

employed group to report incomes growing beyond the general trend. There would be two strong reasons for this: (1) in some cases the forces of competition would operate; the margins of substitution between employment and self-employment are often close in the small business sector, and (2) if incomes for the mass of employees fall to rise unduly, it will not be as easy for physicians, dentists, etc., to raise their prices (and incomes) at the same pace as in the recent past. Government employees likewise, can simply be limited to the general wage rise to maintain competitive standards.

Thus if we cast out a sturdy anchor and stabilize the vast number of business incomes, of employees and executives, the income adjustments in the rest of the economy are likely to be lashed to this strong base to bar the noxious drift of inflation.

We can proceed on this assumption. If it is misguided with respect to some omitted sectors of the economy, this can later be cor-

rected. But we cannot shrink from taking the big step merely because it may be less than complete. A "do-nothing" program entails more serious omissions.

#### A philosophic objection

Another objection that may be put down at this place is the pejorative oration that "the power to tax is the power to destroy". Accepting the merit of the phrase it remains regrettably incomplete: the power to tax is also a vehicle for making social, political, and economic life more tolerable. Ultimately, this is what taxation should be about, to accomplish worthwhile ends that would not otherwise materialize in the enterprise sector without government policy. As the intended tax proposal aims to alleviate inflation, it is compatible with the greater freedom; it is destined to expand it, not inhibit it.

Whenever a stage is reached that warrants lower general taxes, there is nothing in the plan to impede this outcome. The basic business tax rates can be lowered so long as the

anti-inflation penalty rate is retained. When a stage is reached at which business and union conduct is more responsible with respect to inflation, even this feature can be dropped. But at that time the tax is likely to be a dead-letter anyway.

#### CONCLUSION

There can thus be few serious objections to the anti-inflation proposal outlined in the preceding pages. It has undiluted virtues. It may work, to take the most pessimistic assessment. On the basis of economic analysis, it should work. There are no serious costs involved; it does not shelter a new bureaucracy. It does not entail new data and new business controls. Neither the scope nor the organizational structure of trade unions will be affected, although their ceiling in collective bargaining is likely to become more clearly defined. It does not embark on any radical paths in economic control and it is not incompatible with the traditions and freedoms of a market economy.

## HOUSE OF REPRESENTATIVES—Monday, November 23, 1970

The House met at 12 o'clock noon.

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

*The hand of our God is upon all them for good that seek Him.—Ezra 8: 22.*

O God, our Heavenly Father, whose power is infinite and whose love is eternal, we pray for the leading of Thy spirit as we work for the well-being of our country and endeavor to secure peace in our world. May Thy wisdom so move our minds and Thy love so motivate our hearts that in the crises we face daily we may think clearly, speak calmly, and act courageously. Unite us and our people in the principles of democracy upon which our fathers founded this Nation that as responsible citizens we may do our full part in seeking the good of all.

Direct and prosper the deliberations of this body that truth and justice and good will may be established here and among all people.

In the Master's name we pray. Amen.

### THE JOURNAL

The Journal of the proceedings of Thursday, November 19, 1970, was read and approved.

### MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 18515. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1971, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 18515) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1971, and for other purposes," requests a conference with the House on the disagreeing

votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. RUSSELL, Mr. STENNIS, Mr. BIBLE, Mr. BYRD of West Virginia, Mr. HOLLAND, Mr. COTTON, Mr. CASE, Mr. FONG, Mr. BOGGS, and Mr. YOUNG of North Dakota, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 3630. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission.

### ADJOURNMENT FROM WEDNESDAY, NOVEMBER 25, TO MONDAY, NOVEMBER 30, 1970

Mr. ALBERT. Mr. Speaker, I offer a privileged concurrent resolution and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

#### H. CON. RES. 786

*Resolved by the House of Representatives (the Senate concurring).* That when the House adjourns on Wednesday, November 25, 1970, it stand adjourned until 12 o'clock meridian, Monday, November 30, 1970.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

### TWO HUNDRED BOMBERS TO KILL—FOUR HELICOPTERS TO SAVE LIVES

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

Mr. EDWARDS of California. Mr. Speaker, the events of the past week in Pakistan and in Vietnam provide an example, in shocking contrast, of the way this Nation's priorities have gone astray.

Ten days ago the worst hurricane in history smashed into the Ganges Delta, killing perhaps as many as half a million people.

There is ample food available in Dacca

for all those who survived the storm. But 10 days after the disaster, there is no transportation. Conventional aircraft cannot operate. All small boats were destroyed. The United States has sent only four helicopters.

Consider the contrast between this situation, the near indifference with which the United States has responded to this catastrophe, and the events in Vietnam.

According to Secretary Laird, 200 multimillion-dollar aircraft were sent into North Vietnam to "remind Hanoi what the rules of the game are." For such deadly war games we can deploy any amount of force, but for the disaster-stricken East Pakistanis, we can send only four helicopters.

### PERMISSION TO FILE CONFERENCE REPORT ON H.R. 17970, MILITARY CONSTRUCTION, DEPARTMENT OF DEFENSE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that the conferees may have until midnight tomorrow to file a conference report on H.R. 17970, making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes.

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

There was no objection.

### PERMISSION FOR SUBCOMMITTEE ON RIVERS AND HARBORS, COMMITTEE ON PUBLIC WORKS, TO SIT DURING GENERAL DEBATE TODAY

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Rivers and Harbors of the Committee on Public Works be permitted to sit during general debate today.

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

Mr. GROSS. Mr. Speaker, reserving the right to object, has this been cleared by the minority?

Mr. HOWARD. Mr. Speaker, if the gentleman will yield, yes; this has been cleared with the gentleman from Ohio (Mr. HARSHA).

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

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

There was no objection.

#### CALL OF THE HOUSE

Mr. GROVER. 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. 363]

Abbitt	Eckhardt	Minish
Adair	Edmondson	Moorhead
Anderson,	Edwards, La.	Morton
Calif.	Evins, Tenn.	Nichols
Ashbrook	Fallon	O'Konski
Ashley	Farbstein	O'Neal, Ga.
Aspinall	Fish	Ottinger
Baring	Foley	Patten
Berry	Ford, Gerald R.	Pepper
Blaggi	Ford,	Philbin
Boland	William D.	Pollock
Bolling	Forsythe	Powell
Brademas	Frelinghuysen	Price, Tex.
Brasco	Fulton, Tenn.	Pryor, Ark.
Bray	Gallagher	Pucinski
Brock	Gilbert	Purcell
Broomfield	Goldwater	Quillen
Brown, Ohio	Griffiths	Reid, N.Y.
Burton, Utah	Hall	Rodino
Button	Halpern	Rostenkowski
Camp	Hastings	Roudebush
Celler	Hébert	Rousselot
Chisholm	Helstoski	Roybal
Clancy	Hungate	Scheuer
Clark	Hunt	Skubitz
Clay	Ichord	Smith, Iowa
Conte	Jacobs	Stokes
Corbett	Jonas	Stuckey
Cowger	King	Taft
Cramer	Kyl	Teague, Tex.
Cunningham	Long, La.	Vander Jagt
Daddario	Lowenstein	Weicker
Dennis	Lukens	Wiggins
Dent	McCarthy	Williams
Dickinson	McCloskey	Wold
Dingell	McDade	Wyatt
Donohue	McKneally	Wylder
Dowdy	May	Yates

The SPEAKER. On this rollcall 321 Members have answered to their names, a quorum.

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

#### ROSE-BOWL-BOUND BUCKS

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

Mr. WYLIE. Mr. Speaker, one of our country's great educational institutions located in the congressional district I represent is Ohio State University. One of my most distinguished constituents is Coach Woody Hayes.

On Saturday the Ohio State Buckeyes took the Big Ten title by defeating the University of Michigan Wolverines 20 to 9.

I have long been an avid fan of the Buckeyes and of Woody Hayes, so it was my pleasure to be one of the 87,331 football fans who watched this great classic in Columbus on Saturday. I feel more solicitous today than I did last year at this time, and I wish to extend my congratulations to the Michigan Wolverines who came to Ohio State prepared to do battle, and indeed they did, but on the grass they went to pot and we prevailed.

Mostly I wish to take the opportunity of this forum to record for posterity my congratulations to my very good friend, Coach Woody Hayes, and his battling Buckeyes.

#### PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

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

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

There was no objection.

#### OCCUPATIONAL SAFETY AND HEALTH ACT

Mr. YOUNG. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1218 and ask for its immediate consideration.

The Clerk read the resolution as follows:

##### H. RES. 1218

*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. 16785) to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions, by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 19200 as a substitute for the said committee amendment. At the conclusion of the consideration of H.R. 16785 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. 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 with or without instructions.

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

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

Mr. Speaker, House Resolution 1218 provides an open rule with 3 hours of general debate for the consideration of H.R. 16785, the Occupational Safety and Health Act.

The resolution also provides that it shall be in order to consider the committee substitute as an original bill for the purpose of amendment, and it shall be in order to consider without the intervention of any point of order the text of the bill H.R. 19200 as a substitute.

Points of order were waived as to H.R. 19200, because a question of germaneness might have been raised.

Mr. Speaker, both H.R. 16785 and H.R. 19200 address themselves to the very pressing problem of safety in our industrial establishments in an effort to alleviate the appalling loss of time, manpower, and men, due to industrial accidents.

Mr. Speaker, this bill differs, as I understand it, chiefly in procedure, and in the method of application.

The purpose of H.R. 16785 is to reduce the number and severity of work-related injuries and illnesses which in spite of current efforts continue at high levels, and which result in human misery and economic waste.

The bill provides needed Federal-State cooperation and develops and extends Federal support in the field of industrial safety and health. Aid is given specifically in the areas of research, education, training, and regulation.

Section 6 of the bill deals with interim standards and every employer—as defined in the bill—would be required to comply with interim occupational safety and health standards promulgated by the Secretary of Labor. Interim standards may be promulgated for a maximum period of 2 years from the effective date of the legislation. They may be national consensus standards, established Federal standards in effect, or standards produced by a nationally-recognized organization by other than a consensus method. In the event of conflict among standards, the Secretary shall promulgate the one which assures the greatest protection of affected employees. Before standards are promulgated, a public hearing must be afforded to interested parties. Each interim standard shall stay in effect until superseded by a rule issued under section 7 of the bill dealing with procedures for formal standards-setting. Ninety days after promulgating interim standards, the Secretary must begin procedures for setting permanent ones.

Section 7 provides that the Secretary may by rule, promulgate, modify, or revoke any occupational safety and health standard. The Secretary shall institute proceedings under this section upon ap-

plication in writing by an interested person, a representative of an organization of employers or employees, the Secretary of Health, Education, and Welfare, or a State or political subdivision thereof. The Secretary himself may determine that a rule should be prescribed in order to serve the objectives of the act or if he is required to do so under section 6.

An ad hoc advisory committee and a National Advisory Committee are established to assist the Secretary.

The Secretary is authorized to make inspections and investigations in order to implement the program; citations and/or penalties for violations are authorized; procedures for enforcement are set forth; the Secretary has authority to issue cease and desist orders to counteract imminent danger.

Mr. Speaker, I urge the adoption of House Resolution 1218 in order that H.R. 16785 may be considered.

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

Mr. Speaker, House Resolution 1218 provides for 3 hours of debate on an open rule to consider H.R. 16785, Occupational Safety and Health Act. The rule makes H.R. 19200 in order as a substitute.

According to the report, the purpose of H.R. 16785 is to reduce the number of work-related injuries and deaths of American workers. To achieve this, the bill proposes to grant to the Secretary of Labor broad authority to promulgate safety and health standards and to enforce them by penalties, injunctive relief, onsite inspections, and the authority to close a plant which he deems to be imminently dangerous.

According to the report, each year some 14,500 Americans die due to job-related injuries or diseases; over 2,000,000 workers are disabled annually. Over \$1,500,000,000 is wasted in lost wages and the loss to the gross national product is estimated at some \$8 billion.

I think that we should keep in mind, however, that many States have industrial safety laws or standards, which have already been set up by their own department of labor or their division of industrial safety. Some cities and counties also have safety codes covering the performance of contractors within their jurisdiction. These city, county, and State safety orders are mandatory and punishment is prescribed for anyone who violates the safety standards or in any way obstructs or hampers any person conducting an investigation authorized by his particular jurisdiction.

Safety standards are also being set up by labor unions, who may strike a job, if they feel their standards are not being applied to all operations. The Corps of Engineers, the Bureau of Reclamation, the Bureau of Public Roads, the Atomic Energy Commission, the Air Force, and the General Services Administration all have their own safety requirements. Thus we should make certain in legislating here today that we do not unnecessarily duplicate safety standards already in existence which might make the problem even more difficult.

I spent a number of years in the field of plant protection; safety was one of

our biggest concerns. But time and time again, the accident or injury was caused by the carelessness of the employee. It seemed a never-ending problem to convince the employees to abide by the regulations. Thus in legislating, it might be well to consider punishing the employee who refuses to comply with the requirements. This legislation seems to only direct the punishment toward the employer.

As previously stated, the rule makes H.R. 19200 in order as a substitute. A comparison of the committee bill, H.R. 16785 and the substitute, H.R. 19200, shows the following differences.

#### 1. AUTHORITY OF THE SECRETARY OF LABOR

H.R. 16785 vests substantially more authority with the Secretary. He would have the power to set health and safety standards. He would also have the powers to enforce them, to issue corrective orders to those found to be in violation, and to assess penalties.

H.R. 19200 divides this authority. To set health and safety standards, an independent Occupational Safety and Health Board is created. It is composed of five members, knowledgeable in the field, who are appointed by the President. It would deal solely with the setting of standards. Enforcement of such standards would remain with the Secretary of Labor; he would be charged with the responsibility as under the committee bill, of investigating alleged violations.

The substitute bill provides for a tribunal other than the Secretary to act as judge and jury. H.R. 19200 creates an independent Occupation Safety and Health Appeals Commission which will adjudicate alleged violations brought before it by the Secretary of Labor.

H.R. 16785 puts all functions, promulgation of standards, enforcement and assessment of penalties in one man, the Secretary of Labor. H.R. 19200 creates separate bodies to set standards and to adjudicate alleged violations. The Secretary would retain the power of enforcement.

#### 2. THE GENERAL SAFETY REQUIREMENT

The committee bill has a general safety requirement which requires employers to maintain safe and healthful working conditions. This is too broad and vague and could subject employers to unfair harassment. H.R. 19200 substitutes for this vague mandate a more reasonable one, the requirement that working conditions be free from "any hazards which are readily apparent and are causing or likely to cause death or serious physical harm." Although this is a more restrictive duty, it is much more reasonably enforceable and subject to fair interpretation by enforcement bodies and employers alike.

#### 3. DEVELOPMENT OF STANDARDS

H.R. 16785 requires hearings and involved procedural action before any standards can be promulgated in almost all cases. H.R. 19200 provides for emergency or temporary standards to be set when needed without regard to hearings and other procedural steps. Hearings would then be held to replace the temporary standards with permanent ones with all procedural safeguards retained.

This flexibility seems desirable and will surely enable such standards to become effective and enforceable at an earlier date.

#### 4. PLANT CLOSINGS

H.R. 19200 eliminates the provision of the committee's bill which would permit an inspector to close a plant immediately if he determines a situation of imminent danger to exist. As a substitute, H.R. 19200 places the authority with the district courts where a determination of factual information can be made before damage is done to a plant by closing it without prior hearing.

Mr. Speaker, I urge the Members to support the substitute. I urge adoption of the rule and reserve the balance of my time.

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

Mr. SMITH of California. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I urge adoption of House Resolution 1218 which would make in order the Steiger-Sikes substitute bill on occupational safety and health. After carefully studying both the committee bill and the Steiger-Sikes substitute, I came to the conclusion that the substitute bill is a vastly superior measure both in terms of equity and job safety. I consequently voted for this rule in the Rules Committee because it will permit a straight vote on the entire substitute package when we begin the amendment process. For these reasons, I strongly urge my colleagues to both support this rule and the Steiger-Sikes substitute at the appropriate time.

Mr. Speaker, during the course of the debate on these bills we will listen to an almost mechanical repetition of the grim statistics on job-related deaths and injuries. We will learn, for instance, that last year over 15,000 Americans were killed at work, another 2.2 million suffered disabling injuries, and that all told, 10 million job-related injuries were reported to the Bureau of Labor Statistics. There are those who will dispute the accuracy of these figures and say they are too low, and there will be others who will question the relative significance of these figures given a labor force of 80 million workers. I would only hope that we will not become so involved in this numbers game that we lose sight of the fact that we are really talking about people and not statistics; we are really talking about thousands of persons who lost spouses in job fatalities and thousands of children who lost parents. We are really talking about hundreds of thousands of people who may never work again due to disabling injuries; and we are really talking about millions of people who lost precious worktime and incurred costly medical expenses due to job injuries.

I would hope that we will keep this tragic human toll uppermost in our minds as we debate these bills. Whether the BLS figures on job deaths and injuries are accurate is not all that important to me. What is important to me is the possibility of reducing that tragic toll through equitable and effective occupational safety and health leg-

islation. What is important to me is the possibility of providing a safer and more healthful working environment for the 80 million Americans in the labor force. For as the committee report so correctly points out, the worker's surroundings and the conditions under which he works are of crucial importance in the whole environmental question for it is in this environment that he spends one-third of his day. The air he breathes and the tools and materials he handles can pose a direct threat to his health, safety, and well-being if adequate precautions are not taken. This is really what we are talking about today in considering the need for national industrial health and safety standards.

The main question before us today is not whether there is such a need, but rather, how best to meet that need. I would, therefore, like to use the remainder of my time explaining why I think the Steiger-Sikes substitute bill offers the best approach to job safety legislation.

The most apparent and striking differences between the committee bill and the substitute bill are in the assignment of authority under the act. Whereas the committee bill would grant the Secretary of Labor broad authority to promulgate, monitor, and enforce safety standards, the substitute bill offers a more equitable and balanced approach to the implementation of a national occupational safety and health program. The substitute bill would establish a five-member Occupational Safety and Health Board to be appointed by the President for the sole purpose of setting standards; and a special three-member Occupational Safety and Health Appeals Commission for the sole purpose of adjudicating alleged violations. Both the committee bill and the substitute bill are alike in granting the Secretary of Labor the authority to inspect and investigate work areas.

Mr. Speaker, I think the division of responsibilities as provided for in the substitute bill is a more responsible and realistic approach to an equitable and effective job safety program. I know there will be those who will point to other precedents for vesting both the standard-setting and standard-enforcing authority in a single person or agency. The examples of our various Federal regulatory commissions will be cited. Let me only point out that one of the major criticisms that has been leveled against these commissions has been the problems involved in both setting and enforcing regulations. And yet the committee bill would in effect set up an identical situation by making the Secretary of Labor the prosecutor, judge, and jury all in one. Another criticism that has been leveled against our regulatory agencies has been the charge that they too often become spokesmen and even protectors of the interests they are supposed to regulate. Now it seems to me that we run the same risk in the committee bill by giving sole authority to the Secretary of Labor who has traditionally been the voice of labor in the administration. It would, therefore, seem much more reasonable and equitable to give an independent board of safety professionals the power to set

standards, and a separate appeals commission the power to adjudicate alleged violations. In this way I think we can best insure both safety for the worker, and maximum equity for the employer and employee alike.

Another controversial provision of the committee bill is the so-called "general duty" clause of section 5 which states:

Each employer shall furnish to each of his employees employment and a place of employment which is safe and healthful.

Now this language is so broad, general, and vague as to defy practical interpretation let alone responsible enforcement. The substitute bill, on the other hand, is specific in its employer duty provision by stating:

Each employer shall furnish to each of his employees employment and a place of employment which are free from any hazards which are readily apparent and are causing or are likely to cause death or serious physical harm to his employees.

Even the committee bill in the other body, which in most respects is identical to this committee bill, specifies "a place of employment free from recognized hazards so as to provide safe and healthful working conditions." I just do not see how there can be any responsible justification for the broad general duty requirement in this bill. It is unrealistic, irresponsible, and unenforceable.

Another strong feature of the substitute bill is its provision for the immediate promulgation of emergency temporary standards by the Board where there is grave danger to workers resulting from toxic substances and new processes. The committee bill, on the other hand, requires a hearing before any standards can be promulgated, no matter how urgently they may be needed. In like fashion, the substitute bill also provides for the immediate promulgation by the Board of national consensus standards and existing Federal standards without invoking APA procedures. In both instances of course, the temporary emergency standards and the consensus standards would be replaced once permanent standards have been set under APA procedures. But the important point is that the substitute bill provides immediate protection to workers which the committee bill does not.

Finally, whereas the committee bill gives an inspector authority to close down a plant operation on the spot if he determines an imminent danger exists, the substitute bill would leave this up to the district courts. I think that going immediately to the courts for such an injunction is a more responsible and equitable procedure than granting this arbitrary power to an inspector.

Mr. Speaker, while I could cite other differences between the two bills that would further strengthen the case for the substitute bill, I think I have touched upon the main ones. I think it is extremely unfortunate that there was not more of a willingness to work for an equitable and effective compromise in committee for as I said at the outset of my remarks, there is general agreement on the need for a strong occupational safety and health bill. But beyond the

agreement on such a need, there is also a great need for a bill which would provide the best possible program—one which will guarantee a safe and healthful working environment for the worker while at the same time guaranteeing fairness and due process to the employer. I think the substitute bill best addresses itself to those two objectives, and I therefore urge my colleagues to join me in supporting it.

Mr. YOUNG. Mr. Speaker, I ask that the record reflect that when I yield, I yield for purposes of debate only. I yield 5 minutes to the gentleman from Indiana (Mr. MADDEN).

Mr. MADDEN. Mr. Speaker, this rule will bring before the Congress the long-delayed legislation H.R. 16785, which, if enacted without crippling amendments, will protect millions of American workers who are daily exposed to unnecessary hazards in carrying out their duties with their employers.

Through oversight, negligence, and, in most cases, management's refusal to install proper protection devices, machinery, and avoid unnecessary exposure to hazardous conditions, management has inflicted injuries, impaired health, and directly or indirectly caused death to millions of our people who are engaged in our production economy. By reason of delay in protective legislation, both workers and management have lost many hours, days, weeks, and even years of valuable production which, otherwise has deterred the Nation's progress and economy.

This legislation, if enacted, will also bring about a stimulation for further production among employers and employees and will greatly affect and expand existing production by providing safe and healthy working conditions in industries, factories, and so forth. This bill will also expand research in the field of occupational safety and health by developing innovations, methods, techniques, and approaches for dealing with occupational safety and health problems. It will also provide for training programs to prevent accidents and to increase the competence of personnel in the field of occupational safety and health. It will encourage States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws by providing grants to the States to assist in inaugurating improvements to their needs and responsibilities in the areas of occupational safety and health.

This bill will authorize the Secretary of Labor to hold hearings on violations of standards and issue orders for correction and such orders to be subject to judicial review. It gives the Secretary authority, at his discretion, to set such penalties up to \$1,000 per violation per day. Other provisions of the bill would authorize research into such health and safety problems, and set up an advisory committee to assist in the development of standards which would apply to various industries according to each category.

Extended hearings were held on this legislation by the Education and Labor Committee and testimony was presented

by both management and employees along with prominent individuals and organizations urging the necessity of life, health, and safety protection, not only for management and employees but the public generally. It is astounding that approximately 14,500 workers have been killed and almost 2,200,000 injured each year as a result of hazardous working conditions, most of which can be curbed or prevented by the enactment of this bill.

I hope this legislation will be passed by a large majority and without any crippling amendments.

Mr. YOUNG. 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.

Mr. PERKINS. 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. 16785) to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes.

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

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 consideration of the bill H.R. 16785, with Mr. CORMAN 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 Kentucky will be recognized for 1½ hours, and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Kentucky.

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

Mr. Chairman, the bill, H.R. 16785, which we are considering today is long overdue. It is a bill designed to reduce death in the working place and bring to a minimum the crippling injuries and job-related illnesses which increasingly affect workers in this country.

Occupational health and safety is a national problem affecting every State, region, and industry. The full extent of this grim situation is not known. If there were adequate and uniform reporting the Nation would be shocked. Such partial information as we have, however, about the extent of occupational deaths, injuries, and illnesses is shocking enough, 14,000 working people were killed on the job in 1968. Another 2.2 million were reported to have suffered disabling injuries. The U.S. public health service estimates that there were at least 390,000 occupational illnesses last year. These

figures may reflect less than one-half, or perhaps less than one-quarter of the actual human devastation. More workers are being killed on the job than are being killed in Vietnam. Five times as many workdays are being lost because of occupational accidents as are lost because of work stoppages related to labor-management differences.

Some of the hazards that the workers face are old. Lead, mercury, zinc, silica dust were threats to craftsmen in antiquity. Some of the threats such as carbon monoxide and carbon tetrachloride are products of the earlier stages of our industrial age.

Clearly, however, the increasing threat to the safety and health of the workingman is a function of the runaway technological and industrial revolution. The new techniques, the new processes, the new machinery, the new environments, new chemical and physical agents are being introduced into the working place with accelerating frequency presenting new hazards to the worker.

We have done far too little to deal with safety and health hazards which have been well known for years. We can no longer ignore the ever-increasing dangers faced by the working men and women of this country.

The laws, standards, enforcement, research, the manpower and money resources that have been directed at occupational safety and health are increasingly inadequate to deal with the problem.

Immediate passage of an occupational health and safety bill is imperative. Because it is so crucial to the welfare of working men and women, our committee, under the leadership of the gentleman from New Jersey (Mr. DANIELS) has prepared and will offer a series of amendments. These amendments are put forward in the spirit of compromise that has always characterized the House Committee on Education and Labor in its consideration of important legislation.

The following amendments will be offered to the committee substitute and will have the support of the majority of the committee:

First. The open ended general duty provision will be modified to make clear the intention that employers only be required to provide employment and a place of employment that is free from recognized hazards. There will be no penalty for violation of the general duty provision under this amendment.

Second. The authority of the Secretary acting through an inspector to close down a plant or a plant operation which presents an imminent danger situation is deleted. Under the amendment he will have to seek a court order to bring about a shutdown.

Third. The provision that would have permitted an employee to absent himself from exposure to a toxic substance without loss of pay, the so-called "strike with pay" provision, has been deleted.

Fourth. The fears of employers that the monitoring provisions would impose a heavy burden upon them have been recognized and substantial modifications of those portions of the bill will be offered.

Fifth. Another amendment would

modify the Construction Safety Act so as to include contractors and employees performing non-Government as well as Government work.

These amendments and these compromises are offered in recognition of the imperative nature of the situation and of the desperate need of America's working men and women. I would hope, in view of the compromises which we have offered removing the fears and misinterpretations that some have held, that all Members of the House will find it possible to support the committee bill with the amendments I have specified.

The bill, H.R. 16785, would provide a congressionally recognized right to every man and woman who works to perform that work in the safest and healthiest conditions that can be provided. H.R. 16785 provides a broad and effective framework for action by the Federal Government using the best resources of the States, private individuals, and labor to meet the challenge of illness and injury.

The Secretary of Labor is authorized to establish interim as well as permanent standards and in certain situations he can establish emergency temporary standards. After notice and public hearing at which all interested persons are afforded an opportunity to make their views known, the Secretary of Labor is authorized to promulgate interim standards to be in effect for a maximum period of 2 years. These interim standards may be based on existing national consensus standards, established Federal standards, or other proprietary standards.

Permanent standards or modifications of permanent standards are to be promulgated by the Secretary after being considered by an advisory committee, and after hearings under the Administrative Procedures Act. Emergency temporary standards are authorized where employees are exposed to a grave danger from exposure to toxic substances or new hazards, and where such an emergency standard is necessary to protect the employees from such grave dangers.

The act provides for citations to be issued where there are violations of standards, rules or orders of the Secretary. Where the violation results in a serious danger a mandatory penalty is imposed. In other cases the penalty is discretionary. Citations must be in writing and must state specifically what standard or other requirement is alleged to have been violated as well as the time within which the violation must be corrected. The enforcement process provided calls for hearings under the Administrative Procedures Act and a court review should the employer want it.

Where the violations are willful and repeated, civil penalties of up to \$10,000 are provided. In connection with the citation for a serious violation, that is, where the violation results in substantial probability that death or serious injury could result, a civil penalty of up to \$1,000 is provided.

States are permitted to assert jurisdiction under State law where there is no standard in effect under this act. States are also permitted to submit State plans for the development and enforcement of occupational safety and health

standards under this act. If the Secretary finds that the State plan provides an adequate agency with sufficient authority and resources to carry out the purposes of this act, he may approve the State plan and the State will have a prime responsibility for the enforcement of the act.

H.R. 16785 if enacted will result, I feel certain, in a substantial reduction in work-related death, illness, and injury. It is an eminently just and fair bill, protecting the interests of worker and employer alike.

I most strongly urge support of this badly needed legislation.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

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

Mr. ANDERSON of Illinois. I was interested in the observation the gentleman made that there will be no effort to assess a penalty under the so-called general duty clause of the bill. How would that section then be enforced? Would it be merely by the issuance of a citation calling attention to the alleged defect?

Mr. PERKINS. Certainly it would be by citation.

Mr. ANDERSON of Illinois. If the gentleman will yield further, there would, however, be a penalty that would attach if that citation or any order issued pursuant to the citation were not complied with.

Mr. PERKINS. Just for violation of the duty there will not be any penalty attached. That is where we propose to make the modification.

Mr. DANIELS of New Jersey. Mr. Chairman, will my distinguished chairman yield?

Mr. PERKINS. I yield to the gentleman from New Jersey.

Mr. DANIELS of New Jersey. Under the amendment I propose to offer, when a citation is issued and the employer is given a certain period of time to correct the hazard, if he fails to do so then a penalty may be imposed. Otherwise no penalty would be imposed.

Mr. PERKINS. Naturally an employer cannot refuse to make the corrections, under the substitute here.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, we are considering today legislation which will affect virtually every man, woman, and child in this country who holds a job or operates a business now or in the future.

Every Member of this body is aware of the awful toll on-the-job accidents take each year. In the last 25 years more than 400,000 Americans were killed by work-related accidents and disease and close to 50 million more suffered disabling injuries on the job. Not only has this resulted in incalculable pain and suffering for workers and their families, but such injuries have cost billions of dollars in lost wages and production.

The issue before us today is not whether we should put the resources of the Federal Government to work on this problem, but how best to do it.

You will be asked to choose between two pieces of legislation—H.R. 16785,

which was reported by the majority on the Education and Labor Committee, and H.R. 19200, which was first offered in almost identical form in the Education and Labor Committee as a bipartisan compromise by the gentleman from Maine (Mr. HATHAWAY) and myself.

Some confusion may have arisen, Mr. Chairman, because of action taken in the other body last week with regard to this legislation. Let me set the record straight.

S. 2193, as reported by the Labor and Public Welfare Committee, was a compromise. It was not identical to H.R. 16785 which we have before us today. Some groups have attempted to talk about the Daniels bill and the Williams bill as if they were identical, but this is simply not the case. The other body was successful to a degree in reaching a compromise in Committee by incorporating some features of the Steiger-Sikes substitute in their reported bill.

In our Education and Labor Committee, however, we reached no such compromise. H.R. 16785 represents a bill that from start to finish was drafted, proposed and approved by one side of our Committee. The best attempt at compromise initiated by the gentleman from Maine (Mr. HATHAWAY) and myself failed on a 15 to 19 vote in the full Committee.

I still believe we put together a good compromise, and thus the gentleman from Florida (Mr. SIKES) and I will offer the substitute here on the floor as an alternative to the Committee-reported bill. H.R. 19200, the substitute, is a bipartisan compromise between what the administration originally proposed and what the Democrats on our Committee proposed. It is in that spirit of compromise that we offer it for consideration.

Some of the rhetoric surrounding this legislation has been incorrect and misleading. It has been charged that the Steiger-Sikes substitute is weak; that it attempts to white-wash occupational health and safety; that its passage will in fact encourage rather than discourage industrial accidents.

It must be made crystal clear at the outset that the Steiger-Sikes substitute is a strong bill. It in no way downgrades occupational health and safety protection for the workers of this country and there is no evidence to support such a charge.

The substitute has the same coverage as H.R. 16785. Both bills have almost identical provisions with regard to the role of the States; Federal employee safety; research, employee training, grants to the States; the confidentiality of trade secrets; variations, tolerances, and exemptions; and the relationship of the act with regard to other Federal programs.

Most importantly, the basic ingredients of H.R. 16785 are included in the Steiger-Sikes substitute—mandatory standards, inspections and enforcement, penalties for violations, a remedy for circumstances where the danger of harm in a workplace is imminent, emergency standards for toxic or hazardous new substances.

Where these two bills differ is in the

procedural structures provided for carrying out the responsibilities created under the legislation.

This is the issue. The law we pass today must be strong, effective, workable, and fair. It must have the respect and confidence of workers and employees alike. It must guarantee to each American worker a mechanism for developing and enforcing safe and healthful working conditions; and it must guarantee to each employer objectivity, fairness, and due process.

In my opinion, the Steiger-Sikes substitute will accomplish our objectives in this manner. H.R. 16785 will not.

#### SEPARATION OF POWERS

The most basic and most important difference between H.R. 16785 and the Steiger-Sikes substitute is the method of administering the functions set forth under the act. H.R. 16785 vests authority for the promulgation of standards, inspection and investigation of complaints, the prosecution of cases, and the adjudication of cases totally in the hands of the Secretary of Labor. The substitute separates these functions to provide for a more effective, efficient, and equitable administration of the law.

#### OCCUPATIONAL HEALTH AND SAFETY BOARD

In recognition of the importance and nonpartisan nature of occupational health and safety, the substitute establishes a new, top echelon independent occupational safety and health board to set standards. The board would consist of five members appointed by the President solely because they are high-caliber professionals in the field of occupational safety and health. There are no business seats or labor seats. This is to be a nonpartisan group of professionals.

The board has been painted as pro-business and antilabor. The testimony before our committee refutes these charges. Recommendations for an independent, standards-setting body were made by such prestigious professional organizations in the field of safety and health as the National Safety Council, the American Industrial Hygiene Association, the Industrial Medical Association, the American Academy of Occupational Medicine, the American Society of Safety Engineers, as well as State health and industrial safety agency representatives.

In addition, we now have the report of the National Commission on Product Safety which was appointed by President Johnson to recommend programs to protect consumers from product hazards. The Commission has strongly recommended that Federal product safety standards be established by an independent Federal authority. The reasons stated by the Commission are most applicable to the field of occupational health and safety, and I quote:

Statutory Regulatory Programs buried in agencies with broad and diverse missions have, with few exceptions, rarely fulfilled their mission.

The reasons for their weaknesses include lack of adequate, funding and staffing because of competition with other deserving programs within any agency; lack of vigor in enforcing the law caused by an absence of authority and independence in some Federal

administrators; and a low priority assigned to programs of low visibility.

When a federal agency must take up substantial and controversial issues of consumer safety and economics, we believe it needs independent status.

Independence can be furthered by appointment of Commissioners on a non-partisan basis. . . .

Another reason for our recommendation of an independent commission stems from our own experience of the past two years. . . . Visibility has aided us in communicating public needs to business. We believe that a highly visible consumer product safety Commission will have the potential to deal formally and at arms-length with the industries it must regulate in behalf of the public.

The high visibility of a vigorous independent commission would also be a constant reminder of the federal presence and would itself stimulate voluntary improvement of safety practices.

It has been argued that only the Secretary of Labor can give the working man adequate protection. But there are ample precedents for creating agencies and making them independent of the Department of Labor even though those agencies are concerned with matters affecting the relationship of man to his job. Examples of these independent agencies are the Federal Mediation and Conciliation Service, the National Labor Relations Board and the National Mediation Board.

It has been argued, Mr. Chairman, that Congress has often placed all the functions of standard-setting, inspection and enforcement in one department of the agency. Opponents of the Board cite such acts as the Longshoremen's and Harbor Workers' Safety Act, the Coal Mine Safety Act, the Federal Railroad Safety Act and others. I must point out that each of these acts deals with a specific area of concern and is limited in application. The occupational health and safety legislation before us today deals with every conceivable type of industry and business, and I submit that such a responsibility merits and needs a different administrative approach.

It has been argued that multimember commissions or boards are not given to decisive action and make it impossible to pinpoint responsibility and accountability. I agree that this has been the case in some agencies which have diversified responsibilities for setting regulations and enforcing them. However, the Occupational Safety and Health Board has one and only one responsibility—the promulgation of standards. It cannot duck this function, and to make it even more responsible, the substitute mandates that when either the Secretary of Labor or the Secretary of Health, Education, and Welfare requests the setting of modification of a standard, the Board must commence standard-setting procedures within 60 days after the request is made. To argue as some do that a board appointed by and serving at the pleasure of the President will not be responsive overlooks the fact that this mechanism actually pinpoints responsibility in the Chief Executive. As a matter of fact the Board membership will be at least as responsive as the Secretary of Labor who is also appointed by and serves at the pleasure of the President.

#### INSPECTIONS AND CITATIONS

In both H.R. 16785 and the substitute, the Secretary of Labor makes inspections and investigations under the act, determines alleged violations and issues citations. There is a very real difference between the two bills, however, the power granted to the individual inspector on the job site. Under H.R. 16785, the inspector issues the citations at the end of his visit and these citations are posted. The substitute is carefully drawn to insure that an inspector is not given virtually limitless power. Citations are issued by the Secretary not the inspector. These citations must then be posted at the worksite, but the review of the inspectors' work insures that the citations issued will be for valid violations enforceable under the act.

#### ENFORCEMENT

Under the substitute, all appeals of citations are handled by an Occupational Safety and Health Appeals Commission, composed of three members appointed by the President and confirmed by the Senate. The Commission's hearing examiners conduct the hearings and the Commission issues corrective orders and assesses penalties.

The Appeals Commission completes the separation of powers under the substitute bill.

I cannot emphasize enough, the importance of the separation of authority provided by the substitute. I ask each of you to concentrate again on the ramifications of this law and the reach of this law into countless numbers of workplaces throughout the country. It will involve millions of employees and tens of thousands of employers. We must create an administrative mechanism which fits the challenge. Standards must be effective. They must be fair. They must be enacted without undue delay. They must be kept up to date. A Board of professional safety and health experts with the sole responsibility of standard setting and review is the very best way to achieve these objectives.

Enforcement must be equally effective. It must be swift. It must be just. An Appeals Commission of highly qualified officials which has as its sole function enforcement of this law is the best way to achieve these objectives.

#### GENERAL DUTY

Another defect of H.R. 16785 which I regard as especially serious is its very broadly worded and vague general requirement that employers maintain safe and healthful working conditions. I believe it is grossly unfair to employers to subject them to the possibility of a civil penalty for not complying with a general requirement as vague as a mandate "to do good and avoid evil." How will an employer in today's complex and highly technical industrial circumstances know exactly what is expected of him, and what he may be doing incorrectly which may result in his being penalized? It is exactly this complexity, and the uncertainty which often goes with it, that has led us to provide carefully designed procedures for issuing specific safety and health standards. With specific standards it will be apparent to the employer

what is expected and required of him; and specific standards will also serve as the necessary guide for inspectors in properly carrying out their investigatory duties.

A vague general requirement like the one contained in H.R. 16785 was one of the first provisions which the Committee struck when it considered similar legislation in the 90th Congress. Why it has now seen fit to restore such a requirement is not at all clear. One argument which has been relied upon by those who presently favor H.R. 16785 is that a similar general provision is found in the Walsh-Healey Act and in the Service Contract Act. This argument, Mr. Speaker, is unpersuasive.

The Walsh-Healey and Service Contract Acts are concerned with the duties of those who contract with the Government. Where a person freely contracts with the Government, he assumes the responsibility for maintaining safe and healthful working conditions as provided for in those two procurement-related statutes. While the language of the requirement in those two laws may be general, its actual application could hardly be described as "general" since coverage under those acts extends only to circumstances to which the supply and service contracts, themselves, apply. Moreover, I understand from the Labor Department that the general requirements of those two statutes have never been enforced in the absence of specific standards.

Another argument offered in support of the committee bill's general requirement is that it is comparable to the general duty of care imposed in the law of torts. This argument is also unpersuasive. Tort law is concerned with providing for after-the-fact payment of damages by one whose negligent act actually caused an injury. To borrow merely the isolated general duty of care from the field of tort law and impose it, along with the sanctions of civil penalties, to provide a before-the-injury method of preventing the occurrence of industrial accidents, strikes me as incongruous. In tort law the general duty of care does not exist in isolation. It is surrounded by other factors which sharply limit it, and thus give it real meaning and practical application in the field of law in which it is used. Centuries of Anglo-American case law have refined the general duty of care through the judicial development of doctrines to serve as guides for the careful application of the general duty. Also, elaborate defenses have been developed to limit its otherwise unjust application. If we are to include any sort of general-care duty in this legislation, Mr. Chairman, we should also limit its terms so that persons upon whom it would impose a duty are not unjustly held accountable for situations of which they are completely unaware.

The substitute recognizes that we are not always going to have precise standards to cover all circumstances. Therefore a general requirement is included, but it is limited and made more specific by requiring employers to maintain working conditions which are free "from any hazards which are readily apparent and are causing or are likely to cause

death or serious physical harm." It is patently unfair to require employers to supply every conceivable safety and health need for which no specific standards exist to guide them. By limiting this "general duty" requirement to apparent dangers, the substitute overcomes this element of unfairness and at the same time provides protection in serious situations which may not be covered by a precise standard.

#### IMMINENT DANGER SITUATION

Both the substitute and H.R. 16785 provide for closure of operations in cases where imminent danger exists, that is, a situation in which death or serious physical harm could result if a condition is not corrected.

H.R. 16785 gives an inspector in the field full power to close down any industrial plant or its operations, if in the inspector's individual judgment there exists an imminent danger to employees.

The substitute requires the inspector to inform both the employer and the employee that he feels imminent danger exists and that he is asking the Secretary of Labor to immediately get a temporary restraining order to close down the dangerous area. Federal judges can be reached at any time of the day or night. This is not a delaying tactic. It puts the enforcement of the inspector's order in the court, which will ultimately have jurisdiction under both bills. It provides swift enforcement and due process.

Mr. HATHAWAY. Mr. Chairman, will the gentleman yield here on the imminent danger point?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Maine.

Mr. HATHAWAY. Under the Daniels bill, even if an inspector comes into a factory and says, "I am ordering you to shut down a certain section, because of the danger involved," the employer could simply say, "I refuse to do it," and then the inspector would have to go to court.

So any employer who really wants to have this done through a court order can actually do it by simply refusing to obey the inspector's mandate in the first place, because the inspector does not have any enforcing power on his own.

Mr. STEIGER of Wisconsin. I think the gentleman is correct in his analysis, but under the committee bill, as we have it before us, it could subject the employer to a penalty which he may decide he would not want to bear.

Mr. HATHAWAY. What penalty? A penalty for refusing to close down?

Mr. STEIGER of Wisconsin. Yes.

Mr. HATHAWAY. That is under the gentleman's bill or under the Daniels' bill?

Mr. STEIGER of Wisconsin. I am talking about the Daniels' bill.

Mr. HATHAWAY. I do not think there is any penalty for refusing to comply with the inspector's order.

Mr. DANIELS of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from New Jersey.

Mr. DANIELS of New Jersey. Mr. Speaker, I will say quite affirmatively I propose to offer an amendment to eliminate the provision referred to in the Daniels' bill as the imminent danger pro-

vision, so that an inspector would have to go to court and obtain a cease-and-desist order and an injunction in order to close the plant down.

Mr. STEIGER of Wisconsin. I thank the gentleman from New Jersey.

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

Mr. STEIGER of Wisconsin. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, the gentleman is altogether correct. If an inspector makes a determination that imminent danger exists in the particular plant, the inspector has no enforcing power, and, therefore, cannot close that plant down. Even under the language in the committee bill, if the employer resists the recommendation of the inspector, the inspector would have to go to court. As the gentleman from New Jersey, (Mr. DANIELS) stated, assuming that the substitute offered by the gentleman from Wisconsin is voted down, we will make this as clear as a crystal in the amendment Mr. DANIELS will offer.

Mr. STEIGER of Wisconsin. Mr. Chairman, my hope, of course, may I say to my Chairman, is that the substitute will not be voted down, but that it will, in fact, be agreed to, even more so now that we see what is happening to the Daniels bill as it begins to come closer and closer to the substitute.

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

Mr. STEIGER of Wisconsin. I yield to the gentleman from Maine.

Mr. HATHAWAY. Mr. Chairman, I want to clear up my point that it really does not make any difference if we leave the Daniels bill as it is with respect to the imminent danger provision, provided the Chairman and I are correct, that there is no penalty for simply disobeying the recommendation of the inspector if he thinks there is imminent danger. If we leave it the way it is, it may have the salutary effect of not bottling up the courts with close orders, because I believe in most instances the manufacturer would be willing to close down that part of the factory anyway, so I, for one, am not going to support the amendment which will be offered to the Daniels bill.

I thank the gentleman for yielding.

Mr. STEIGER of Wisconsin. The gentleman is welcome.

The standards established under this legislation are going to largely determine the effectiveness of the legislation. H.R. 16785 has some serious deficiencies which actually impede effective standard setting. These have been overlooked in the debate over other issues, but they are extremely important. There are three types of standards prescribed by both bills—permanent, temporary emergency, and early.

The substitute bill provides very simply that the Board sets standards according to the procedures of the APA. This requires that a hearing will be held so that the views of interested persons can be heard; and standards will be based on the substantial evidence developed in the hearing process.

H.R. 16785 would also set permanent standards through APA hearings, but before these hearings even begin, it would

be necessary to go through a complicated maze of procedures involving assorted ad hoc advisory committees. Whenever the Secretary seeks to set a standard under H.R. 16785, he is required to appoint an advisory committee. This advisory committee may have up to 9 months to submit its recommendations to the Secretary and the Secretary may not begin any hearings until he has afforded the advisory committee the prescribed time to submit its recommendations. Although the Secretary may shorten this period, the committee bill also provides that he may extend it.

After these excessive time periods run, H.R. 16785 affords the Secretary up to 4 months to schedule a hearing to be held at an indefinite future date on the recommendations of the advisory committee.

All this adds up to the fact that under H.R. 16785 the Secretary may take well over a year to arrive only at the hearing stage.

On the other hand, the substitute provides very simply that the Board set standards according to the procedures of the APA. The hearing stage is the starting point for setting permanent standards under the substitute. Under the substitute there would be no inevitable time delays occasioned by the advisory committees, since the substitute does not mandate the use of such committees; the substitute only permits their use at the Board's discretion.

#### TEMPORARY EMERGENCY STANDARDS

The substitute also recognizes that extraordinary situations will arise in which the Board has to act quickly in promulgating certain standards; and should not delay in any way doing so. Therefore, it provides that where employees are in danger from toxic substances or new hazards resulting from the introduction of new processes, the Board will issue emergency temporary standards. These standards would be promulgated by the quickest means possible; that is, they would become effective immediately upon publication in the Federal Register.

Because these standards would be promulgated without hearings, the substitute provides that they will only stay in effect until replaced by permanent standards which the Board is required to issue within 6 months after the emergency temporary standards are issued.

H.R. 16785 also provides for the promulgation of what it describes as emergency temporary standards. But the problem with these standards under the reported bill is that such standards are neither "emergency" nor are they necessarily "temporary." Under the reported bill, the Secretary would first conduct an inspection; and after that, the so-called emergency temporary standards would not become effective until 30 days after their publication in the Federal Register. Further, under H.R. 16785 the emergency temporary standards remain in effect for 6 months or until replaced by permanent standards. Therefore, it is possible that standards purported to be "temporary" could stay on the books for an inordinately long period of time. This means, Mr. Chairman, that

under the reported bill the so-called emergency temporary standards would in reality be semipermanent standards without their ever having been subject to a hearing which is necessary for the promulgation of permanent standards.

#### EARLY STANDARDS

The substitute provides that within the first 3 years of the new act's life, the Board must promulgate national consensus standards and already existing Federal standards where these two types of standards will assure safer and more healthful working conditions. Because such standards have already been scrutinized either through the consensus-method or through procedures provided under Federal law, the substitute bill requires no hearings or other APA procedures for promulgating them under the new act; they simply become effective upon publication in the Federal Register. The national consensus standards would remain in effect until superseded by permanent standards as replacements.

H.R. 16785 also provides for promulgating national consensus standards and existing Federal standards. But here, again, Mr. Chairman, the committee bill has a built-in unnecessary time-delay for promulgating these standards. It would require a hearing to be held before these standards could be promulgated. What earthly reason could there be for requiring a hearing before promulgating standards which have already been through either full consensus-method procedures or Federal rulemaking procedures? This question is even more puzzling when one bears in mind that the bill provides that these standards must be subject to the permanent standard-setting process within 90 days after promulgation.

The committee bill also provides for the issuance of a third type of standard; that is, the national standard which has been developed by some method or other which is not a consensus method. The substitute, on the other hand, wisely does not provide for the adoption of standards where we do not know the means which may have been used to develop them. I believe the reason for this is obvious. If we are going to adopt as Federal law any standards which have been developed largely by the private sector, then I firmly believe that we should feel completely secure about where they come from and how they were fashioned. We should, for example, know that they came from the respected and well-known American National Standards Institute which uses the consensus method to develop its standards. To open the door, as H.R. 16785 would do, to any organization using any sort of method to produce a standard would in my opinion be unwise.

#### CITATIONS

The concept of issuing citations is a sound one, but H.R. 16785 goes about it in an unnecessarily complicated way. It is difficult to understand why the reported bill ties the issuance of citations to "serious danger" in some cases and not in others. The substitute simplifies this by requiring the Secretary to issue a citation in every instance where there is a violation of the act's requirements, unless of course, it is de minimis.

#### OCCUPATIONAL HEALTH AND SAFETY STATISTICS

In the hearings on this legislation, we heard the constant and well justified complaint that one of the great shortcomings in the field of occupational safety and health is the lack of an effective statistical program to provide an accurate picture of the scope and true nature of the complex problems of industrial injuries and illnesses. H.R. 16785 has only scattered provisions touching upon what would be needed in terms of reporting requirements for the purpose of such analysis. The substitute, however, contains a separate section providing a complete statistical program, including Federal grant authority to assist the States in their efforts in the statistical field. These provisions for an effective statistical program, which are included in our bill, were carefully worked out with the cooperation and assistance of the Bureau of Labor Statistics.

#### FINANCIAL ASSISTANCE TO SMALL BUSINESS

H.R. 16785 unfortunately has no provisions for providing financial assistance to small businessmen who will need such help to overcome some of the costs that are going to be occasioned by the enactment of this legislation. The substitute amends the Small Business Act to provide this needed assistance.

#### CONSTRUCTION SAFETY

In keeping with the recent policy of Congress with respect to protecting construction workers, the substitute places all construction workers under the protection of the Construction Safety Act, Public Law 91-54. Therefore, the substitute expressly provides that the Occupational Safety and Health Act would not apply to employers in construction work. It amends the Construction Safety Act to provide that all construction workers would come under the protection of standards developed under the procedures of the Construction Safety Act. Cases of alleged violations of construction safety and health standards, however, will be brought before the Occupational Safety and Health Appeals Commission, created under the Occupational Safety and Health Act. The Commission's orders would be enforced in the same way as they are enforced in the Occupational Safety and Health Act. