he left the Senate to become our State's third Governor.

William E. Borah, was Idaho's most famous son, and his career was distinguished by both high drama and statesmanship. From his famous role as prosecutor in the trial of those charged with assassinating Governor Steunenberg, to his historic role as the stalwart Republican of the Senate Foreign Relations Committee, he seemed to loom larger than life on the national scene. But how much of his fame and position could be attributed to the steadfast support of the stalwart wife of the "Lion from Idaho". It was written that—

She survived the first, sometimes difficult years, with him when he was W. E. Borah of Boise, seemingly so engrossed in the law that he often had little time for his bride and home. She was with him when he burst on Washington, flamboyant in his Stetson hat and the long, square-cut double-breasted coat which looked like a shortened topcoat above his baggy pants.

It was in 1907 that Mrs. Borah began her career as a Senator's wife, actively taking part in the events that surrounded her husband's long and memorable career in the U.S. Senate. Mrs. Borah stood with her husband with unfaltering devotion until his death in 1940, thereby also serving her State and county admirably.

Mrs. Borah, both charming and witty, remained active in Washington social circles through her husband's terms in office and for many years following. She effectively involved herself in charities and volunteer work. During World War I she was a Red Cross volunteer who was especially effective with shell-shocked soldiers. It was just such involvement and her complete devotion to her husband that allowed many to claim her "a perfect wife for a public man."

REPRESENTATIVE JAMES R. GROVER'S LEGISLATION SPONSORED IN THE 91ST CONGRESS

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

Mr. GROVER. Mr. Speaker, a number of constituents have requested copies of my record in the 91st Congress of sponsorship of legislation.

I am pleased to list them herewith and to note the broad spectrum of interest

from environmental concerns and economic programs to human rights.

RESOLUTIONS

House Concurrent Resolution 66: Print Vietnam map as House Document to allow distribution free to constituents on request.

House Concurrent Resolution 90: Stop all trade with countries aiding North Vietnam.

House Concurrent Resolution 308: Deploring and stating congressional policy of opposition to defamation of ethnic groups.

House Concurrent Resolution 357: Appeal to North Vietnam to comply with Geneva Convention on Treatment of Prisoners of War.

House Concurrent Resolution 511: Sell Israel aircraft necessary for defense.

House Concurrent Resolution 610: Reaffirm congressional authority and responsibility in foreign affairs.

House Concurrent Resolution 626: Establish commission to examine tragic events at Kent State and other college campus violence.

House Concurrent Resolution 738: Protect airline passengers from hijackings.

House Joint Resolution 54: Amend Constitution relating to conservation of natural resources and natural beauty—conservation bill of rights.

House Joint Resolution 860: Establish Astronauts Memorial Commission to construct memorial at J.F.K. Space Center, Florida.

House Joint Resolution 1038: Amend Constitution to provide equal rights for women.

House Joint Resolution 1175: National Volunteer Firemen's Week, September 19, 1970, to September 26, 1970.

House Joint Resolution 1320: Amend Constitution to extend voting rights to 18-year-olds.

House Joint Resolution 1361: National Family Week, week in November which includes Thanksgiving.

House Resolution 530: Condemn discrimination against Catholic minority Northern Ireland.

House Resolution 542: Establish select House committee to investigate relocation Naval Applied Science Laboratory.

House Resolution 679: Support President's peace efforts in Vietnam and call upon North Vietnamese Government for peaceful resolution of controversy.

House Resolution 771: Create House Committee on the Environment.

House Resolution 931: Urge President implement recommendations of majority report of Cabinet Task Force on Oil Import Control.

House Resolution 976: Authorize select House committee study Developments in Southeast Asia.

BILLS

H.R. 266: Create independent Federal Maritime Administration.

H.R. 3778: Limit categories questions on census.

H.R. 3856: Establish Commission for Improvement of Government Management and Organization.

H.R. 3861: Create catalog of Federal assistance programs with a view to reducing waste and overlapping in government.

H.R. 5950: Provide tax credit for employers of hard core unemployed.

H.R. 6278: Legislative Reorganization Act of 1969.

H.R. 6609: Oil Pollution Act 1969.

H.R. 6976: Development and preservation of Long Island Sound.

H.R. 6977: Establish Sandy Hook National Seashore.

H.R. 8516: Amend Federal Water Pollution Control Act to provide improved operation of water quality control facilities.

H.R. 8768: Newspaper Preservation Act.

H.R. 9256: Establish Lincoln Home National Historic Site.

H.R. 9285: Make additional visas available for immigrants from certain foreign countries.

H.R. 10023: Designate Washington National Airport as Dwight David Eisenhower National Airport.

H.R. 10491: Include all of Appalachian mountain system in Appalachian regional Development Act of 1965.

H.R. 11532: Strengthen cargo-preference laws of United States.

H.R. 11533: Amend Merchant Marine Act to encourage shipbuilding and rehabilitate the merchant marine.

H.R. 11686: Legislative Reorganization Act of 1969.

H.R. 11775: Provide tax exemption servicemen in Korea.

H.R. 12276: Amend Legislative Reorganization Act to provide annual reports to Congress re Government contracts.

H.R. 12746: Authorize minting Eisenhower silver dollars.

H.R. 13358: Amend Federal Water Pollution Control Act to provide financial assistance and allotment to States of construction grant funds.

H.R. 14174: Assistance to low-income families.

H.R. 14239: Increase social security benefits.

H.R. 14678: Strengthen penalties for illegal fishing in the territorial waters and contiguous fishery zone of United States.

H.R. 14898: Establish uniform relocation assistance and land acquisition policies applicable to Federal programs.

H.R. 14944: Adequate force for protection of executive mansion and foreign embassies.

H.R. 15424: Amend Merchant Marine Act 1936.

H.R. 15634: Name Federal Office Building and Courthouse in Chicago Everett McKinley Dirksen Building—west and east respectively.

H.R. 15828: Prohibit disposition of waste materials in New York Bight.

H.R. 15940: Require advance notice to Secretary of the Interior before beginning any Federal program using pesticides and other chemicals.

H.R. 16223: Require advance notice to Fish and Wildlife service before beginning any Federal program using pesticides.

H.R. 17518: Federal assistance to States and local governments in major disasters.

H.R. 17620: Appropriations for fiscal years 1974–76 for construction of certain highways.

H.R. 17787: To revise and improve laws re documentation of seamen.

H.R. 17820: To provide for orderly trade in textile articles and articles of leather footwear to protect American industries.

H.R. 17977: Limit sale or distribution mailing lists by Federal agencies.

H.R. 18398: Suspend military and economic assistance countries fail to prevent flow of narcotics into United States.

H.R. 19252: Appropriations for construction certain highways.

H.R. 19381: Revise and improve laws relating to documentation of vessels.

H.R. 19409: Amend Saint Lawrence Seaway Development Corporation Act to terminate the accrual and payment of interest on the obligations of the corporation.

H.R. 19504: Federal-Aid Highway Act of 1970.

THE SECOND SESSION OF THE 91ST CONGRESS

(Mr. RHODES asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. RHODES. Mr. Speaker, I would like to say today that we have come to the end of the second session of the 91st Congress. Unfortunately, I cannot, since footdragging tactics in both Houses have insured that we will have a lameduck session next month.

Mr. Speaker, if there is a growing clamor for congressional reform, I cannot help but think my Democratic colleagues in positions of leadership are largely responsible for it. Many of them either will not or cannot—in any event they have not—met the challenges of our times and the Nation's needs in these times.

I know there are many reasons and even more excuses, but the fact is this Congress has not performed. Democratic members can blame the President, the administration, or anyone else they wish, but the fact is—and we all know it—that the President merely proposes legislation—we are the ones who act on it.

In too many cases, we have not acted, not only this year but also last year.

If we continue in this vein for many more years, I can assure you that most of us will not be here for all of those years—the people will have thrown us out—not because we are rascals—we are not—but because we will not have done our duty, we will not have performed.

I would hope, Mr. Speaker, that we have not reached that point. I would hope that next year most of us will be back and will settle down to meaningful work, without a need for the President to plead or the people to complain, or for the leadership which hopefully will be Republican to hold us in session for the entire year.

Mr. Speaker, the work of the Congress can be handled expeditiously. I believe it is up to all of us, but especially the committee chairmen and the leadership—regardless of which party is in the ma-

jority—to make sure that it is handled in that fashion.

Mr. Speaker, despite footdragging, despite refusal in some cases by some to face up either to the demands of the times or the needs of the people, much has been accomplished since the inauguration of President Nixon on January 20, 1969. Much of it the President has been able to accomplish through executive action. In other cases, it has taken legislation, which the President proposed, and which the Congress enacted—sometimes expeditiously, but sometimes with interminable and unconscionable lapses.

The results add up, without question to a massive program of reform on the domestic front and to an equally massive movement toward peace on the foreign front.

Mr. Speaker, I think this House can go home proudly to campaign on its record in foreign affairs.

For us, in large measure, the matter of politics continues to stop at the water's edge. This House has acted responsibly in voting the defense needs of this Nation and in supporting the President's efforts abroad.

The results have proven the rightness of our approach.

In Vietnam, casualties continue to run at their lowest rate in over 4 years. There are three reasons for this. First of all, not so many Americans are fighting; instead they are coming home. 160,000 so far since June of 1969. Another 40,000 men by Christmas.

Second, the South Vietnamese are fighting better and more of them are fighting. South Vietnamese morale was given a big boost by the success of the Cambodian operation. Vietnamization is proceeding at a more rapid rate than we first believed possible. We are supplying the materiel; they are supplying the men. This is the Nixon doctrine at work—we stand behind our allies; but mainly it is their fighting men—not ours—who are defending their country.

Third, Mr. Speaker, none can deny the success of the Cambodian operation. It has lowered the enemy capability to fight in South Vietnam and to supply its fighting men. We have taken away from them their only seaport supply base—Sihanoukville—and are forcing them to bring in all their supplies overland down the Ho Chi Minh Trail where they are under constant attack from American bombing planes and Meo guerrillas.

Mr. Speaker, there are figures available that plainly bespeak the success the President is having in winding down the war in Vietnam.

In South Vietnam last year, the enemy suffered 147,000 casualties. It was able to infiltrate only 102,000 replacement troops. So far this year they have suffered about 86,000 casualties. They have brought in only 53,000 new troops.

They are carrying on a war on three fronts today—South Vietnam, Laos, and Cambodia, with fewer men available to fight than ever before.

What are the results? Mr. Speaker, our people in South Vietnam tell us that 90 percent of South Vietnam is now relatively secure, with most of the highways and waterways open in the daylight hours.

In addition, 95 percent of the hamlets now have elected chiefs. They are functioning even under the increased terrorism of the Vietcong.

It is these factors that have made it possible for the President to offer the in-place cease-fire. The South Vietnamese are now strong enough to thwart any enemy treachery.

Mr. Speaker, all this has been accomplished in less than 21 months. We are, in truth, on our way toward a complete unwinding of this war and toward a just and honorable peace.

As a result, the voice of the turtle is no longer heard in the land, except for the despairing croaks of those who sought vainly to humiliate the President and the Nation through outright surrender.

Mr. Speaker, even if the results in Vietnam were all the President could point to, his term to date would have to be labeled a success.

But there is more, both abroad and at home.

The President, through a combination of mediation, diplomacy and tough action, has brought about at least a temporary cease-fire in the Mideast. We have moved back just a little from the brink of war in that area.

Through his trips to Rumania and Yugoslavia, we have warmed the cold war and breached the suspicions behind the Iron Curtain just a little.

The President twice has moved freely throughout Europe, showing that once again an American President can travel safely abroad, and showing once again that America's face is not turned perpetually and exclusively toward the Far East.

The rents in NATO have been largely mended just a little.

The President has proclaimed the Nixon doctrine, which I mentioned earlier, but it pertains to all our nations. We will stand behind them. We will provide the nuclear umbrella. But if they do not wish to fight, we will not fight their wars for them. As a result, we have a reformed and reasonable foreign policy that does not withdraw us to fortress America but that also does not pin the badge on us as the world's policeman.

Mr. Speaker, I believe it is safe to say that there has been a world-wide easing up of international tensions since the President was inaugurated. This House has supported him in his efforts to bring about such an easing. Surely we can share in the credit just a little.

On the domestic scene we have a mixed bag.

The President surely has eased down tensions in this troubled land. The demonstrations are fewer, the dissident youth are somewhat quieter. The President moves about the country freely once again. Much is due to the winding down of the war. Some is due to the President's executive reform of the draft which limits a youth's vulnerability for the draft to one year. Some is due to the President's determination to communicate with youth but not to surrender to the revolutionaries among them.

He also has set about successfully to insure maximum school desegration with minimum school disruption.

In the House, we can point to our support of the President's defense policies which mesh so inextricably with foreign policy—approval of ABM, refusal to go along with surrender efforts called for by some in the other House.

We can point to the House's passage of tax reform, of welfare reform—and to postal reform.

These are indeed major reforms and our approval bespeaks the fact that this House can act and act responsibly when it will.

We also passed the Economic Opportunity Act. We have passed constitutional amendments to give women equal rights and to change the structure of our national voting machinery. We have acted to increase the use of food stamps.

We have passed the extension of the voting rights bill and the Philadelphia plant to insure equal employment in the building trades in Federal projects.

We have voted to increase and reform social security and unemployment insurance.

We have concurred in the White House reorganization of the executive branch.

We have, though we dawdled too long, passed a series of anticrime bills which will insure that our streets are safer, our campuses are safer and, above all, that our law-abiding people are safer.

Mr. Speaker, I could go on and on, but I have no intention today of delivering up a laundry list, either of our accomplishments or of those bills we have not acted on, many of which we should have acted on.

We all know what they are. The bills we have passed are the pride of this House. Those we have sat on are our shame.

This September, in his call for cooperation from the Congress, the President warned that in these times Government must become more self-aware, self-examining, self-correcting.

He said:

> There are amends to make and promises to keep that will engage our energies for years to come. But most of all there is a great adventure to be lived. For a period in the not distant past it might have seemed that American society was faltering. It may have been. But we have steadied now. We are regaining a sense of balance, of direction, and of forward thrust. This has been the achievement of the people. The measure of government—the challenge to government—is to sustain that movement.
>
> This challenge is now before the Congress. It is a challenge not merely to the men who now hold office there but to the institution itself. Congress has not been spared the attacks on the institutions of American democracy which have increasingly characterized this period of our history.
>
> There is but one answer to such charges, and that is to respond with energy and good faith to the legislative issues before it.
>
> It is the responsibility of the President to take the initiative in such matters, and I have done so. A legislative program that will mark this era in history has been presented, and is ready for enactment. More is at stake than the issues with which that legislation

deals, transcendent as some of these may be. More is at stake than the reputation of one political party or another for legislative wisdom or political courage. What is at stake is the good repute of American government at a time when the charge that our system cannot work is hurled with fury and anger by men whose greatest fear is that it will.

Matters press, we cannot wait for politics. We must seek a record of achievement all can share. It may be that none of us knows how fateful the outcome will prove.

Mr. Speaker, I believe most of us share the President's sentiments. It is my deepest hope that the 92d Congress will live up to them.

THE NIXON ADMINISTRATION AND EXECUTIVE REORGANIZATION

(Mr. ERLENBORN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ERLENBORN. Mr. Speaker, everybody talks about the weather, but nobody does anything about it.

Everybody talks about Federal bureaucracy and redtape, and one of the Nixon administration's workaday efforts is doing something about it. The task is as difficult as changing the weather, and it does not capture the headlines as a drop in the temperature does; but it is a task this administration has taken on enthusiastically and doggedly.

President Nixon was in office but a few short weeks when he appointed an Advisory Council on Executive Organization to undertake a thorough review of the executive branch. Within a few more weeks, he announced a new realinement of regional boundaries, establishing uniform regional districts so that those applying for help from the Department of Health, Education, and Welfare, the Department of Housing and Urban Development, the Office of Economic Opportunity, and the Small Business Administration need go to only one city and, in most cases, one building.

Next, as I recall, he presented, and Congress approved without debate, Reorganization Plan No. 1 of 1969, which put in the hands of the chairman of the Interstate Commerce Commission the executive and administrative functions of the Commission previously handled by the members collectively.

Along about that same time, the administration directed a special HEW task force to see what could be done to streamline the administration of its more than 250 grant-in-aid programs that account for about 90 percent of HEW's funds.

The team learned that a program has at least 28 steps, each of which requires up to 50 actions and that it takes about 80 days for a request to go from local government through State and regional levels to Washington.

Reviewing first the programs under the Comprehensive Health Services Act, they found that the average grant was $2,500, and that the processing cost $2,800. Of applications which arrived in Washington, only one in 600 was rejected. They decided that, if regional offices are doing that well, why not eliminate Washington's share of the redtape? They recommended changes accordingly, and such changes are being made as the task force proceeds, rather than waiting until the entire review is completed.

These changes may not make headlines; but they make better relations between the people and their Government. And they save money, too.

Not all streamlining and redtape and fat cutting can be accomplished administratively, however. Hence, the President asked Congress for authority to permit the executive branch to propose appropriate consolidations of Federal assistance programs. Federal grant-in-aid programs have been estimated as ranging from 500 to 1,200 in number, are vested in 21 Federal departments and agencies assisted by 150 Washington headquarters' bureaus and over 400 regional and district offices. It does not take an unreasonable measure of intelligence to conclude that there must be overlapping and duplication which could be reduced by grant-in-aid consolidation.

The President also reiterated the request of the Advisory Commisison on Intergovernmental Relations and former President Johnson to simplify the handling of funding of grant applications that involve more than one Federal agency, a concept called joint-funding simplification.

One of the first recommendations for reforming the machinery of government to emanate from the President's Advisory Council on Executive Organization was Reorganization Plan No. 2 of 1970, to establish a new Cabinet-level Domestic Council, along the lines of the National Security Council, to determine what the Government should be doing. It simultaneously suggested expansion of the functions of the Bureau of the Budget to include taking a hard look at delivery and performance of both domestic and national security programs, and to underscore the BOB's new responsibilities by renaming it the Office of Management and Budget.

Congress accepted this reorganization, as it did the establishment of a new Office of Telecommunications Policy as proposed in Reorganization Plan No. 1 of 1970, the creation of the Environmental Protection Agency recommended in plan No. 3, and the establishment in the Department of Commerce of the National Oceanic and Atmospheric Administration provided in plan No. 4.

Of the many reorganization plans that have been referred to the Committee on Government Operations since I became a Member of Congress, none has been more in keeping with the letter and spirit of the Reorganization Act of 1949—that is, "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business"—than Reorganization plans No. 3 and 4 of 1970.

By combining the functions carried out in the Department of the Interior by the Federal Water Quality Administration; the National Air Pollution Control Administration, parts of the Environmental Control Administration, and the pesticides research and regulatory programs of the Food and Drug Administration that were in the Department of Health, Education, and Welfare; the pesticides registration and related authority of the Department of Agriculture; the environmental radiation protection standard-setting function of the Atomic Energy Commission; the functions of pesticides research conducted by the Bureau of Commercial Fisheries; and authority to conduct ecological systems research which was vested in the Council on Environmental Quality, the EPA presents the integrated approach that is necessary to cope with existing and future environmental contamination. It also simplifies the search by State and local governments for a place to go for help in their pollution control endeavors.

NOAA brings together programs and functions that had been scattered among four separate departments: the Environmental Science Services Administration that was established a few years ago in the Commerce Department; the functions related to marine environment and marine sports fish activities that were in the Bureau of Commercial Fisheries and the Marine Minerals Technology Center, both from the Interior Department; the Office of Sea Grant programs from the National Science Foundation; and elements of the U.S. Lake Survey from the Department of the Army. In brief, NOAA coordinates in one place the facilities, personnel, and authority necessary to protect and advance oceanic and atmospheric programs.

These steps that I have enumerated are but a few among many that it will take to reshape the Federal Government into an effective, less costly, responsive instrument of and for the people. They are not dramatic, and they are largely unheralded. Thus, I believe it is appropriate as this 91st Congress and the first 2 years of the Nixon administration draw to a close that we take stock and applaud President Nixon and his team for their dedication to this task. It is time, too, to look ahead and to see what more needs to be done.

I once heard someone compare the Federal Government to a tree. The many branches are the activities: Defense, transportation, health, education, welfare, and so on. The leaves and the branches are the various projects and the people running them. The sap, of course, is money; and the shade the tree offers is the total effect of Government activity.

We all know that only God can make a tree, and he does a commendable job of nurturing it along without too much help from man. Man can, however—and, in fact, must—shape trees, enhance the shade they provide, and make them more fruitful.

The Federal Government similarly must be pruned regularly if it is to produce the fruit it promises. But it is a massive tree, and it requires more than one tree doctor. I commend the administration for its determination to provide this Nation with a healthy, fruitful government; and I urge my colleagues to provide the necessary tools of grant-in-aid consolidation and joint-funding simplification to get on with the job.

MARTIN LUTHER KING STATUE

(Mr. BINGHAM asked and was given permission to extend his remarks at this

point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am today reintroducing legislation to authorize the procurement of a bust or statue of the late Reverend Martin Luther King Jr., to be placed in a suitable location in the Capitol.

I originally introduced this legislation on September 24, 1970, and my remarks at that time appear on page 33669 of the RECORD.

I am pleased that 31 Members of Congress are today joining me as cosponsers of this legislation. They are:

JOHN ANDERSON, Republican of Illinois.
THOMAS ASHLEY, Democrat of Ohio.
SHIRLEY CHISHOLM, Democrat of New York.
WILLIAM CLAY, Democrat of Missouri.
JEFFERY COHELAN, Democrat of California.
JOHN CONYERS, Democrat of Michigan.
EMILIO DADDARIO, Democrat of Connecticut.
CHARLES DIGGS, Democrat of Michigan.
DON EDWARDS, Democrat of California.
DON FRASER, Democrat of Minnesota.
MICHAEL HARRINGTON, Democrat of Massachusett.
AUGUSTUS HAWKINS, Democrat of California.
FRANK HORTON, Republican of New York.
JOSEPH KARTH, Democrat of Minnesota.
ROBERT LEGGETT, Democrat of California.
PAUL MCCLOSKEY, Republican of California.
LLOYD MEEDS, Democrat of Washington.
ABNER MIKVA, Democrat of Illinois.
ROBERT MOLLOHAN, Democrat of West Virginia.
WILLIAM MOORHEAD, Democrat of Pennsylvania.
BRADFORD MORSE, Republican of Massachusetts.
CHARLES MOSHER, Republican of Ohio.
ROBERT NIX, Democrat of Pennsylvania.
ARNOLD OLSEN, Democrat of Montana.
RICHARD OTTINGER, Democrat of New York.
THOMAS REES, Democrat of California.
PETER RODINO, Democrat of New Jersey.
BENJAMIN ROSENTHAL, Democrat of New York.
WILLIAM RYAN, Democrat of New York.
LOUIS STOKES, Democrat of Ohio.
MORRIS UDALL, Democrat of Arizona.

Not a single black American has been honored by a painting or statue in the Capitol. The accomplishments and dreams for America's future which were expressed by this winner of the Nobel Peace Prize make Martin Luther King, Jr., an American worthy of the recognition we are proposing.

CREDIT CARD BILLING PRACTICES: CONTROLS NEEDED

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

Mr. BINGHAM. Mr. Speaker, credit accounting and billing methods in this country have greatly outpaced the capability of the credit industry to remedy errors and billing disputes in a courteous, responsive, and personal manner. The industry has developed highly efficient, computerized methods of issuing bills to millions of credit card holders, but has been much less successful in developing efficient means of resolving billing problems raised by customers.

As a result, the average American consumer too often finds himself unable effectively to raise questions and obtain legitimate changes in the bills the credit card industry sends him with such unfailing efficiency. Once a credit purchase is made, the bills keep coming—often with finance charges and other penalties added—no matter what errors the bill may contain or what difficulties the consumer may have experienced with the merchant or product involved. Too often, no argument from the consumer is adequate to stop the persistent, insensitive computer, or sometimes even to elicit an acknowledgment.

The side effects of this type of insensitivity to the consumer can be even more damaging than the immediate frustrations involved. Bills upon which payment has been refused or detained because of customer dissatisfaction may result in adverse reports from credit card companies to credit agencies that can ruin the customer's credit rating. Such adverse reports often are issued without the consumer's knowledge, so that he has no practical opportunity to present his side of the story

I have received a great many reports and inquiries from consumers, both from my own district and from around the country, concerning many difficulties with credit card billings. These legitimate complaints lead me to conclude that the credit card industry is obstructing the right of consumers to obtain what they have paid for" and to enjoy reasonable and efficient redress for their grievances growing out of transactions in the marketplace. These consumer rights must be protected. The tendency of the credit card companies to concentrate on collection and ignore correction of their accounts must be reversed.

With that in mind, I am today introducing the "Fair Credit Billing Practices Act of 1970." This legislation, which is patterned after regulations currently under consideration by the Federal Trade Commission, would impose a number of statutory requirements on credit card issuers. Most importantly, it would require credit card companies to cease their billing for charges questioned or disputed in writing by a consumer until the company provides an individual inquiry and explanation. It would require cancellation of any finance or other charges resulting from delayed payment, or nonpayment, of a disputed bill which is resolved in the consumer's favor, and notification of consumers of any adverse credit reports issued to credit agencies on the basis of disputed bills.

The bill also provides:

That credit card companies identify the date and amount of purchases, and the merchant involved, in bills;

That credit card companies refrain from imposing finance or late payment charges on bills mailed less than 21 days before payment is due;

That credit card companies notify customers who overpay that they may obtain a refund of their excess payment;

That credit card companies include on billing statements the name, address, and telephone number of a person authorized to make corrections or adjustments of the account.

I have been most gratified by the recent success of efforts by me and other Members of the House and Senate to outlaw unsolicited credit cards. That success, however, does not solve all of the problems for consumers growing out of the proliferation of credit cards in our economy. Unfair billing practices of the type I have mentioned surely constitute the next most undesirable aspect of credit card commerce. The legislation I am introducing today would go a long way toward eliminating these unfair billing practices. This legislation is the next necessary step toward ensuring that credit cards will ultimately serve to enhance, rather than weaken, the total power of the consumer in the marketplace. I commend it to the attention of my colleagues in the Congress, and I urge prompt and favorable action on it.

PRESIDENT'S COMMISSION ON PORNOGRAPHY

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

Mr. DE LA GARZA. Mr. Speaker, the report of the President's Commission on Pornography is not in tune with sentiment of the majority of the people of south Texas or the United States.

It outrages human decency. It encourages the publication of pornographic material and the sending of such smut through the U.S. mails. It runs counter to the sentiment of Congress as expressed on several occasions, including passage by the House of Representatives of a bill similar to one I introduced to prohibit the use of interstate facilities for the transportation of salacious materials.

The administration has rightly repudiated the Commission's report. The press has assailed it. The American people, in my opinion, will not accept its recommendations. The fight against freedom of smut will continue.

SAVING THE AMERICAN WILDERNESS

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

Mr. SAYLOR. Mr. Speaker, I am today introducing legislation to designate certain additional areas of this Nation as wilderness areas. In doing so, I invite my colleagues in the House and those in the other body to join me in this effort by co-sponsoring similar legislation.

In 1964, the Congress passed the Wilderness Act, providing for strong protection of designated areas of our land which remain wild, untrammeled, and free of man's domination. Besides the 9 million acres granted wilderness pro-

tection in 1964, we are at work—though all too slowly—in carrying out the directive in the act to study, delineate, and incorporate additional areas into the national wilderness preservation system.

The 1964 Wilderness Act called for such study and possible addition of 34 primitive areas in the national forests, as well as several dozen roadless areas in the national parks and wildlife refugees. Recently, we passed an omnibus bill which would designate 26 of those study areas as wilderness. That bill is now on the President's desk.

It is widely recognized, however, that other areas beyond those specified for study by the parent act may warrant and, for wisest stewardship, require similar legal designation. I refer to areas—particularly in our national forests—which, although not yet protected as wilderness by law, nevertheless exhibit natural values, wildness, and solitude of great national significance. We should not neglect nor delay the identification and proper conservation of these areas—which our constituents call de facto wilderness—simply because, unlike others being reviewed, they may not have been administratively protected prior to passage of the Wilderness Act.

It is clear that the Wilderness Act, although it does not require that these areas of de facto wilderness be reviewed, makes possible their placement in the national wilderness preservation system. And we would surely fail in our duty to conserve them wisely for their highest values if we did not use the procedures and strong preservation policies of the Wilderness Act to protect them.

DE FACTO WILDERNESS AREAS BILL

Therefore, I introduce today a bill identifying 11 such de facto wilderness areas in Montana, Washington, California, Wyoming, Idaho, Oregon, Colorado, and West Virginia, and incorporating them for protection within the national wilderness preservation system. This action will not only serve the purpose that the Congress set forth in the Wilderness Act but will also follow through on the good work of many conservation-minded citizens who have studied the areas and refined these specific proposals.

Mr. Speaker, this point deserves emphasis: Across the country groups of citizens are working skillfully at State and local levels in preparing inventories of potential wilderness areas in various Federal and State jurisdictions. In cooperation with national forest and other appropriate agency officials and working in task forces exhibiting impressive professional talents, they are delineating outstanding de facto wilderness opportunities, refining proposed boundaries, and drawing up detailed maps and supportive documentation. The bill I am offering today includes 11 of these proposals initiated by public-spirited citizens' groups. These are proposals which now have reached the stage for congressional attention.

ELEVEN WILDERNESS AREAS PROPOSED

Let me note here some basic details of the 11 wilderness areas I am proposing today.

Most of these areas have been long recognized by the U.S. Forest Service for their exceptional primitive character and public attraction for wilderness use. All of them have widespread public support for wilderness classification in the States and regions in which they are located. None of them contains a significant volume of commercial timber or other known commodity resources that would be foregone with their inclusion in the wilderness system. Nonetheless, most of these superb candidate areas for wilderness classification are threatened by Forest Service roading and logging plans.

Among the outstanding areas of defacto wilderness which deserve early protection as a part of the national wilderness preservation system is the 240,500-acre Lincoln-Scapegoat area in Montana. This pristine high country on the Continental Divide is one of the few strongholds in the lower 48 States for the noble and vanishing grizzly bear, which can survive only in wilderness. It is also the home of the endangered west-slope cutthroat trout which needs an undisturbed natural habitat to prosper. Natural resource experts have testified that the area's steep slopes and loose erosive soils, together with its rare and endangered wildlife, require wilderness management. Although Forest Service officials have stated that lumbering is not a significant factor, the Forest Service nonetheless has planned since 1963 a major road construction and clear-cut logging project in the heart of this pristine wild area. Several generations of Americans have used and enjoyed the Lincoln-Scapegoat area for wilderness purposes. The area has overwhelming bipartisan support in Montana for a wilderness designation. Montana's former Governor, Tim Babcock, supported it. Present Governor Forrest Anderson also has endorsed this measure. Our former colleague from Montana, James Battin, supported it strongly while he was in Congress. The Senate has already passed without a dissenting vote a bill by Montana's Senators LEE METCALF and MIKE MANSFIELD to give wilderness status to the Lincoln-Scapegoat area. The House should take similar action.

The Cougar Lakes area in the State of Washington, east of Mount Rainier National Park, consists of approximately 130,000 acres of untrammeled national forest wild lands, encompassing a number of magnificent jewel-like lakes and gentle terrain which offer unexcelled opportunities for family groups to enjoy an easily accessible walkin wilderness experience on weekends and short holidays. Citizen groups in the State of Washington and throughout the Nation have urged the Forest Service for many years to give the Cougar Lakes area wilderness consideration. The Forest Service has agreed to consider the more rugged Mount Aix portion of the area, but it is proceeding with plans to road and clear-cut log the major part of this wild and highly scenic area which includes highly attractive natural lakes. A wilderness classification would protect these magnificent scenic and recreational assets from the devastation of the bulldozer and the powersaw.

The 25,000-acre Laramie Peak area is the only possible forested wilderness in eastern Wyoming. It is said to encompass the last virgin stand of Ponderosa pine left on public lands in the State. According to the Forest Service, this stand of pine would provide only 5 million board feet of timber—enough to operate a small sawmill for 3 months. The area is heavily used each year for wilderness camping and hiking by hundreds of Boy Scouts and other youth groups from Wyoming and Nebraska. Despite these facts, the Forest Service is scheduled to destroy this small but irreplaceable wild area for an extremely limited amount of saw timber. Only the protection of the Wilderness Act will prevent its destruction.

Conservationists in Idaho and Montana have tried since 1963 to save one-quarter million acres of prime wilderness in the Upper Selway River and Bargamin Creek drainages—the so-called Magruder Corridor—from an ill-advised roading and clear-cut logging venture. In that year, this beautiful primeval drainage, which still supports important anadromous fisheries, was deleted at the recommendation of the Forest Service from the Selway-Bitterroot primitive area and scheduled for development. In 1966, a blue-ribbon committee of resource experts appointed by the Secretary of Agriculture studied the area and examined Forest Service plans for its development. The blue-ribbon committee recommended that the area be managed in a primitive condition. Its magnificent undisturbed wild river, fisheries and wildlife values, steep slopes and easily eroded granitic soils, and established wilderness use all dictated that it be kept undeveloped and wild.

Yet, the Forest Service even now is preparing a program of intensive development and logging for parts of the area. The largely unimproved Magruder Road traverses the area. My bill would exclude the road and a reasonable margin on each side for recreational access and facilities—and place the rest of this pristine land in the wilderness system.

For many years, citizen conservationists in Oregon have urged that the wild 80,000-acre Upper Minam River area be spared the ravages of the bulldozer and the powersaw. This area is contiguous to the established Eagle Cap Wilderness, and its addition to the national wilderness system would greatly enhance this unit. Oregon Senators MARK HATFIELD and ROBERT PACKWOOD have been very impressed with the scenic Upper Minam River area and have introduced a bill in the other body to give it wilderness status. That bill has just been approved by the Senate.

In Colorado, adjoining Rocky Mountain National Park along the Continental Divide, is the 75,000-acre Indian Peaks area with its many natural lakes and glistening snow-capped spires of over 14,000 feet. Although both Forest Service and citizen groups have recognized its paramount primitive values, ill-considered highway proposals threaten its beautiful back country. It, too, should be classified as a wilderness area.

The proposed Granite Chief Wilderness area, of some 36,000 acres, lies in the high Sierra of California, west of Lake Tahoe. Lush mountain valleys provide excellent wildlife habitat below the high peaks. The Forest Service plans roading and timber cutting, even though the timber is largely noncommercial, low in value, and of marginal quality. Approxi-

mately one-third of the area is owned by the Southern Pacific Land Co., but I am told that firm is willing to enter into a land exchange with the Forest Service. Here is a most desirable wild area, in an area of rapidly growing recreational use, where protection of remaining wildness is especially urgent.

Deep blue, jewel-like lakes in their primitive settings, alpine meadows carpeted with wildflowers, mountain goats on their rock-ledged haunts, and panoramic vistas of untrammeled mountain country best describe the proposed Jewel Basin Wilderness in northwestern Montana.

Jewel Basin is also the home of three endangered species—grizzly bear, native cutthroat trout, and grayling. All three species require an undisturbed wilderness habitat to survive.

Citizen-conservation groups first recommended to the Forest Service in the 1950's that this beautiful pristine area be designated for wilderness purposes. The Forest Service later planned to establish it as a wild area, but passage of the Wilderness Act of 1964 intervened, giving such prerogative to Congress and the President.

Jewel Basin is a spectacular piece of primeval America which citizen groups, lumbermen, elected officials, and Forest Service representatives have all agreed warrants wilderness protection.

In the Eastern United States, there is very little primeval land left. Our remaining wild lands in the East should be given prompt protection as a part of America's priceless wilderness heritage.

There are a number of remarkable forest areas which, although once partially cut or burned over, have been blessed by favorable climate and recovery so that they have returned to an essentially wild and untrammeled condition.

Such are the Otter Creek area, the Cranberry back country, and the Dolly Sods area—all in the Monongahela National Forest in West Virginia. Together, they encompass 80,000 acres of some of the finest wild country left in the Eastern United States. In a densely populated region where Americans are demanding more open space, the highest and best use of these areas is surely for wilderness purposes. We must not overlook this opportunity to gain permanent protection for these much needed wild lands. In this additional instance, however, these scenic areas are threatened by clear-cut logging and associated development proposals of the Forest Service. Citizen conservationists and business groups in West Virginia have asked that the beautiful areas be spared. I concur. West Virginia Representatives, my colleagues, Mr. HARLEY STAGGERS and Mr. KENNETH HECHLER, as well as Senator JENNINGS RANDOLPH, have introduced similar proposals.

Mr. Speaker, as my record will show, I have strongly supported proper multiple use of our national forest lands. But wise multiple use does not require that there be many uses on every acre of national forest land. It simply requires that these lands be put to proper use for one or more suitable purposes. In such perspective, full consideration must be given to watershed protection, wildlife, recreation, and grazing, as well as timber production. As Congress explicitly confirmed in the 1960 Multiple Use-Sustained Yield Act, wilderness is clearly compatible with the multiple-use concept. In the areas which I am proposing today for wilderness status, the timber-producing values and other commodity resources are relatively minor while watershed, wildlife, and wilderness values are clearly paramount. These latter multiple uses would be well-served by establishing each of these eleven areas of wilderness for preservation in the national wilderness system.

Wilderness is an important and integral part of our Nation's quality environment. As Sigurd Olson, president of the Wilderness Society, recently stated:

> The only unravished environment we have in the world today is wilderness.

I urge my colleagues to join me in this effort to safeguard these precious remnants of unspoiled and scenically rich country that will mean so much to present and future generations.

THE CHALLENGE OF RURAL DEVELOPMENT

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

Mr. MIZE. Mr. Speaker, we often become preoccupied with the awesome and tragic difficulties of our great cities. This concern is a proper one and cannot be diminished by other compelling considerations. But rural America, too, has problems. Under the leadership of Secretary of Agriculture Clifford Hardin, the Nixon administration has forcefully called attention to the plight of our rural communities. The Secretary observes:

> While rural America is the home for around a third of our people, it contains approximately 60% of the substandard housing and nearly half of the Nation's poor people. These facts, and the conditions associated with them, have accounted for a significant part of the large-scale rural-urban migration that has occurred during the past two decades.

The American population will increase some 100 million during the next three decades. The achievement of an economically healthy and livable rural America will surely make conditions of life more tolerable everywhere, for if the population is substantially forced into crowded center cities and suburban areas, those areas will become totally unlivable while rural America slips into a chronic condition of unrelenting recession.

I have been concerned lest the future economic vitality of rural America be ignored for other, more vocally presented needs. Accordingly, I have been principal sponsor of the Rural Job Development Act in the 90th and 91st Congresses. Senator JAMES B. PEARSON, of Kansas, the author of this important legislation, has served as principal cosponsor along with several Senators in the other body. As the Congress considers remedies to generate prosperity throughout the country next year, I hope the Rural Job Development Act will receive very serious consideration.

This act provides tax credits to industrial and commercial enterprises, with the belief that they will respond by locating in counties to be designated as "rural job development areas" by the Secretary of Agriculture. Tax incentives will be provided to industries which choose to provide on-the-job training to unskilled local laborers. Tax credits will also be allowed on real property, along with an accelerated plant depreciation schedule.

Rural job development areas will contain no city of over 50,000 in population, with at least 15 percent of the population earning less than $3,000 per family.

During the past 16 years, some 1.8 million farmsteads have been disbanded. Millions have migrated to our glutted urban areas in search of decent housing, better income, job security, and educational opportunity for their children. To a large extent, their hopes have been dashed by substandard housing conditions, skyrocketing living costs, and an urban community that seemed it did not care.

Negro families, faced with rural agricultural mechanization and inadequate industrial alternatives, moved to the center cities, to unemployment and welfare.

White families moved to the fringes of the great metropolitan centers to take jobs clearly below their capacity to perform. Both groups become desperately unhappy, and quite understandably so.

The Rural Job Development Act, if its opportunities are grasped by the American business community, will provide an alternative to those who would choose to remain in rural America—or return to it. I shall continue to work for rural job development in the next Congress, for it is surely an idea whose time has come.

President Nixon and his Cabinet have been sensitive to the great challenge of rural development and renewal since first taking office. The President appointed Mrs. Haven Smith, of Chappell, Nebr., to head his Task Force on Rural Development. Mrs. Smith, who is national chairman of the American Farm Bureau Women, transmitted the report of her task force to the President in January of this year.

The report documents in compelling tones the desperate need for a national commitment to promote rural development. The report states:

> The great threat that now faces us is that the social and economic ills of the Nation's inner cities may worsen and spread over entire urban areas, infecting even the entire national structure unless we act together with intelligence to prevent it. Even now, 70% of our people are jammed onto 2% of the Nation's land. But if present trends continue, by the year 2000 more than 174 million people will be huddled in cities concentreated in five small geographic areas.

The task force had praise for President Nixon's efforts to structure a responsible program of rural development. The Council for Rural Affairs, created by President Nixon, was viewed as an effective body that should be maintained to reflect the high priority that rural development commands in this administration.

The task force called for a closer partnership between local, State, and Federal governments and private industry, urging them to marshal their resources

to mutually overcome problems of rural economic and social development. This recommendation is wholly consistent with the President's commitment to increased responsibility and authority for local and State government.

Calling for increased educational opportunity and better health services for rural America, the task force recognized that increased financial commitment at all levels of government will be needed to meet the requirements of diversification and a truly national policy of economic development.

Mr. Speaker, I am deeply gratified by the commitment President Nixon has made to prosperity for rural Americans, both on and off the farm. Under his leadership, I am confident Americans will begin to solve the chronic conditions of rural depression and inadequate social opportunity that have plagued this Nation since the 1920's.

Clearly, for the first time we have a President who recognizes that problems of rural inequality cannot be solved by stopgap, narrowly drawn programs designed to favor special classes of rural Americans. President Nixon knows, without question, that an overall national policy must be structured to meet this truly national problem.

RECORD OF SECOND SESSION OF THE 91ST CONGRESS

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

Mr. PRICE of Illinois. Mr. Speaker, the second session of the 91st Congress, which is drawing to a close, has been productive and reform minded. Throughout the whole session, the Congress has rightfully given careful and ofttimes extended deliberation to a number of major policy issues. Where there have been differences with the President they have centered primarily over differences on national spending priorities, not over narrow partisan interests.

THE ENVIRONMENT

In the environmental protection field, the Congress has moved decisively toward molding the Clean Air Act into the strongest possible air pollution control law, including stringent emission standards for automobiles and nationwide air pollution standards. We enacted the Water Quality Improvement Act establishing legal requirements for cleaning up our Nation's waterways. To do the job, Congress voted $800 million in the fight for clean water, nearly four times what the President recommended. We also added $500 million in water and sewer grants to help States and communities clean up their polluted streams. Unfortunately, the President, in requesting only $150 million, vetoed our effort and final action remains to be taken.

In September we voted an additional $1 billion authorization for the next fiscal year, despite administration opposition, for the construction of water and sewer facilities. Also in September we passed a bill increasing Federal aid to mass transit systems under a $10 billion, 12-year program. This is designed to alleviate the crushing burden of automobiles and ever-expanding concretizing of our land. We have also focused on the mounting problems of solid waste disposal. Recognizing the importance of education as a means of dealing with our environmental crisis, the Congress passed the Environmental Education Act, which I cosponsored, establishing ecological training programs and providing for the development of new curriculum and material to enhance environmental quality.

In the public works sector which is designed to protect and develop our natural resources, the Congress approved nearly $17 million for area flood control and navigation projects: St. Clair-Madison County interior flood control plan, $379,000 to continue planning; Kaskaskia navigation project, $12,317,000 for construction; Alton Lock and Dam No. 26, $1 million for planning; Chain of Rocks navigation lock, $750,000 for construction; Mississippi River regulating works, $2,340 for maintenance and operation of the navigation channel and Silver Creek Reservoir, $20,000 to continue preliminary planning.

THE ECONOMY

Faced with a deteriorating economy with sustantial unemployment, a mounting cost of living and the highest interest rates in 100 years, the Congress approved legislation granting the President the authority to invoke wage, price and rent controls, to implement interest rate controls and to regulate the inflationary use of credit. The President has refused to use them. Additionally, the Congress to date has cut overall Federal spending requests by $7 billion. With our declining economy, in the last 18 months since the Nixon administration took office, the stock market has lost over $200 billion in values, 1.7 million Americans are out of work, the unemployment rate is now 5.5 percent nationally and 6.5 percent in the Madison-St. Clair area, corporate profits have fallen almost 25 percent and consumer prices have risen to their highest level in 20 years.

With the increased cost of living, consumers are more cost conscious. The Congress has been working on consumer protection legislation, including the establishment of an independent consumer agency and warranty protections.

CRIME AND VIOLENCE

Crime and violence will not be stopped by talk about law and order, it takes money. While the administartion only requested $480 million to support local law enforcement efforts, the Congress has raised the figure to $650 million for the next fiscal year. Additionally, the Congress has passed the organized crime control bill, including provisions concerned with the transportation, illegal use of and possession of explosives. Two drugs abuse bills have been approved, one dealing with the sentencing of drug offenders and pushers and the other establishing a comprehensive drug-abuse education program to educate young Americans, in particular, about the pitfalls of drugs.

EDUCATION AND HEALTH

American education faces a growing funding crisis even though it is the best investment we can make in our Nation's future. Unfortunately, the President on two occasions chose to veto the education appropriations bills for fiscal years 1970 and 1971. While the Presidential veto was sustained the first time, the Congress overwhelmingly overrode his veto on the fiscal year 1971 money bill. Congress extended the landmark Elementary and Secondary Education Act which enables local school districts to provide educational enrichment programs for disadvantaged children.

The health of our people is our most precious national resources; yet we face an increasing dilemma in health care. While the administration requested authorization of only $620 million for 10 basic health bills, the Congress has authorized $1.46 billion for them. In addition, President Nixon vetoed the hospital construction bill at a time when hospital costs are skyrocketing; the House overrode the veto by a 279-to-98 vote. Our medical schools are in dire need; medical and mental health research efforts have been cut back because of a lack of funds, and the health manpower shortage has reached the point where we need an additional 50,000 physicians.

SOCIAL SECURITY AND VETERANS

Our older citizens have benefited from congressional initiative. The House has voted to increase social security benefits by another 5 percent after the 15-percent increase last session with an automatic cost-of-living provision.

Congress took action in other areas, all of which cannot be detailed in this short space. The postal service was completely revamped and Congress passed the first comprehensive legislative reform act since 1946. That action provides for more open committee and House floor deliberations. Additionally, the House Committee on Standards of Official Conduct, more popularly known as the House Ethics Committee, of which I am chairman, has held hearings on lobbying and campaign financing reform.

Reform of our Government institutions must keep pace with our changing needs. A strong America begins at home with her people and her elected officials who must be responsive to public needs. Confidence in Government can only be maintained by accountability and responsiveness on the part of our public officials.

The Congress is mindful of its partnership with our people in seeing to it that the challenges of a changing society are met. This includes devoting constant attention to our Nation's foreign policy. While it is not the Congress role to conduct foreign policy, it is the legislative branch's prerogative, under our constitutional system, to be concerned about its implications.

Our Indochina policy, for example, has been subject to careful scrutiny, particularly by the Senate. President Nixon recently offered a cease-fire proposal as a possible means of resolving the terrible hostilities in which we are engaged. I welcome President Nixon's recognition of the possibility of this approach; it is comparable to a U.S.-initiated cease-fire proposal I outlined in a speech this past June to the Belleville Junior Chamber of Commerce.

Our Middle East policy is of considerable concern to me. The State of Israel is faced with a growing imbalance of power as a result of the Soviet missile buildup. Fortunately, the Congress is adopting the conference report on the military weapons procurement bill for fiscal year 1971 included a provision authorizing the sale and guaranty of necessary aircraft to the Israelis to protect their national security and integrity.

As with any Congress, there is always work remaining. Consequently we face a full schedule when we return for the postelection session. It is my hope that the Democratic-led Congress will accomplish as much during that period as it has in compiling a solid record of major accomplishments in a number of major policy areas before recessing for the election.

WEST POINT CLIMBOUTS

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

Mr. PRICE of Illinois. Mr. Speaker, we are prone to disparage young people who are labeled "dropouts" because they decide to separate themselves from a program or an institution such as school. Perhaps further reflection is required on our part before we quickly attach a stigma of failure to them. The following article entitled West Point Climbouts appearing in the October 5 issue of Armed Forces Journal traces the careers of a number of men who left West Point on their own volition. It becomes readily apparent that these men later distinguished themselves in a number of careers and were far from being failures.

Col. Robert S. Day, the author, is a close personal friend of mine. He received his appointment to the Military Academy from one of my predecessors, Congressman Edwin Schaeffer, at the time I was serving as his secretary. Bob Day, a native of Nashville, Ill., has had a distinguished military career, serving as Director of Admissions at West Point from 1955 to 1968. At this point in the RECORD, I would like to include the insert about the author and then his article:

Unlike the climbouts he has written about, Bob Day graduated from West Point in 1944 as a distinguished cadet, to return in 1951 as a member of the faculty to serve three years as Instructor and Assistant Professor of Chemistry and 13 years as Director of Admissions and Registrar.

Except for his service with the Combat Engineers in Europe near the end of WWII and a two-year stint doing R&D for the Army Chemical Corps, most of Bob Day's career has centered on education. He entered the Point with one degree already behind him—his Bachelor's in Chemical Engineering from the University of Illinois (1941). After the war he went for his Master's (1948) at M.I.T. He has done graduate study at Columbia University Teachers College and at Stanford.

Among his accomplishments when he launched his teaching career was to serve as Director of the first University of Maryland School of Chemical Engineering Practice. He is a member of the Board of Trustees for the College Entrance Examination Board and has served on various committees for the group. For the past two years he has served as Coordinator of Grant Programs for the Portsmouth (R.I.) School Department.

This year, in addition to his work as an educational consultant, he is Principal of Hope Elementary School in Portsmouth.

In short, Bob Day knows a great deal about education—and he knows that not all of us hear the same drummer. His report on the "climbouts" is a case in point—one we're pleased to print, and one we're sure you'll enjoy reading.

WEST POINT CLIMBOUTS

(By Col. Robert S. Day, U.S. Army, retired)

"In what way were you misled in accepting admission to the United States Military Academy?" is the first question I often asked those new cadets who decided to leave West Point for lack of motivation during "Beast Barracks," the first eight weeks of their experience at our national military academy. The reply in practically all cases was: "No one misled me. Beast Barracks must be experienced, for no one could possibly describe it adequately to a prospective cadet. West Point is a great college, but not for me."

As Director of Admissions at West Point from 1955 to 1968, I was intensely interested in mistakes we made admitting young men who did not remain as cadets. For several decades the attrition rate at the Military Academy had remained essentially constant, although the reasons for attrition had varied. Even though the science of predicting which cadets will graduate is a highly inexact one, the search for better answers must continue.

There are many good reasons, other than lack of motivation, for cadet "dropouts"; but regardless of the reason, there still appears to be an aura of stigma surounding separations from the United States Military Academy (USMA). Since practically all cadets who are separated still feel that their experience at West Point, whether it be for three days or for three years, has been a significant one for them, I decided to see what had happened to some of the young men who failed to graduate from USMA during its early history. They might, I reasoned, throw some light on today's "dropouts." Because the word "dropout" may be interpreted as some kind of personal failure (and for other reasons which later will become obvious), I'll refer to the ex-cadets mentioned below as "climbouts."

William H. Vanderburg, ex-1817–i.e., scheduled to graduate with the class of 1817—became one of the outstanding figures in the group of hardy adventurers who made Northwest fur trading one of the most colorful epochs in early American history. Vanderburgh's expolits were so significant that he is included in the *Dictionary of American Biography*, published by The American Council of Learned Societies. (Only persons who have made some significant contribution to American life and who died before WWII are included. West Point climbouts honored in the *Dictionary of American Biography* will be designated here by "DAB" after their names).

Another explorer of the West was William S. Hamilton, ex-1818, the son of Alexander Hamilton—who assisted in founding West Point. Alexander Hamilton, jr., another son, ex-1836, served in the Civil War.

John H. Hewitt, ex-1822, DAB, became a journalist, editor, musician, and poet. He established a literary weekly and offered a $100.00 prize for the best literary composition. Edgar Allen Poe—who later also became a West Point climbout—won it. Hewitt's classmate, John H. B. Latrobe, ex-1822, DAB, excelled as a painter, poet, and author. He produced the winning design for the Kosciuszko Monument at West Point. John, who was the eldest son of Benjamin H. Latrobe, architect of the United States Capitol, is perhaps best known as the inventor of the popular Latrobe stove. He also became famous as a lawyer for the Baltimore and Ohio Railroad, and his skill as a patent lawyer, because of his engineering training at West Point, was in special demand. Additionally, he was a philanthropist and served on the Board of Visitors to the Military Academy.

Another classmate, William J. Snelling, ex-1822, DAB, was the son of Colonel Josiah Snelling, for whom Fort Snelling (Minnesota) was named. William was a famous author, journalist, satirist, and poet. As a result of despair and subsequent problem with liquor, he spent four months in a house of correction. However, he rebounded to become editor of *The Boston Herald*.

Edgar Allen Poe, ex-1834, DAB, is probably West Point's most famous climbout. He enlisted in the United States Army on 26 May 1827 under the assumed name of Edgar A. Perry, served until he was honorably discharged on 15 April 1829, entered the Military Academy on 1 July 1830, but was separated on 6 March 1831. While a cadet at West Point, Poe arranged to publish a volume of poetry, subscribed to by the cadets and dedicated to them. Later, he became one of America's most distinguished men of letters and is enshrined in the Hall of Fame for Great Americans. Poe's departure from West Point might have been forecast by his feelings as a 14-year old toward systematized factual knowledge when he wrote his Sonnet to Science:

Science! True daughter of Old Time thou art!
Who alterest all things with thy peering eyes.
Why preyest thou thus upon the poet's heart,
Vulture, whose wings are dull realities? . . ."

Other literary climbouts include John B. Walker, ex-1869, DAB, who served as military adviser during the reorganization of the Chinese military service. Returning to America in 1870 he went into iron manufacture, and in about five years he had made half a million dollars. When he lost his fortune, he returned to journalism and soon became managing editor of *The Pittsburgh Telegraph* and later *The Washington Chronicle*. He then developed a highly successful alfalfa ranch and with his profits bought *Cosmopolitan* magazine. As editor and publisher, he increased its circulation from 16,000 to 400,000. He was the first president of the American Periodical Publishers' Association. Walker bought out the Stanley Automobile Company and began the manufacture of locomobile steam cars. He was the first president of the Automobile Manufacturers Association. He also organized a national highway commission, invented and manufactured an automatic road crowner, and invented a machine to remove moisture from clay. After the outbreak of WWI, he was chairman of the National Convention of the Friends of Peace and Justice.

West Point's three most noted artists are Whistler, Mowbray, and Hurd—all climbouts.

James A. McNeill Whistler, ex-1855, DAB, was the son of famous West Point graduate, George Washington Whistler, USMA 1819, DAB. After three years at West Point, James gave his life to art, went to Paris and London, and never had the least desire to return to the United States. He did say, "If I ever make the journey to America, I will go straight to Baltimore, then to West Point, and then sail for England again." Whistler served as the first president of the International Society of Sculptors, Painters and Gravers, was an officer in the French Legion of Honor, and was elected to the Hall of Fame for Great Americans.

It is amazing that Whistler lasted as long as he did at West Point. He was superior in drawing but had trouble with other studies. When he was discharged from the academy for deficiency in chemistry, Whistler said, "Had silicon been a gas I would have been a Major-General." In cavalry drill Whistler would go sliding over his horse's head. Once the instructor remarked, "Mr. Whistler, I am pleased to see you for once at the head of

your class!" Whistler insisted, "But I did it gracefully." Whistler complained that he did not see how any man could keep a horse for amusement.

When Whistler was doing poorly in history his instructor said, "Suppose you were out to dinner and the company began to talk of the Mexican War, and you, a West Point man, were asked the date of the battle of Buena Vista, what would you do?" "Do?" replied Whistler, "why, I should refuse to associate with people who could talk of such things at dinner."

Once Whistler was reported for being absent from parade without the knowledge or permission of his instructor. Whistler's rebuttal was, "Well now, if I was absent without your knowledge or permission, how did you know I was absent?" The case was closed. Whistler deplored football and to him West Point was in danger when cadets could stoop to dispute "with college students for a dirty ball kicked around a muddy field."

Henry S. Mowbray, ex-1879, DAB, was a leading public figure and a mural painter. His works decorate many famous mansions, churches, clubs, and public buildings throughout America. He served as Director of the American Academy in Rome and on the National Commission of Fine Arts.

Peter Hurd, ex-1925, a member of the National Academy, painted the controversial portrait of Lyndon B. Johnson commissioned to hang in the White House but now in the National Portrait Gallery.

In other creative fields we also find climbouts. Edward Maynard, ex-1835, DAB, became a dental surgeon who discovered the existence of dental fibrids and dental fevers. He was the first person to fill teeth with gold foil. His inventions include barbed broaches for dental work and the Maynard drill for preparing cavities. He was an Associate Editor of the American Journal of Dental Science and served as court dentist to Czar Nicholas of Russia.

Doctor Maynard was invited by the Secretary of War to attend the examination of cadets at the Military Academy in 1863. As a result of this visit he recommended that a corps of dental surgeons be attached to the Army and Navy. Later he invented the Maynard breech-loading rifle—soon afterward used in military rifles by nearly all nations. He also devised a method of converting muzzle-loading arms into breech-loaders.

Anson Mills, ex-1860, DAB, was the surveyor who made the original plot of the city of El Paso, Texas, and gave the place its name. He served in the Civil War and later reached the rank of Brigadier General. He is especially noted as the inventor of the cartridge belt. Military and hunting equipment of all sorts was manufactured under a Mills patent. Mills served as the American member of the International Boundary Commission to settle cases involving the boundary between the United States and Mexico.

William Holabird, ex-1877, DAB, was the son of General Samuel B. Holabird, USMA 1849. As an architectural engineer, William pioneered in constructing the first office building in the world to utilize throughout its facades the principle of skeleton construction. Throughout his life he was a conspicuous leader in developing the skeleton steel skyscraper which ushered in the brilliant era of world structural engineering.

Many West Point climbouts served their country with distinction in the political arena. Nicholas P. Trist, ex-1822, DAB, became a lawyer and a diplomat. He served as Consul to Havana and as a special agent to negotiate a peace treaty with Mexico. George T. Goldthwaite, ex-1827, DAB, became a State Supreme Court Justice and later served as United States Senator from Alabama. George W. Hughes, ex-1827, DAB, served as a colonel in the United States Army. He later was President of the Baltimore and Susquehanna Railroad and a United States Representative in Congress—where he presented a resolution calling for a Department of Agriculture.

Ambrose D. Mann, ex-1827, DAB, became Assistant Secretary of State. He was an expert on world trade, international shipping, and commercial treaties. Benjamin D. Humphreys, ex-1829, DAB, was a colonel in the Confederate Army and after the Civil War became first elected Governor of Mississippi.

At the age of 40 John A. Campbell, ex-1830, DAB, has established a national reputation as a lawyer. As a member of the bar from Alabama, he opposed secession. He had the finest law library, in all languages, in America. In January 1865, Confederacy President Jefferson Davis, USMA 1828, DAB, named Campbell to a peace commission which met with President Lincoln and Secretary Seaward. Campbell also served as Associate Justice of the United States Supreme Court.

Robert H. Smith, ex-1835, DAB, became a lawyer and served in the provisional Congress of the Confederacy. He organized the 36th Alabama Infantry and was elected its Colonel. Decatur Merritt H. Carpenter, ex-1847, DAB, changed his name to Matthew Hale Carpenter. He was trained as lawyer and twice served as United States Senator from Wisconsin. Pierce M. Young, ex-June 1861, DAB, left West Point to enter the Confederate Army, where he reached the rank of major general. He served three terms as a member of Congress, a member of the West Point Board of Visitors, Consul General to Leningrad, and Minister to Guatemala and Honduras. William Heimke, ex-1875, served as Charge d'affairs to Mexico, and as Minister to Guatemala and El Salvador.

Edwin W. Hurlbut, ex-1879, left West Point to join the gold rush to the Black Hills. He served as Speaker of the Colorado State House of Representatives and Associate Justice of the Colorado Court of Appeals.

Albert W. Gilchrist, ex-1882, became a civil engineer and served on the West Point Board of Visitors. He resigned as a brigadier in the Florida Militia to become a private in the U.S. Volunteers and later became Governor of Florida. John Miller, ex-1886, became a lawyer and later was elected U.S. Representative from the state of Washington, and also served as Mayor of Seattle. Charles A. Sulzer, ex-1903, served in the U.S. Congress from Pennsylvania.

Colon Eloy Alfaro, ex-1913, served as a soldier, educator, and Ambassador from Ecuador to the United States from 1936 until 1944. Philip C. Jessup, ex-1922, became the United States Ambassador-at-Large to the United Nations and a member of the International Court of Justice at The Hague. Ralph W. Yarborough, ex-1923, presently is the United States Senator from Texas.

One good reason for dropping out of a profession is that the person has no interest in it. Many ex-cadets from West Point, however, appear to be exceptions. As evidenced, let's look at the Army careers of the following former cadets: Lewis A. Armistead, ex,-1837, DAB, brother of George Armistead, who defended Fort McHenry, and of W. K. Armistead, USMA 1803, distinguished himself in both the Mexican and the Civil Wars. He became a brigadier general and was killed in action as he led his brigade in the final assault on the Union Center at the Battle of Gettysburg.

William Gilpin, ex-1838, DAB, served as an officer in the Seminole War, practiced law, accompanied the Fremont expedition, fought in the Mexican War and against the Indians. He became the first territorial governor of Colorado, organized the 1st Regiment of Colorado Volunteers, and later retired with a fortune. Washington L. Elliott, ex-1845, DAB, served in the United States Army for 20 years. He executed the first cavalry raid of the Civil War and later became a major general.

Birkett D. Frey, ex-1846, DAB, served in the Mexican War and rose to the rank of brigadier general in the Confederate Army. He was a lawyer and later president of a cotton manufacturing company. Thomas A. Harris, ex-1847, became a brigadier general in the Confederate Army. Hugh B. Ewing, ex-1848, DAB, foster brother of William Tecumseh Sherman, USMA 1840, DAB, had a courageous Army career and became a major general. He also served as a lawyer, was Minister to Holland, and wrote two books and numerous articles. Henry A. Fink and David B. McKibbin, both ex-1850, became brigadier generals, as did Thomas F. Wright, ex-1852, William Dwight, jr, ex-1853, DAB, and William A. Leech, ex-1854.

Hamilton S. Hawkins failed to graduate with the class of 1856 but he entered the Army and became a major general. For four years he was Commandant of Cadets at West Point. John M. Corse, ex-1857, served in the Army and was promoted to major general for gallantry. He later became the Postmaster of Boston, Massachusetts. His classmate Charles L. Harris, ex-1857, served in the Army and became a brigadier general.

Thomas L. Rosser, ex-May 1861, DAB, left West Point to enter the Confederate Army—where he reached the rank of major general. Later he became a brigadier general in the United States Army. As a cadet Rosser was the best friend of George A. Custer, USMA 1861, DAB, but after Rosser defeated Custer at Buckland Mills, they became rivals. To even the score, Custer humiliated Rosser at Tom's Brook in the Shenandoah Valley. Later, when Rosser became Chief Engineer of the Northern Pacific Railroad, General Custer's troops often guarded Rosser's surveyors in Indian Country and the two renewed their friendship. Tom Rosser is best known as an audacious cavalry leader whose operations deserve attentive study.

Charles L. Fitzhugh, ex-1863, received five awards for gallantry in action and became a brigadier general. Philip Reade, ex-1868, Robert C. Van Vliet, ex-1879, and William P. Burnham, ex-1881, followed Army careers until they reached the rank of brigadier general. William M. Wright, ex-1886, earned the Distinguished Service Medal and retired as a major general. Stephen O. Fuqua, ex-1896, reached the rank of major general, became Chief of Infantry, and was awarded the Distinguished Service Medal. Francisco Alcantara, ex-1897, became a lieutenant general in the Venezuelan Army. William R. Gibson and William E. Gilmore, both ex-cadets of the class of 1900, became brigadier generals.

Richard H. Jordan, ex-1901, received the Distinguished Service Medal for his service as a brigadier general, as did Richard P. Williams, ex-1902. Scott D. Breckinridge, ex-1904, became a doctor of medicine, served as a colonel in the Medical Corps in WWI, and fenced on the U.S. Olympic Team. Charles M. Sweeney, ex-1904, became a soldier of fortune, serving in seven wars under five different flags. He served in the United States Army, the French Air Force, and the Royal Air Force. His highest rank was that of major general.

Lloyd R. Fredendall, ex-1905, became a lieutenant general and won the Distinguished Service Medal. John N. Merrill, ex-1906, became a colonel in the Persian Army and later served as a major in the United States Army. Courtney H. Hodges, ex-1908, became a four-star general and commanded the First Army in Europe in WWII. His decorations include the Distinguished Service Cross, two Distinguished Service Medals, and the Silver Star. Everett M. Birely, ex-1910, retired as a major general. Terry de la Mesa Allen, ex-1911, became a major general and as a colorful division commander was awarded two Distinguished Service Medals and a Silver Star. John M. Thompson, ex-1911, became a brigadier general in WWII. Elmer E. Adler, ex-

1914, retired as a major general and was awarded the Distinguished Service Medal.

Walter R. Peck, ex-November 1918, became a much-decorated brigadier general in WWII. Thomas H. Ramsey, ex-November 1918, was awarded the Distinguished Service Medal and became a brigadier general in WWII. Frank E. Stoner, ex-1918, who retired from the Army as a major general, was awarded the Distinguished Service Medal. James M. Bevans, ex-1919, became a major general and received the Distinguished Service Medal. Donald W. McGowan, ex-1922, served in both world wars, became Chief of the National Guard Bureau, was awarded the Distinguished Service Medal, and retired as a major general. John D. Hones, ex-1937, served in the Army and reached the rank of brigadier general. Jonathan F. Ladd, ex-January 1943, followed an Army career and received the Distinguished Service Medal.

In addition to the foregoing ex-cadets, who served in the Army, many decided to try another branch of the armed Services. The class of 1826, for instance, produced three climbout admirals and the Marine Corps' second general. Andrew H. Foote, ex-1826, DAB, served in the United States Navy and achieved the rank of rear admiral after an outstanding naval career during the Civil War. (He also has the dubious distinction of being responsible for abandonment of the grog ration for sailors of the United States Navy.) James F. Schenck, ex-1826, DAB, served as a naval officer during the conquest and occupation of California. He reached the rank of rear admiral. Henry K. Thatcher, ex-1826, DAB, served as a naval officer for 45 years before retiring as a rear admiral.

Jacob Zeilin, ex-1826, DAB, participated as a Marine officer in the events leading to the opening of Japan. He was Commandant of the Marine Corps and its second general officer. William C. Fite, ex-1904, later graduated from the United States Naval Academy and was killed while on active duty in the Navy. Leonard Doughty, ex-1915, was graduated from the United States Naval Academy and served in the Navy in WWII. Merlin O'Neill, ex-1919, entered the Coast Guard, served as Commandant of Cadets at the United States Coast Guard Academy, and retired with the rank of admiral. Herman Curry, ex-1923, graduated from the United States Coast Guard Academy and served a career in that Service. Ernest C. Holtzworth, ex-1929, was graduated from the United States Naval Academy, commanded the United States Naval Shipyard in Brooklyn, and became a rear admiral. Melville M. Driskell, ex-1932, became a rear admiral in the United States Navy. William O'Neal Suddath, ex-1944, graduated from the United States Naval Academy, and Charles E. Martin, ex-1948, from the United States Coast Guard Academy.

Other former West Point cadets with interesting careers include the following: Cameron F. MacRoe, ex-1831, graduated and became a Chaplain in the 5th North Carolina Infantry. His nephew graduated from West Point in 1851 and had Fort MacRoe, N.M., named in his honor. Richard TenBroeck, ex-1833, DAB, was famous for a long racing career. He was the first American horseman to assert the power of the United States on English turf.

James W. Smith, was the first black student admitted to the Military Academy. He became supervisor of cadets at South Carolina State College. Robert P. Woodward, ex-1887, became an author, gold miner, and farmer. He was known as "Mayor of Flatbush" (Brooklyn). Edward S. Godfrey, ex-1900, became Health Commissioner of the State of New York. Edward D. LeCompte, ex-1904, became a doctor of medicine and honorary president of the Utah State Medical Association.

Charles M. Parr, ex-1906, served as Chairman of the Board, Parr Electric Company, and State Senator in the Connecticut General Assembly. Christian K. Cagle, ex-1930, was selected for the Football Hall of Fame. Arthur H. Kiendl, ex-1946, became Dean at Dartmouth College and later Dean at the University of Colorado. He is now Headmaster of Mount Hermon School. Henry R. Gooch, ex-1949, became the Assistant Cadet Chaplain at West Point. Albert W. Yancey, ex-1961, became a leading professional golfer and won many major golf tournaments throughout the United States.

While the foregoing accomplishments of non-graduated cadets are impressive, the records of the following named ex-cadets who received their nation's highest awards for heroism truly serve as a capstone to the service rendered by the man who once wore cadet gray. Charles H. Tompkins, ex-1851, was the first combat officer in the Civil War to perform a heroic deed for which he was later awarded the Medal of Honor. He served in the Cavalry and retired as a brigadier general. John C. Robinson, ex-1839, DAB, left the Military Academy to study law but soon became an Army officer. He served in the Mexican War, the Seminole War, and became a major general in the Civil War. He was awarded the Medal of Honor for distinguished gallantry at Laurel Hill, Va. Later he was elected Lieutenant Governor of the State of New York and Commander-in-Chief of the Grand Army of the Republic.

John A. Kress, ex-1862, was awarded the Distinguished Service Cross and the Silver Star, our nation's second and third highest awards, respectively, for heroism. John A. Logan, Jr., ex-1887, became a major in the 33rd United States Volunteers and was killed at San Juanito, Philippine Islands. For his heroism, he was awarded the Medal of Honor. Ely T. Fryer, ex-1901, reached the rank of brigadier general in the Marine Corps. For gallantry in action in WWI, he received the Medal of Honor. William F. Harrell, ex-1902, was awarded the Distinguished Service Cross, the Distinguished Service Medal, and three Silver Stars.

Paul G. Daly and Charles B. Duncan, ex-cadets of the Class of 1916, each won the Distinguished Service Cross. Godfrey N. Wyke, who failed to graduate with his class of April 1916, also received the Distinguished Service Cross. The same award went to Ewing M. Taylor, ex-cadet of the Class of August 1917. During WWII, Michael J. Daly, ex-1945, and Captain of Infantry in Europe, was awarded the Medal of Honor plus three Silver Stars. His classmate William M. Grimes, Jr., ex-1945, a second lieutenant of Armor, also in Europe, was awarded the Distinguished Service Cross posthumously.

In the Vietnam War, Roger H. Donlon, ex-1959, an officer in the Special Forces Group, received the Medal of Honor. James A. Gardner, ex-1965, an Infantry lieutenant paratrooper, was awarded the Medal of Honor posthumously. Forrest E. Everhart, Jr., ex-1966, earned the Medal of Honor, and his classmate Robert L. Fergusson, ex-1966, a Distinguished Military Graduate of the University of Richmond, was awarded both the Distinguished Service Cross and the Distinguished Service Medal.

The individuals described above are some of West Point's outstanding ex-cadets. Not mentioned are the many I have inadvertently missed and the numerous less famous ex-cadets who served a lifetime career in the Army or other Service, who were leaders in the business or educational world, or who served humanity successfully in many other endeavors. (One ex-cadet even turned out to be the leader of the League for Spiritual Discovery.) A logical conclusion, therefore, is that dropping out of West Point need not hurt a man's career. Their careers illustrate an old truth: that we know little about the latent patriotism or potential leadership of our youth.

The taxpayers should hope that present-day cadets who fail to graduate—for whatever reason—will climb as high as have so many of their predecessors in serving their fellowman.

MIDDLE EAST CONFLICT

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

Mr. BROWN of California. Mr. Speaker, at a time of profound and pervasive unrest in the Middle East, compounded by the death of Nasser, the internecine conflict in Jordan, the tenuous Arab-Israel cease-fire, and a host of other problems, one who aspires to a peaceful solution to these problems is hesitant to even speak, much less appear to have solutions. Yet, if we do not speak, the apostles of death and destruction on each side appear to preempt the dialog. Those who call for the destruction of Israel, on the one hand, or for an overwhelming military posture in perpetuity for Israel, so that she may hold at bay a hundred million Arabs, are driven by the fires of emotion along paths which can easily lead to great power confrontation and nuclear war.

These emotions are based upon profound differences encompassing culture, religion, and territorial aspirations extending through centuries of time. Upon this foundation, more than sufficient in itself, are built additonal complex international rivalries stemming from differing levels of economic and social development, Jewish aspirations for their own homeland, the role of oil in the world, the critical geography of the Middle East in relation to transport and communication, and other factors, both material and ideological.

To hold that permanent solutions to the current Arab-Israel conflict can be obtained by the application of military force on either side is to hope for the impossible. No war in this century has achieved more than the stability of exhaustion—a stability lasting only until a new generation could arise to either continue the conflict, or to solve the problems of internal dynamics or external relations which brought on the war. Britain and France, the great powers of the 19th century, and among the "winners" of World War I and World War II, are now second-rate powers, as their population and economic base properly entitle them to be. Germany and Japan, defeated and devastated in World War II, have arisen to lead Europe and Asia. The United States and the U.S.S.R., victors in World War II, have earned by that victory only a precarious peace and a new insecurity, internal and external, fated to last as long as their leaders live by the sword of war, neglecting the solutions of the real problems facing their people and humanity.

Conflict in the Middle East, because of its complex emotional and geopolitical roots, is even less likely to provide stable solutions to the problems of the region than earlier wars of this century. And because the super-powers with their nuclear armaments are deeply involved with the contending parties, violence in the

Middle East holds consequences of world wide tragedy.

In this period following the high holy days of the Jewish faith—days in which we called upon God to remember man and his creation, to forgive, to renew and to redeem—it would be fitting for all of us to look upon the problems of Israel and her neighbors, and their solutions, in a new light. As a Member of Congress, and as a concerned citizen with close ties to Israel, I am personally dedicated to the continued existence of a free and secure State of Israel. I have committed myself in numerous declarations to this effect. I have likewise recognized and endorsed the proposition that peace in the Middle East must be achieved by direct negotiation between the parties to the conflict and that Israel must be provided with planes and other equipment needed to preserve her deterrent capacity as well as economic assistance to help relieve her present enormous defense burden. I have made these commitments in good faith, recognizing that these steps are indispensable to the overriding goal of a free and secure Israel.

While these are necessary steps in any move toward peace in the Middle East, they are not sufficient in themselves to bring about a more permanent settlement of the conflict there. Our concern at this time must therefore include achieving those additional conditions which will support a permanent peace in the area. It is these conditions which are at the heart of the problem and which will require that all parties rise to new levels of statesmanship and concern for the common welfare of all the people of the area.

For Israel to be secure requires that the Arab countries renounce their state of continuing belligerency against Israel. Critical border areas such as the Golan Heights and the west bank of the Jordan must be demilitarized and made safe from penetration by guerrillas and terrorists. Israel's right of innocent passage through the Suez Canal and the Straits of Tiran must be guaranteed. The holy places of the Jewish faith must be freely available to all Jews.

Israel, for her part, must be willing to accept and implement the essential provisions of the United Nations Security Council resolution of November 22, 1967, which calls for Israel's withdrawal from the occupied territories and for a just settlement of the Palestinian refugee problem. For Israel to agree to these steps would not only pave the way to peace in the Middle East, but would also be a major step toward strengthening the cause of peace in the world.

I recognize the vast difficulties underlying the simple statement above. For Israel to renounce the territory won in the 1967 war is to do something which few great powers have ever done, particularly when the occupied territories have such critical security implications. And the Palestinian refugee problem has festered for a generation with no move toward a solution.

The two problems are bound closely together. The unsettled refugee problem produces the Palestinian guerrilla movement—the demand of the homeless Arab to be restored to his ancient land, supported by his Arab brothers throughout the region. Arab efforts to resolve this problem by military force have been fruitless, leading only to Israel's occupation of additional territories and the creation of more refugees. The siren song of Israel security through military power and territorial expansion makes difficult the renunciation by Israel of the fruits of victory. This, in turn, fuels the fires of Arab nationalism and their commitment to a final solution by the same military means which have failed them before.

It is this vicious cycle of force and counterforce, of suffering expiated by the creation of more suffering, that must be halted. Israel and the Arab nations must agree to a permanent resettlement of the Palestinian refugees. Some must be permitted to return to ancestral lands in Israel and accepted as full citizens of that country. The remainder must be fairly compensated for losses incurred by displacement from their homes and settled permanently in Arab communities. The costs of doing this, to both Israel and Arab countries, is immeasurably less than the present costs of the unsolved refugee problem. The difficult and delicate decisions as to how many and which of the refugees are resettled in what areas must be undertaken in good faith. Since the great powers, including the United States, pay the major part of the cost of maintaining the present refugee camps, it would be appropriate for them to make a major contribution to the cost of permanent resettlement of the refugees. Such a contribution would cost far less than the continuing support of the camps, in the long run. Unresolved claims by Jews displaced from their homes and businesses in Arab nations would be appropriately considered in the framework of an overall settlement of refugee claims.

Admittedly, the permanent resettlement of the refugees would create major internal problems in both Israel and the directly involved Arab countries. But are these problems as great, by any stretch of the imagination, as those created by a Middle East perpetually on the brink of war? Israel must be prepared to accept Palestinan Arabs as brothers in a secular state, offering them the same opportunities and rights of citizenship as they would want for themselves in an Arab State. Arab States must accept the added burden of providing new economic opportunities for refugees when they hardly are able to maintain their present populations. Yet these obligations must be undertaken for the sake of the security of all who share the problems of that troubled region.

If these steps can be taken to restore peace, and to strengthen the weakened rule of law in the world, it would immeasurably benefit the world community. These benefits justify an extraordinary effort by the United Nations to achieve a settlement based on the terms of its 1967 resolution. The United States, for its part, would be justified in offering to underwrite the stability of the resulting order by offering Israel a mutual defense treaty to secure her borders from aggression. This proposal, made by Senator FULBRIGHT in a Senate speech on August 24, 1970, is one which I would support as a means of supplementing the guarantees of the United Nations.

It is easy to recognize the deficiencies and difficulties in what I have suggested here, and it is much more difficult to see the shape of appropriate solutions to these complex problems. It is my hope however that we will all make a much more dedicated effort to bring peace to the Middle East now.

SCHOOLING FOR MINOR DEPENDENTS OF DEPARTMENT OF DEFENSE PERSONNEL WHO DIE WHILE ON ACTIVE DUTY

(Mr. ERLENBORN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ERLENBORN. Mr. Speaker, last week in the defense appropriations bill, the House passed section 807, which I cosponsored as the bill H.R. 16725. The passage of this section will result in the provision of schooling for minor dependents of Department of Defense personnel who die while on active duty. This provision will allow widows who are foreign nationals to educate their children in American schools, if they return to the country of their origin.

This provision came as a direct result of the general labor committee's investigation and evaluation of Defense Department overseas schools. I was personally concerned when I visited these schools that children of the mixed marriages of American men serving and dying for their country could not, because of a regulation, go to school and be raised as Americans.

It is firsthand observations such as this—that Members can only acquire through travel—that help us to understand the problems that exist and to provide solutions for them.

I would like to commend my colleagues, Congressman JOHN DENT and Congressman BILL FORD for the concern they share with me as we all attempt to improve our overseas educational system

INTERNAL REVENUE SERVICE RULING

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

Mr. PEPPER. Mr. Speaker, I was dismayed and shocked when I learned that on October 9, 1970, the Internal Revenue Service announced that it was suspending the issuance of tax exemption rulings to most organizations that support litigation advancing charitable purposes. The organizations directly affected include groups concerned not only with civil rights and consumer interests, but also environmental protection and conservation.

The impact of the announcement is patently clear. Most of the law firms and organizations directly affected by this callous IRS ruling take cases for which they receive no remuneration, and, therefore, such firms and organizations are forced to rely upon grants and inter vivos gifts to sustain their existence. However, in light of the Internal Revenue Service

ruling, potential donors, noting that the tax exemption status of their gifts are in doubt, will undoubtedly look elsewhere when they consider making a charitable gift.

The simple question which must be asked this administration is, "Who does this ruling directly affect?" The answer is crystal clear. It certainly affects neither the corporate giants nor the substantial business establishments whose voices continually seem to receive a sympathetic ear at 1600 Pennsylvania Avenue.

Could it possibly be that the substantial business interests, annoyed by a bear economy, troubled by a tight money market, fearful of continuing labor strikes, and threatened by court cases in the antipollution and consumer areas, have signaled for help, and their call has been heeded by this administration? Obviously, big business wants to get the public-interest lawyers in as compromising a position as is possible. What better way to do it than to indirectly cut off their source of revenue. What significant foundations will now make grants to the Audubon Society or the Wilderness Society, or the Environmental Defense Fund if they are apprised by their corporate and tax specialists that their munificent purposes are no longer recognized by the Internal Revenue Service.

This IRS announcement could not have come at a more unpropitious moment in our history. With young people understandably and continually being alienated from our society, this announcement will further substantiate the disenchantment which so many of them deeply feel. Many young lawyers and law students have worked inestimable hours in preparing briefs and arguing cases in support of consumer interests and the protection of the public from pollution and corporate fraud. By this terse ruling, IRS has struck a lethal blow at the small people of our Nation.

Could it possibly be that this administration is anxious to deter class-action suits brought by public-interest lawyers?

Could it possibly be that this administration is more interested in furthering the interests of the corporate giants than in protecting the interests of civil rights groups like the Southern Christian Leadership Conference and the Lawyers Committee for Civil Rights?

Could it possibly be that this administration is anxious to find some justifiable vehicle to decimate the ranks of young lawyers who have rallied to consumer organizations like the Center for Law and Social Policy and the National Organization for Rights for the Indigent?

Certainly, the unfortunate timing of the IRS ruling of October 9, 1970, could not have evolved as a result of detailed legal analysis of the issues underlying the question of whether these environmental consumer and civil rights groups rightfully fall within the term "charitable." Groups using litigation to advance their charitable purposes clearly meet the Treasury regulations' definition of the term "charitable." Groups such as the Environmental Defense Fund and the National Parks Association defend human and civil rights secured by law.

Additionally, such groups promote social welfare and they, in effect, lessen the burdens of government. The law of charity permits an organization whose basic purpose is charitable to use means of its own choosing to attain that purpose as long as the means are not unlawful or against public policy. Such litigation is both lawful and consistent with public policy. Indeed, it represents a traditional means of action in our improved form of government.

Can there be any doubt in the minds of any thinking men in this administration that charitable organizations, such as I have enumerated above, use litigation not only to secure civil rights, preserve and improve the environment, or protect consumer interests, but more importantly, to make vital and substantial contributions to our society? These contributions are made when little people who are wronged by the actions of corporate giants have some voice in their Government and are, in fact, afforded their day in court.

Could it be that this administration would not be displeased if these little people bringing these successful class actions were somehow impeded in their sincere attempts to see that corporate wrongs are rectified?

Could it be that the corporate giants who often pollute our environment and deprive the unknowing consumer of his rights under the law are tired of being harassed by these young and devoted lawyers who toil endlessly to bring some semblance to the concept etched over the entrance of the Supreme Court Building, "Equality Over the Law?"

Preservation and improvement of our environment is an issue of intense personal interest to me and to my constituents in the State of Florida. I have seen in both the House and in the Senate that too many inroads have been made upon our national heritage by the tragic onslaught and disruption of our natural environment.

President Nixon has repeatedly recognized the necessity of involving our citizens in the effort to meet the urgent national crisis of environmental blight and pollution. The President has said that this preservation of our environment "requires the help of every citizen," and calls "for a total mobilization by all of us," and a "greater citizen involvement."

Certainly, I must take the President at his word; and, therefore, I must believe that the White House has not been informed fully of the consequences of this most unfortunate and callous ruling by the Internal Revenue Service.

I call on this administration to make the transition from rhetoric to action and to make good on its campaign commitments in the area of environmental protection, pollution, conservation, and consumer interests. I commend to my colleagues a reading of an editorial which appeared in today's Washington Post, entitled, "The Law, the IRS and the Environment." Mr. Speaker, I include this editorial in the RECORD following my remarks.

I sincerely hope that the precipitous and untimely action taken by the Internal Revenue Service will be immediately reviewed by the White House and will be rescinded as quickly as possible so that consumer protection, environmental and responsible civil rights groups can carry on their meritorious and worthwhile endeavors.

The editorial follows:

THE LAW, THE IRS AND THE ENVIRONMENT

In a move both surprising and ominous, the Internal Revenue Service announced last week that it was temporarily suspending tax exemptions to public interest law firms that wage court battles on environmental issues, consumer protection and similar areas. A 60-day study by the IRS is under way to decide finally on the matter; until then, donors to the public interest firms have been warned that their contributions are no longer deductible.

The impact is clear. Since many of the firms take cases for which there is no pay, they must rely on grants and gifts; but since the IRS now says the donations are not tax deductible, the water is cut off. Benefactors will look elsewhere to give their money.

The action of the IRS comes at an odd moment. First, as an article elsewhere on this page shows, the work of a public interest law firm can be useful and important. They accept cases that no other firms go near. Even before the IRS move was made public, private opposition to it was strong. Russel E. Train, chairman of the Council on Environmental Quality, wrote to Randolph W. Thrower, Commissioner of Internal Revenue, two weeks ago that the environment was being well served by the public interest lawyers. "Litigation brought by private groups which must rely on contributions for their support . . . (has) strengthened and accelerated the process of enforcement of antipollution laws."

The timing of the IRS move could hardly be worse; at no time has the establishment ever been preaching more loudly the work-within-the-system sermon to the young. Exactly when a few young lawyers and law students do work within the system, they are whammed over the head by the most financially powerful part of that system, the IRS. A third irony involves the contrast between the detailed supervision the IRS is giving the public interest law firms and its casualness in examining the recent tax-exemption claims of the Southern white academies that tried to evade desegregation laws.

Although not all the facts are yet out—if all of them ever will be—a number of urgent questions need to be asked about the IRS decision. Who is behind it? This decision is a major move, one that will prevent qualified lawyers acting on recognized laws going into established courts. It is no secret that major corporations, already buffeted by tight money, a bear market and strikes, feel harassed by court cases in anti-pollution and consumer areas. From the board room, the outlook is even more grim, currently in Congress are two class action bills that would restore to the public the protection it needs from pollution and fraud. With public interest lawyers all too eager to use the law to protect both the environment and the consumer, the thought occurs—though these things are hard to prove—that business interests may have sent an SOS to the Nixon administration, saying in effect, get the kids off our backs.

The truth of the matter is, of course, that the public interest lawyers aren't on the corporations' backs. Filing a suit against a business or a federal agency meant to regulate it means nothing in itself. The judge decides whether a case can be made. It is true, of course, that more than a few corporations resent even being hauled into court and in many ways their resistance is understandable. For years, no one said a thing about the rivers or air being polluted; the companies were only providing America with the good things of the good life. But suddenly, the public sees that progress has a price and is no longer willing to pay it. Wisely, most judges

and even most public interest lawyers are not demanding that all law breaking businesses be forced to close instantly. If anything, businesses are treated with great tenderness. Because the IRS action bears directly on the crucial question of environment and on the quiet, constructive efforts of conscientious people to do something about policing it, a few senators are talking about hearings on the whole subject. They are needed—fast.

SUICIDAL DRUG CULTURE

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

Mr. MONAGAN. Mr. Speaker, in recent days we have witnessed the tragic deaths of Janis Joplin and Jimi Hendrix, both in their mid-twenties, and both victims of the suicidal drug culture which has taken firm hold in our society. Today the social stigma of using drugs is gone. Drugs are being compounded in various and dangerous combinations. "Speed" is a drug singly or in combination that is out of control and is steadily on its way to becoming our number one problem drug. For the purpose of this statement, "speed" includes pill dosage and liquid dosage of amphetamines and related compounds, "uppers," "splash," "crank," "rhythm," "meth," "crystal," and other combinations. "Speed" is probably more commonly tagged to the liquid dosage of methamphetamine.

We talk of drug abatement proposals and action. The drug situation requires and society demands constructive steps. Yet at best the steps taken are too little, too late, and frequently composed largely of talk.

Amphetamines as a family are marketed under about 200 brand names and in combination with other compounds under a much greater number of brand names. With a prescription, the generic amphetamines are legal and cheap, costing about 5 cents per 5 milligram tablets. The pharmacist can purchase such tablets for less than 1 cent apiece. Amphetamines include the drugs sold as benzedrine, dexedrine, methedrine, desoxyn, preludin, ritalin.

Benzedrine, the first amphetamine, was originally synthesized as an adrenalin substitute and utilized as a decongestant in the treatment of bronchial asthma. Amphetamines are now prescribed for a minimum of other uses. As diet pills or appetite suppressants, in some instances studies place their effectiveness as the equivalent of a placebo or a maximum of 5 to 10 pounds loss only over the initial weeks. As antidepressants, they are only beneficial for a few days at best, and use for the purpose is not medically preferred at present. They are used to treat two very rare conditions: Narcolepsy and hyperkinetic children. The acceptability for the latter use has now come into public question.

The amount of drugs manufactured and utilized far exceeds the need for such compounds. Three and a half billion doses containing amphetamines are produced legitimately annually. At least half of this production is diverted to illicit sales. Even the amount sold under prescription—8 percent of all prescriptions written in this country—far exceeds the practical medicinal use of drugs. Beside the "speed" manufactured by legitimate manufacturers, there exists the underground "bathroom" lab which produces illegitimately and with great variances in quality.

"Speed" is not necessarily a physically dependent drug with withdrawal symptoms. Yet it can result in physical dependence. It does cause psychological dependence and it is abused. To keep achieving a "high"—a euphoric peak—requires an increasing amount of "speed" habit.

The results of this habit drive to the human organism are the creation of hostility, belligerence, disorientation, viciousness, paranoia, and hallucinations. Sleep becomes impossible. To swallow food becomes difficult and body deterioration follows. The body defenses are knocked out. Colds, malnutrition, infections, muscle tremors, cardiac problems, nausea, cramps, and hepatitis show up quickly. Damage to the metabolism, enzyme and endocrine systems appear evident. Speeders are self-destructive and their paranoia can be overpowering.

Amphetamines—speed—encourage the use of other drugs, specifically: Barbiturates, heroin, librium, and valium. For many it is impossible to stop or overcome the dependence created by the drugs. Those who do, in turn may suffer brain damage as a result of their experience with "speed." The overall damage to human health and life caused by "speed" is incalculable.

Amphetamine and its related compounds can be just as dangerous as heroin. But because "speed" has a medical legitimacy of some value, drug laws are lenient or more permissive about "speed" in contrast to heroin. In most jurisdictions, where even the possession and use of marihuana is a felony, the possession of "speed" without prescription even with the admitted intent to sell, is punishable, if at all, only as a misdemeanor. Possession and sale of heroin is a felony punishable with sentences up to life imprisonment in most jurisdictions.

I was pleased that recently the Food and Drug Administration, after much prodding, moved to change the allowable medical claims and strengthen the warning on possible side effects or hazards in the labeling of amphetamine products to conform with medical knowledge. However, it is only a toddler's first step in the right direction. We need to do more—much more.

I supported H.R. 18583, which the House recently passed. This measure vests authority in the Attorney General upon a recommendation of the Secretary of Health, Education, and Welfare to impose manufacturing quotas record-keeping and inventory control on these and other dangerous products. The Department of Justice has already stated that it will place methamphetamine under such restrictions. It is a solid step. It has hardships and disadvantages. It will not reach the illegal production. But the situation cries out for workable remedies in order that we may remove this blight from our society. We must do better, otherwise we and society are the losers. I am, also, pleased that section 601 of H.R. 18583, provides for the establishment of a Commission on Marihuana and Drug Abuse since I introduced legislation providing for such a commission. I shall continue to support and fight for measures which will protect the public health and safety in this area.

Success in combatting the misuse of drugs and related problems, in turn, is a vital part of our fight to prevent the further degradation of our society and the debasement of our people.

PCB'S—AN ENVIRONMENTAL HAZARD

(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, recent studies have disclosed that manmade chemical compounds—polychlorinated biphenyls—PCB's—are being found in our environment in levels dangerous to wildlife and possibly to human life.

Manufactured in the United States solely by the Monsanto Corp., PCB's are sold under the trade name Aroclor.

Aroclor has been recommended by Monsanto for products such as plasticizers, coatings for paper and fabric, fire-resistant and fire-retardant compounds, photothermographic copy sheets, decorative sparkling plastics, asphalt, adhesives, paraffin, printer's ink, resins, rubber products, paints, pesticides, lacquers, sealing compounds, polyester film and water-repellent canvas for camping materials.

Monsanto at first claimed that PCB's are used only in so-called closed systems, such as brake linings, hydraulic fluids, and electrical applications such as insulating fluids. Even if this were true, release to the environment would still be possible through deterioration or through normal escape of hydraulic oil. However, it is clear from Monsanto's own sales materials—Monsanto's Technical Bulletin O/PL–306—that the many other uses promoted therein would permit widespread contamination of the environment.

PCB's are not soluble in water, and so, like DDT, they are extremely persistent in the environment. As a result, PCB's can be distributed widely over the earth by air currents, making them available to animal and human life.

Scientists in Sweden, England, Scotland, the Netherlands, and the United States have detected PCB's in fish and sea birds, in conifer needles, in lipstick, in human fat and in mother's milk.

Dr. Robert Risebrough, in an article in January–February 1970 Environment, "More Letters in the Wind," stated that the distribution of PCB's is greatest in those areas where there is a high concentration of men and industrial activity.

Dr. Risebrough cited five ways in which PCB's can escape into the environment:

1. Through pesticides that contain PCB's.
2. From the stacks of Monsanto plants that make Aroclor and from manufacture of products containing Aroclor.
3. Other forms of industrial waste.
4. Gradual wear and weathering of products (such as asphalt) containing Aroclor which may cause PCB's to be slowly released

in the form of vapor or minute particulate matter into the atmosphere.

5. The possibility that many products containing PCB's eventually are thrown out as trash and are burnt in dumps or incinerators—releasing toxic fumes.

While PCB's have not yet been found in levels that could cause injury or death from short-term exposure, we do not know what effect low-level exposure can cause over a long period.

English environmental chemists have recently found very high levels off both the east and west coasts of England and in fish from the Irish Sea. In the New York Times of October 4, 1970, according to a dispatch from the Times of London, a British Government study reported "the highest concentration of poisonous industrial chemicals ever found in wildlife." PCB levels were found as high as 900 parts per million—double the amounts previously detected.

In addition to finding PCB's in dead wildlife, scientists have found that PCB's—like DDT—affect the reproduction systems of animal life—causing birds, for example, to lay eggs with shells that are too thin to protect the embryos.

An even greater danger is that to human beings. In humans, they have a direct action on the skin, producing a severe form of acne known as chloracne. If inhaled, they may produce a variety of effects ranging from nausea and loss of weight to increased respiration, lowered red blood cell count and inhibition of carbohydrate metabolism. More serious effects are those on the kidneys. The principal effect, however, is on the liver—possibly leading to atrophy, followed by death.

In April, after studying all the available materials on PCB's and their danger to the environment and to animal and human life, I called upon Monsanto and various agencies in the Government to take action against this ecological threat.

I requested that Monsanto detail its efforts to prevent PCB's from escaping into the environment. I asked the company to release production statistics to researchers in the field of PCB pollution. I also asked Monsanto to require special labeling for all PCB-containing materials.

I wrote to the Department of Agriculture, asking it to ban the use of PCB's in pesticides.

I wrote the Food and Drug Administration, asking it to require proper labeling of products containing PCB's and asking them to study whether PCB's should be completely banned.

And I wrote to the Department of the Interior to request that fish and wildlife be protected from the hazards of PCB's.

The Agriculture Department replied that the use of PCB's in pesticides would be discontinued. And it agreed to cancel registrations for pesticides containing PCB's.

The Food and Drug Administration responded that it was studying PCB's in food and also determining how toxic the chemicals are to animals and humans.

Secretray of Interior Walter Hickel promised that "when sufficient facts are established as to the sources and nature of these pollutants, we will be in a position to take appropriate corrective measures."

Monsanto answered my first inquiry with ambiguities regarding the amount of PCB's that escape into the environment during manufacture. After further efforts to obtain pertinent information, I was informed that Monsanto was "currently constructing" further control equipment. I was told that "an incinerator has been designed" to destroy PCB residues, but no date was given when this incinerator might begin operating.

Monsanto refused to provide details as to production and sales of this dangerous chemical, choosing to hide behind the cloak of confidentiality.

Monsanto refused to supply a complete list of uses of PCB's—claiming this information "would serve no useful nonpolitical purpose." This reaction to efforts to protect the American public would seem to reflect an attitude contemptuous of public welfare.

Monsanto further stated that it "could not release details of individual products containing the chlorinated byphenyls without specific permission from each individual customer." Yet, it said that it had been in touch with customers both verbally and in writing and to have "issued warnings to all our customers using the chlorinated biphenyls." Why could not permission have been sought during these exchanges?

The refusal of Monsanto to provide production and sales figures, a complete list of uses, and the identity of indivdual products containing PCB's impedes scientific efforts to determine the extent to which PCB's have entered the environment. It should be noted that Chemical Week for August 1969, announced that "Monsanto, by mid-1970 would be bringing its worldwide plasticizer capacity to more than 600 million pounds per year—page 27.

In June, I again urged the administration and the Monsanto Corp. to take effective action to keep PCB's from endangering animal and human life.

I stressed that, although the pesticide ban was a step in the right direction, the Government should take the initiative and design concrete methods to make sure PCB's could no longer escape into the environment.

After the public became aware of the dangers of PCB's, the Monsanto Corp. advised me in a letter dated June 30, 1970, and at a meeting in my office on July 8, 1970, that it had decided to restrict the use of PCB's to "closed-system applications." These closed-system applications are use of PCB's in transformers, capacitors and heat transfer fluids.

Conceding that the end product cannot be controlled, Monsanto said it would discontinue PCB sales for plasticizer applications after August 30, 1970. Monsanto also said that PCB's would no longer be used as hydraulic fluids—Pydrual is Monsanto's trade name—after December 31, 1970. Monsanto further said it would offer a recovery service for spent fluids used as coolants in transformers and other closed-system usages.

The following excerpts from Monsanto's June 30, 1970, letter to me explain more fully the actions Monsanto decided to take:

1. We have taken the decision that effective from the 30th of August we will no longer sell the chlorinated biphenyls to customers for use in general plasticizer applications where disposal of the end products cannot be controlled. This includes all the applications referred to in our bulletin O/PL-306. All of our customers who have used these products in the past for these applications have been advised of this decision both verbally and by formal letter. We are working closely with them to recommend suitable alternative products which present no danger to the environment.

2. In many of the applications where chlorinated biphenyls are used as hydraulic fluids, we are not satisfied that it is possible to control their usage and eventual disposal to ensure that there is no possibility of escape to the environment. We have therefore taken the decision to reformulate such fluids and we are currently working with our customers to change over to these new formulations. A substantial part of this program will be completed within the course of the next three months and in other areas where performance requirements are difficult to achieve with alternative products, we consider it will take until the end of 1970 to complete change-over.

3. In areas where the chlorinated biphenyls are used in closed system application, e.g., transformers, capacitors, and heat transfer fluids, we will continue to sell the chlorinated biphenyls as their unique, fire-resistant properties are extremely important in ensuring maximum protection for the safety and well-being of the population of this country. As you should be aware, the major usage for the chlorinated biphenyls is as coolants in transformers where they have replaced such other materials as oil and have greatly reduced the risk of fires and explosions which in the past have often had disastrous results in terms of human lives. These closed system applications are such that by working together with our customers, we can avoid emissions to the environment.

Coupled with this decision to continue selling chlorinated biphenyls for closed system usage, we have established a service to collect spent fluids which are returned to our manufacturing sites for regeneration or destruction in a specially designed, high-temperature incinerator. This incinerator breaks down the chlorinated biphenyls into harmless materials, mainly hydrochloric acid which is scrubbed out of the waste gas stream, neutralized and passed through our waste treating facilities.

Although we are confident that we can achieve a very high degree of control in these closed system applications, we are not completely satisfied and we are working to develop modified chlorinated biphenyls which will be biodegradable. This means that even if minute quantities of chlorinated biphenyl are released to the environment by accidental spills and/or leakage, it will be possible to remove them from waste water streams in conventional secondary treatment facilities.

Although the extremely high levels found in England suggest that Monsanto's action may be coming too late, I am extremely gratified that my exposure of PCB's as a major environmental hazard was instrumental in having them excluded from uses that allow widespread escape into the environment.

However, I am not satisfied that PCB's are no longer an environmental threat. Monsanto stated that in such uses as hydraulic fluids, Monsanto is "not satisfied that it is posible to control their usage and eventual disposal to insure that

there is no possibility to escape to the environment."

The London Times article and the British Government report on the high incidence of PCB's in Britain have greatly increased my concern.

I have urged the United Nations Conference on the Human Environment, which is to be held in Sweden in 1972, to study the danger of PCB's to animal and human life throughout the world. I have also requested that PCB's be banned by the Conference for any use that would allow these compounds to escape into the environment.

We cannot know how many other chemicals and their compounds are affecting the environment in manners similar to PCB's and DDT. When such dangers are reported, we cannot afford to ignore them.

We cannot allow private corporations to continue to sell hazardous chemicals without regard to the dangers these products present to the environment. Instead of facing grave threats after chemicals have been widely dispersed, we must insist that no new chemicals be used unless they are proved harmless.

If we are really to have a clean, healthy environment, then the Congress, the administration, and the people themselves must be constantly vigilent to preserve its quality.

I include at this point in the RECORD an article from the New York Times of October 4 which contains a dispatch from the Times, London, regarding the British report on PCB's.

[From the New York Times, Oct. 4, 1970]

CHEMICAL POISONS FOUND IN WILDLIFE—BRITISH RECORD HIGHEST LEVEL OF COMPOUND IN HERONS

LONDON, October 3.—Government analysts have recorded the highest concentration of a group of poisonous industrial chemicals ever found in wildlife.

The discovery of these high levels of polychlorinated biphenyls, or PCBs, which have effects similar to those of the persistent pesticides such as DDT, is described in an annual report published this week. The report also contains a description of new analytical methods for measuring minute quantities of other poisonous chemicals that are causing damage in the environment through changes in food production, agricultural practice and industrial processes.

Attention was first directed to polychlorinated biphenyls last autumn, when the substance was found in the carcasses of many of the thousands of sea birds killed in the Irish Sea. It has since been found in seals off the Cornish and East Anglian coasts.

The report said that PCB levels as high as 900 parts to a million had been found in the livers of herons, which are fresh water feeders. This is more than twice the previously recorded levels for sea birds, and analytical techniques available are not believed precise enough to measure all the various forms of the chemical.

INDUSTRIAL EFFLUENTS

Very high levels would be a direct cause of death in wildlife. But the possible effects of an accumulation of much smaller quantities are discussed by the Government Laboratory's Environmental Chemistry Group. Although PCB's are not used as pesticides, they are contained in a large number of effluents from industry. There is evidence that they interfere with the process of calcium metabolism in much the same way as the organochlorine pesticides affect wildlife.

There are at least 210 known forms of polychlorinated biphenyls. Some of them present difficulties in laboratory analysis because they can be easily masked by other chemical substances.

The picture is similar regarding organomercury compounds. Traditional methods of analyzing samples of mercury shows only the gross amount present but gives no idea of how much is combined in the complex organic compounds or just in the metallic form.

This has been an important weakness in pollution control because the toxicity of the organo-mercury compounds varies widely. Very little effort was directed to identification of these various poisons and their spread in the environment until three years ago, when Dr. G. Westoo of Sweden devised methods for analyzing methylmercury compounds in fish, meat, liver and eggs. This method has been refined by the Government Laboratory for analyzing potatoes, tomatoes, apples and liver.

I include at this point in the RECORD extracts from Monsanto's Technical Bulletin O/PL 306.

EXTRACTS FROM MONSANTO CO.'S TECHNICAL BULLETIN O/PL–306 ON AROCLOR (PCB) USES

PCBs are manufactured in the United States only by the Monsanto Company, under the trade name Aroclor.

In its Technical Bulletin, O/PL–306, Monsanto describes qualities of aroclor, such as fire retardance, corrosion resistance, and adhesivity. This bulletin suggests "scores of new uses that could not be performed by any other known material." Five separate bulletins are offered to give additional information for uses in resins, chlorinated rubber, emulsion adhesives, protective coatings, modifiers for polysulfides, fire-retarding plasticizers and wax compounds.

Aroclor plasticizers are suggested for protective coatings, such as in chemical plants, sealing compounds, adhesives, lacquers, inks, varnishes, free films, fabric coatings and pigment dispersions; components or extenders in elastomers and waxes. Page 5 describes Aroclor's compatibility with *twenty-seven* "common plastic materials" such as asphalt, rubber, paraffin and resins. Other uses: in molded products, brake linings, chemically-blown vinyl foam (such as was recently reported in *New York Times* for making a cave-like bedroom) and in vinyl-asbestos floor tile.

In describing the applications of Aroclor in adhesives, the bulletin remarks (p. 14) "When the slight odor of Arcolor is objectionable in an adhesive for certain applications, it can be easily masked, at negligible cost, by the addition of a small amount of Stantomask II."

Other uses are in prime coats for concrete storage tanks for gasoline and fuel oils; as base coats for concrete wood-kiln coatings (which are exposed to heat, moisture, and wood distillates).

On page 21, under "Aroclor in Rubber" appears the sentence: "Typical applications include protective and decorative coatings and for swimming pools, stucco homes, steel structures, tank cars, and both wood and metal maritime equipment."

In chlorinated-rubber formulations, Aroclor is suggested for heat-sealing adhesives, electrical coatings, paper and textile coatings, and printing inks. Other versions are designed for wire and cable coatings, and for "tacky coatings for fabric or paper."

Page 25 says "Insecticides, for example, can be blended into such coatings to make insect traps or barriers on tree trunks for foliage or fruit protection."

Other uses: sealing and caulking compounds: automobile-body sealants; paint compositions; tracing paper, window envelopes, and other paper-transparentizing; and hot-melt resins for the protection of tools and metal parts.

On page 31, "high-chlorine-content Aroclor plasticizers" are described as "widely used in the manufacture of low-cost, flame-resistant lacquers" for paper coatings, lacquers for plastics, and hot-melt adhesives. Page 33: heat-resistant aluminum paints and enamels, such as for jet-engine components, exhaust manifolds, and incinerators. Page 34: Waxes containing Aroclor are widely used in making dental castings, costume jewelry and precision-cast aircraft parts. "Aroclor with waxes make excellent and inexpensive sealers for masonry, wood, fiberboard, and paper."

On page 36 it is explained that the kill-life of chlorinated insecticides is extended by Aroclor acting as a vapor suppressant and as a sticking agent, enabling the insecticide to remain toxic on hard surfaces "for as long as three months."

For its moisture-proofing qualities, Aroclor is suggested on page 36 for use in waxes, such as paraffin; oils such as mineral oil or drying oils; and as a coating for paper and cloth.

Page 37: an "important ingredient" in mimeograph ink for use on bond paper; in the preparation of imitation gold leaf; as pigment vehicles for decoration of glass and ceramics; and grinding and dispersing mediums.

Page 38: "Aroclor plasticizers are essential components of coatings for flame-proofing cotton drill for outer garments and for rendering olive-drab canvas fire-retardation, water-repellent, and rot-proof for tents, tarpaulins, etc. . . ."

Page 50: a "potential problem from the standpoint of both inhalation and skin contact" and suggests the use of closed systems and local-exhaust ventilation. It also mentions that vapors of Aroclor "at room temperature should not be breathed in a confined space . . ."

It suggests "the use of gloves and protective garments because of the possible occurrence of a condition called chloracne."

Aroclor is sold in Tank cars, 500 to 600-lb. steel drums, 100-lb. bags and 50-lb. cans.

SPANISH BASE AGREEMENT

(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, the agreement which the administration entered into with Spain for U.S. military aid and for continued base rights in Spain, was another example of the executive branch ignoring congressional authority under the guise of executive privilege. When this agreement was concluded last August, I issued a public statement condemning the action taken by the administration. On August 6, 1970, I said:

The agreement which is being signed with Spain constitutes a significant commitment which has neither received sanction nor scrutiny by the Congress.

The Spanish base agreement once again reveals the "underground diplomacy" which keeps the Congress and the American people from knowing what their government is doing.

Hundreds of millions of dollars worth of weapons are apparently to be transferred—by loan, sale, or other means—to Spain in return for the United States' being able to use the bases. This constitutes nothing less than support of a dictatorship which suppresses political right and civil liberties.

The unsanctioned military ventures of the executive branch—such as the invasion of Cambodia—illustrate how dangerous it is for Congress to surrender its powers to the executive. By extending the treaty with Spain by executive agreement, the Administration has purposefully ignored the concern which I and other members of Congress have voiced in the past about commitments to Spain.

In order to deter such action, and to firmly assert Congressional oversight in foreign affairs, I have introduced legislation to create a Joint Committee on Foreign Policy.

This latest flaunting of Congressional powers by the Administration in support of a reactionary dictatorship—is just further justification for such a Committee.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. THOMPSON of New Jersey (at the request of Mr. O'HARA) on account of family illness.

Mr. BLANTON (at the request of Mr. JONES of Tennessee), for today, on account of official business.

Mr. LOWENSTEIN (at the request of Mr. ALBERT), for today, on account of official business.

Mr. PRICE of Texas (at the request of Mr. ARENDS), on account of emergency appendectomy.

Mr. CORMAN, for today, on account of official business.

Mr. BARING (at the request of Mr. BURTON of California), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BYRNE of Pennsylvania, for 30 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

(The following Members (at the request of Mr. FREY) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. FINDLEY, for 5 minutes, today.

Mr. TEAGUE of California, for 30 minutes, today.

Mr. WILLIAMS, for 10 minutes, today.

Mr. MCDADE, for 5 minutes, today.

Mr. WATSON, for 5 minutes, today.

Mr. WHALEN, for 5 minutes, today.

Mr. HARSHA, for 10 minutes, today.

Mr. HALPERN, for 5 minutes, today.

Mr. GOODLING, for 10 minutes, today.

Mr. HOGAN, for 20 minutes, today.

Mr. ASHBROOK, for 60 minutes, today.

Mr. CHAMBERLAIN, for 15 minutes, today.

(The following Members (at the request of Mr. CAFFERY), to revise and extend their remarks and to include extraneous matter:)

Mr. GARMATZ, today, for 10 minutes.

Mr. RARICK, today, for 30 minutes.

Mr. CONYERS, today, for 60 minutes.

Mr. FLOOD, today, for 15 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CAREY in six instances and to include extraneous matter.

Mr. CRANE to revise and extend his remarks during debate on H.R. 17849.

Mr. HAMMERSCHMIDT to extend his remarks on the bill H.R. 19519 and to include extraneous matter.

Mr. SAYLOR, today, and that his remarks appear prior to passage of H.R. 693 on August 13, 1970.

Mr. RANDALL, and to include extraneous matter in two instances.

(The following Members (at the request of Mr. FREY) and to include extraneous matter:)

Mr. ROUDEBUSH in two instances.

Mr. ANDERSON of Illinois in three instances.

Mr. STEIGER of Wisconsin in two instances.

Mr. GUBSER.

Mr. CRANE in six instances.

Mr. SCHWENGEL in three instances.

Mr. MILLER of Ohio in six instances.

Mr. SEBELIUS.

Mr. FREY in two instances.

Mr. GERALD R. FORD in five instances.

Mr. MCDADE in six instances.

Mr. WYMAN in six instances.

Mr. HORTON in six instances.

Mr. ARENDS in four instances.

Mr. SMITH of California.

Mr. SPRINGER.

Mr. SCOTT.

Mr. HARSHA.

Mr. MINSHALL in four instances.

Mr. PRICE of Texas in five instances.

Mrs. HECKLER of Massachusetts.

Mr. BRAY in six instances.

Mr. DERWINSKI in four instances.

Mr. MCEWEN in two instances.

Mr. BROWN of Ohio in four instances.

Mr. JOHNSON of Pennsylvania.

Mr. GUDE in four instances.

Mr. LANGEN in five instances.

Mr. NELSEN in four instances.

Mr. FINDLEY in two instances.

Mr. HALL.

Mr. GOLDWATER.

Mr. BROYHILL of Virginia in five instances.

Mr. HOGAN.

Mr. BOB WILSON.

Mr. REID of New York.

Mr. RHODES in five instances.

Mr. THOMPSON of Georgia.

Mr. HUNT.

Mr. RUPPE.

Mr. SCHMITZ in three instances.

Mr. HOSMER in five instances.

Mr. BROWN of Michigan in two instances.

Mr. SKUBITZ in two instances.

Mr. SPRINGER.

Mr. HALPERN.

Mr. SAYLOR.

Mr. BELL of California.

(The following Members (at the request of Mr. CAFFERY) and to include extraneous matter:)

Mr. EILBERG.

Mr. WILLIAM D. FORD in two instances.

Mr. MATSUNAGA.

Mr. JACOBS.

Mr. GARMATZ.

Mr. MCFALL in two instances.

Mr. BRINKLEY in three instances.

Mr. PATTEN in two instances.

Mr. ANDERSON of California in two instances.

Mr. VANIK in six instances.

Mr. BROOKS in three instances.

Mr. DANIELS of New Jersey in two instances.

Mr. FALLON in two instances.

Mr. PUCINSKI in 10 instances.

Mr. WALDIE in two instances.

Mr. UDALL.

Mr. CLAY in three instances.

Mr. DINGELL in two instances.

Mr. KLUCZYNSKI in two instances.

Mr. LONG of Maryland in five instances.

Mr. EDWARDS of California in two instances.

Mr. ICHORD.

Mr. RIVERS in two instances.

Mr. ROE in two instances.

Mr. HUNGATE in four instances.

Mr. SCHEUER in two instances.

Mrs. SULLIVAN in three instances.

Mr. CULVER.

Mr. RODINO.

Mr. MINISH in two instances.

Mr. STOKES in two instances.

Mr. PATMAN in two instances.

Mr. PICKLE in two instances.

Mr. BOLAND in three instances.

Mr. FASCELL in three instances.

Mr. ROGERS of Florida in seven instances.

Mr. ECKHARDT in two instances.

Mr. MAHON in two instances.

Mr. DULSKI in five instances.

Mr. BOGGS in two instances.

Mr. ANNUNZIO in six instances.

Mr. OLSEN in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1142. An act to authorize and direct the Secretary of Agriculture to classify as a wilderness area the national forest lands adjacent to the Eagle Cap Wilderness Area, known as the Minam River Canyon and adjoining area, in Oregon, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3747. An act to amend the District of Columbia Code to increase the jurisdictional amount for the administration of small estates, to increase the family allowance, to provide simplified procedures for the settlement of estates, and to eliminate provisions which discriminate against women in administering estates; to the Committee on the District of Columbia.

S. 3748. An act to provide for the removal of snow and ice from the paved sidewalks of the District of Columbia; to the Committee on the District of Columbia.

S. 3749. An act relating to crime in the District of Columbia; to the Committee on the District of Columbia.

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. 693. An act to amend title 38 of the United States Code to provide that veterans who are 72 years of age or older shall be deemed to be unable to defray the expenses of necessary hospital or domiciliary care, and for other purposes;

H.R. 10335. An act to revise certain provisions of the criminal laws of the District of Columbia relating to offenses against hotels, motels, and other commercial lodgings, and for other purposes;

H.R. 14982. An act to provide for the immunity from taxation in the District of Columbia in the case of the International Telecommunications Satellite Consortium, and any successor organization thereto;

H.R. 15073. An act to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the Department of the Treasury, and for other purposes;

H.R. 17604. An act to authorize certain construction at military installations, and for other purposes; and

H.R. 18731. An act to revise the per diem allowance authorized for members of the American Battle Monuments Commission when in a travel status.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 30. An act relating to the control of organized crime in the United States;

S. 2695. An act to provide for the retirement of officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, the U.S. Park Police force, the Executive Protective Service, and of certain officers and members of the U.S. Secret Service, 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;

S.J. Res. 223. Joint resolution to authorize and request the President to issue a proclamation designating January 1971 as "National Blood Donor Month"; and

S.J. Res. 242. Joint resolution to provide for the temporary extension of the Federal Housing Administration's insurance authority.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on October 13, 1970, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 2175. An act to amend title 18 of the United States Code to authorize the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole, or mandatorily released;

H.R. 9164. An act to permit the use for any public purpose of certain real property in the State of Georgia;

H.R. 9634. An act to amend title 38 of the United States Code in order to improve and make more effective the Veterans' Administration program of sharing specialized medical resources;

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

H.R. 13307. An act to amend chapter 3 of title 16 of the District of Columbia Code to change the requirement of consent to the adoption of a person under 21 years of age;

H.R. 13601. An act to release and convey the reversionary interest of the United States in certain real property known as the McNary Dam Townsite, Umatilla County, Oreg.;

H.R. 15405. An act to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject;

H.R. 17146. A supplemental to the act of February 9, 1821, incorporating the Columbian College, now known as the George Washington University, in the District of Columbia and the acts amendatory or supplemental thereof; and

H.J. Res. 1388. A resolution making further continuing appropriations for the fiscal year 1971, and for other purposes.

ADJOURNMENT

Mr. ALBERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. In accordance with House Concurrent Resolution 774, the Chair declares the House adjourned until 12 o'clock noon on Monday, November 16, 1970.

Thereupon (at 4 o'clock and 12 minutes p.m.), pursuant to House Concurrent Resolution 774, 91st Congress, the House adjourned until Monday, November 16, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2460. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on appropriations and transfers made under Public Law 91-305 to meet the costs in fiscal year 1970 of pay increases granted by or pursuant to the Federal Employees Salary Act of 1970 and 81 Stat. 649, pursuant to section 306(c) of Public Law 91-305 (H. Doc. No. 91-405); to the Committee on Appropriations and ordered to be printed.

2461. A communication from the President of the United States, transmitting proposed supplemental appropriations for the District of Columbia for fiscal year 1971, including budget authority for additional Federal payment and loans to the city, together with a letter from the Office of Management and Budget (H. Doc. No. 91-406); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. S. 3785. An act to amend title 38, United States Code, to authorize educational assistance to wives and children, and home loan benefits to wives, of members of the Armed Forces who are missing in action, captured by a hostile force, or interned by a foreign government or power; with amendments (Rept. No. 91-1606). Referred to the Committee of the Whole House on the State of the Union.

Mr. ICHORD: Committee on Internal Security. Limited survey of honorariums given guest speakers for engagements at colleges and universities (Rept. No. 91-1607). Referred to the Committee of the Whole House on the State of the Union.

Mr. EVINS of Tennessee: Select Committee on Small Business. Small Business in Government procurement—before and after defense cutbacks (Rept. No. 91-1608). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELS of New Jersey: Committee on Post Office and Civil Service. S. 578. An act to include firefighters within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of Government employees engaged in certain hazardous occupations; without amendment (Rept. No. 91-1609). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRIEDEL: Committee on House Administration. H. Res. 1147. Resolution relating to certain allowances of Members, officers, and standing committees of the House of Representatives, and for other purposes; with amendments (Rept. No. 91-1610). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois (for himself and Mr. CRAMER):

H.R. 19732. A bill to establish the Corps of Engineers Environmental Policy Act of 1970; to the Committee on Public Works.

By Mr. ANNUNZIO:

H.R. 19733. A bill to terminate the airlines mutual aid agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. BIAGGI:

H.R. 19734. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the establishment of a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. CAREY (for himself, Mr. ADDABBO, Mr. ANDERSON of Tennessee, Mr. BENNETT, Mr. BINGHAM, Mr. BRASCO, Mr. BYRNE of Pennsylvania, Mr. CELLER, Mr. CLARK, Mr. CONYERS, Mr. DADDARIO, Mr. DENT, Mr. EILBERG, Mr. FULTON of Tennessee, Mr. FLOOD, Mr. GARMATZ, Mr. GONZALEZ, Mr. HATHAWAY, Mr. HAWKINS, Mr. MIKVA, Mr. MURPHY of New York, Mr. NIX, Mr. OTTINGER, Mr. PODELL, and Mr. RYAN):

H.R. 19735. A bill to assist in the provision of housing for veterans; to the Committee on Veterans' Affairs.

By Mr. CAREY (for himself, Mr. CHARLES H. WILSON, Mr. WOLFF, Mr. BRADEMAS, Mrs. CHISHOLM, and Mr. HELSTOSKI):

H.R. 19736. A bill to assist in the provision of housing for veterans; to the Committee on Veterans' Affairs.

By Mr. DADDARIO (for himself and Mr. GIAIMO):

H.R. 19737. A bill to establish a system for the sharing of certain Federal tax revenues with the States; to the Committee on Ways and Means.

By Mr. GRAY:

H.R. 19738. A bill to amend the National Visitor Center Facilities Act of 1968 to authorize the Secretary of the Interior to provide for an additional parking facility in the District of Columbia, and for other purposes; to the Committee on Public Works.

By Mr. GUBSER:

H.R. 19739. A bill to provide an additional 1 percent Federal excise tax on the sale of automobiles using internal combustion engines, and to provide that the revenues from such tax will be used for a research program to develop alternatives to the internal combustion engine; to the Committee on Ways and Means.

By Mr. GUDE:

H.R. 19740. A bill to restore balance in the federal form of government in the United States; to provide both the encouragement and resources for State and local government officials to exercise leadership in solving their own problems; to achieve a better allocation of total public resources; and to provide for the sharing with State and local governments of a portion of the tax revenue received by the United States; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 19741. 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. MCCLURE:

H.R. 19742. A bill to amend title 10 of the United States Code to provide that an abortion in facilities of the uniformed services may be performed only in accordance with the requirements of the law of the State in which the abortion is performed; to the Committee on Armed Services.

By Mr. McMILLAN:

H.R. 19743. A bill to amend section 11 of the District of Columbia Alcoholic Beverage Control Act to except beer driver-salesmen from the requirement of obtaining a solicitor's license under that act; to the Committee on the District of Columbia.

By Mr. MINISH:

H.R. 19744. A bill to prohibit flight in interstate or foreign commerce to avoid prosecution for the killing of a policeman or fireman; to the Committee on the Judiciary.

By Mr. MORSE (for himself, Mr. ADAMS, Mr. ADDABBO, Mr. ANDERSON of Illinois, Mr. BRASCO, Mr. BROWN of California, Mr. BUTTON, Mrs. CHISHOLM, Mr. CLAY, Mr. DELLENBACK, Mr. EDWARDS of California, Mr. EILBERG, Mr. ESCH, Mr. FARBSTEIN, Mr. FRASER, Mr. HALPERN, Mr. HARRINGTON, Mr. HAWKINS, Mr. HECHLER of West Virginia, Mr. HORTON, and Mr. KEITH):

H.R. 19745. A bill to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnishing of defense material to the United States in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States to provide for such an orderly conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families as a result thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM (for himself, Mr. KOCH, Mr. LOWENSTEIN, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MIKVA, Mr. OTTINGER, Mr. PODELL, Mr. REES, Mr. ROBISON, Mr. ROSENTHAL, Mr. RYAN, Mr. SCHNEEBELI, Mr. SCHWENGEL, Mr. STOKES, Mr. TAFT, Mr. THOMPSON of New Jersey, Mr. UDALL, Mr. WHALEN, and Mr. WOLFF):

H.R. 19746. A bill to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnishing of defense material to the United States in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States to provide for such an orderly conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families as a result thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of New York:

H.R. 19747. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for donations of blood to nonprofit blood banks and other nonprofit organizations; to the Committee on Ways and Means.

By Mr. NELSEN:

H.R. 19748. A bill to amend the District of Columbia Traffic Act, 1925, to provide for use of a distinctive emblem on slow-moving vehicles; to the Committee on the District of Columbia.

By Mr. PATTEN:

H.R. 19749. A bill to amend the Library Services and Construction Act, and for other purposes; to the Committee on Education and Labor.

By Mr. RARICK:

19750. A bill to provide for the humane disposition of military dogs; to the Committee on Armed Services.

By Mr. ROTH (for himself and Mr. MCDADE):

H.R. 19751. A bill to prohibit assaults and other crimes on State law enforcement officers, firemen, and judicial officers; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 19752. A bill to provide benefits for sufferers from byssinosis; to the Committee on Education and Labor.

H.R. 19753. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

H.R. 19754. A bill to amend title 38 of the United States Code to provide that World War II, Korean conflict, or Vietnam era veterans entitled to educational benefits under any law administered by the Veterans' Administration who did not, or do not, utilize their entitlement, may transfer their entitlement to their children; to the Committee on Veterans' Affairs.

By Mr. SCHWENGEL:

H.R. 19755. A bill to amend the National Visitor Center Facilities Act of 1968 to authorize the Secretary of the Interior to provide for an additional parking facility in the District of Columbia, and for other purposes; to the Committee on Public Works.

By Mr. SLACK:

H.R. 19756. A bill to prohibit assaults on State law enforcement officers, firemen, and judicial officers; to the Committee on the Judiciary.

By Mr. STUBBLEFIELD:

H.R. 19757. A bill to provide for the inspection of certain egg products by the U.S. Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this act; and for other purposes; to the Committee on Agriculture.

By Mr. WATSON:

H.R. 19758. A bill to amend title 10 of the United States Code to provide for payment under certain circumstances of nonregular retired pay to persons below age 60 if they are disabled; to the Committee on Armed Services.

By Mr. BINGHAM:

H.R. 19759. A bill to provide for the protection of consumers by insuring fair and responsive billing practices on credit card accounts; to the Committee on Banking and Currency.

By Mr. CAREY (for himself, Mr. ADDABBO, Mr. ANDERSON of Tennessee, Mr. ASPINALL, Mr. BENNETT, Mr. BRASCO, Mr. BYRNE of Pennsylvania, Mr. CELLER, Mrs. CHISHOLM, Mr. CLARK, Mr. CONYERS, Mr. DENT, Mr. FLOOD, Mr. FULTON of Tennessee, Mr. GARMATZ, Mr. GONZALEZ, Mr. HATHAWAY, Mr. HAWKINS, Mr. MIKVA, Mr. MURPHY of New York, Mr. NIX, Mr. OTTINGER, Mr. PODELL, Mr. RYAN, and Mr. CHARLES H. WILSON):

H.R. 19760. A bill to provide that veterans be provided employment opportunities after discharge at certain minimum salary rates; to the Committee on Veterans' Affairs.

By Mr. CAREY (for himself, Mr. EILBERG, Mr. WOLFF, and Mr. HELSTOSKI):

H.R. 19761. A bill to provide that veterans be provided employment oportunities after discharge at certain minimum salary rates; to the Commitee on Veterans' Affairs.

By Mr. FRASER:

H.R. 19762. A bill to share Federal tax revenues with State and local governments; to the Committee on Ways and Means.

By Mr. FREY:

H.R. 19763. A bill to amend the act of August 3, 1968 (82 Stat. 625) to protect the ecology of estuarine areas by regulating dumping of waste materials, to authorize the establishment of a system of marine sanctuaries, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FULTON of Pennsylvania:

H.R. 19764. A bill to amend title 10 of the United States Code to provide that members of the Armed Forces be assigned to duty stations near their homes after serving in combat zones; to the Committee on Armed Services.

H.R. 19765. A bill to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers; to the Committee on the Judiciary.

H.R. 19766. A bill to extend benefits under section 8191 of title 5, United States Code, to law enforcement officers and firemen not employed by the United States who are killed or totally disabled in the line of duty; to the Committee on the Judiciary.

H.R. 19767. A bill to make available Federal assistance to local law enforcement agencies in cases involving the killing of State and local law enforcement officers, firemen, and judicial officers; to the Committee on the Judiciary.

H.R. 19768. 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.

H.R. 19769. A bill to establish the President's Award for Distinguished Law Enforcement Service; to the Committee on the Judiciary.

By Mr. GUBSER:

H.R. 19770. A bill to provide for the development of a proposal for a feasible and innovative urban mass transportation system employing modes of transportation other than the internal combustion engine; to the Committee on Public Works.

By Mr. GUDE:

H.R. 19771. A bill to provide for payments in lieu of real property taxes, with respect to certain real property owned by the Federal Government; to the Committee on Interior and Insular Affairs.

By Mr. HECHLER of West Virginia:

H.R. 19772. A bill to provide for the protection of the pensions and other benefits of coal miners working in the coal mines of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. HELSTOSKI:

H.R. 19773. A bill to amend title 10 of the United States Code to provide that members of the Armed Forces be assigned to duty stations near their homes after serving in combat zones; to the Committee on Armed Services.

By Mr. MILLS:

H.R. 19774. A bill to amend the Internal Revenue Code of 1954 to provide that in certain cases a spouse will be relieved of liability arising from a joint income tax return; to the Committee on Ways and Means.

By Mr. MURPHY of New York:

H.R. 19775. A bill to establish a registration system with respect to donors of blood and to provide funds for research to detect serum hepatitis prior to transfusion and transmission of the disease; to the Committee on Interstate and Foreign Commerce.

H.R. 19776. A bill to provide for a national educational campaign to combat the lack of consciousness of the public as to the danger of improper uses of motor vehicles on the highways, and to impose an additional tax of one-tenth of a cent per gallon on gasoline and other motor fuels to pay for the costs of such campaign; to the Committee on Ways and Means.

By Mr. REID of New York:

H.R. 19777. A bill to amend the National Historic Preservation Act of 1966, as amended, to provide grants and loans for persons

who have buildings or structures registered in the National Register in order to preserve such historic properties, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROE:

H.R. 19778. A bill to provide increased annuities under the Civil Service Retirement Act; to the Committee on Post Office and Civil Service.

By Mr. STRATTON:

H.R. 19779. A bill to amend title II of the Social Security Act to reduce from 72 to 70 the age at which deductions on account of an individual's outside earnings will cease to be made from benefits based on such individual's wage record; to the Committee on Ways and Means.

By Mr. BURTON of California:

H.R. 19780. A bill to authorize greater uniformity of treatment of recipients under the Federal-State adult public assistance programs and to otherwise improve such programs, and for other purposes; to the Committee on Ways and Means.

By Mr. BYRNE of Pennsylvania:

H.R. 19781. A bill to provide financial benefits for certain spouses and children who are physically handicapped or mentally retarded, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 19782. A bill to establish a national urban bond program to provide an effective means of financing the construction of needed urban housing; to the Committee on Ways and Means.

By Mr. LONG of Maryland:

H.R. 19783. A bill to authorize the Army Corps of Engineers to collect and remove on a continuing basis accumulations of debris in the Susquehanna River; to the Committee on Public Works.

By Mr. SAYLOR:

H.R. 19784. A bill to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. REID of New York:

H.J. Res. 1401. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the waterfront commission compact and for entering into the airport commission compact, and for other purposes; to the Committee on the Judiciary.

By Mr. GOODLING:

H.J. Res. 1402. Joint resolution proposing the establishment of the Dwight David Eisenhower Square in the District of Columbia; to the Committee on House Administration.

By Mr. BINGHAM (for himself, Mr. CLAY, Mr. NIX, Mr. LEGGETT, Mr. UDALL, Mr. KARTH, Mr. REES, Mr. OLSEN, Mr. ASHLEY, Mr. RYAN, Mr. HARRINGTON, Mr. OTTINGER, Mr. DADDARIO, Mr. DIGGS, Mrs. CHISHOLM, Mr. MOORHEAD, Mr. EDWARDS of California, Mr. RODINO, Mr. MOLLOHAN, Mr. MIKVA, Mr. HAWKINS, Mr. CONYERS, and Mr. STOKES):

H. Con. Res. 782. Concurrent resolution authorizing the placing of a bust or statue of Martin Luther King, Jr., in the Capitol; to the Committee on House Administration.

By Mr. BINGHAM (for himself, Mr. ANDERSON of Illinois, Mr. MEEDS, Mr. HORTON, Mr. FRASER, Mr. MORSE, Mr. ROSENTHAL, Mr. MCCLOSKEY, Mr. COHELAN, and Mr. MOSHER):

H. Con. Res. 783. Concurrent resolution authorizing the placing of a bust or statue of Martin Luther King, Jr., in the Capitol; to the Committee on House Administration.

By Mr. HASTINGS (for himself, Mr. FREY, and Mr. WEICKER):

H. Res. 1254. Resolution relative to the FTS service; to the Committee on Veterans' Affairs.

By Mr. WYLIE:

H. Res. 1255. Resolution declaring that the House rejects the findings and recommendations of the Commission on Obscenity and Pornography; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. ASHLEY, Mr. FRIEDEL, Mr. HARRINGTON, and Mr. SYMINGTON):

H. Res. 1256. Resolution on dismissal of professional air traffic controllers by the Federal Aviation Administration; to the Committee on Interstate and Foreign Commerce.

By Mr. RODINO:

H. Res. 1257. Resolution designating January 22 of each year as Ukrainian Independence Day; to the Committee on the Judiciary.

By Mr. WATSON:

H. Res. 1258. Resolution that the House of Representatives utterly reject and condemns the findings and recommendations of the Commission on Obscenity and Pornography and furthermore that the House of Representatives calls upon the President to reject the findings of said Commission; to the Committee on Education and Labor.

By Mr. LONG of Maryland:

H. Res. 1259. Resolution to welcome the American Association of Junior Colleges to Washington, D.C., for their 51st annual convention; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HALPERN:

H.R. 19785. A bill for the relief of Antonio de Leonardo; to the Committee on the Judiciary.

By Mr. HAMILTON:

H.R. 19786. A bill for the relief of Kim Hak Kyung; to the Committee on the Judiciary.

By Mr. PIKE:

H.R. 19787. A bill for the relief of Adriano Botelho Moniz; to the Committee on the Judiciary.

By Mr. SEBELIUS:

H.R. 19788. A bill for the relief of John C. Caldwell; to the Committee on the Judiciary.

By Mr. STEPHENS:

H.R. 19789. A bill for the relief of Youngdahl Song; to the Committee on the Judiciary.

SENATE—*Wednesday, October 14, 1970*

The Senate met at 9 a.m. and was called to order by Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, who hast made and preserved us a Nation, guide us and all the people in the crucial decisions of the coming days. Let all that is done be well pleasing in Thy sight. In the tumult of our times and the convulsion of human society, help us to see Thee moving in the processes of history and presiding over our destiny.

"Breathe through the pulses of desire
Thy coolness and Thy balm;
Let sense be dumb, let flesh retire;
Speak through the earthquake, wind, and fire,
O still, small voice of calm!"—*Whittier.*

O Lord, watch over us all during our separation. Give Thy servants strength for the contests ahead, rest and renewal before returning. And may we have peace in our hearts, peace in our land, and peace in the world.

Through Jesus Christ our Lord. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication from the President pro tempore of the Senate (Mr. RUSSELL).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 14, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. EAGLETON thereupon took the chair as Acting President pro tempore.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. The Senate having adjourned in the absence of a quorum on October 13, 1970, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 379 Leg.]

Allen	Hansen	Miller
Bible	Harris	Mondale
Boggs	Hart	Proxmire
Byrd, W. Va.	Holland	Ribicoff
Cook	Hughes	Saxbe
Cooper	Inouye	Schweiker
Cotton	Jackson	Spong
Dole	Jordan, N.C.	Stennis
Eagleton	Mansfield	Talmadge
Ervin	Mathias	Williams, Del.
Fulbright	McGovern	Young, Ohio
Griffin	McIntyre	

Mr. BYRD of West Virginia. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator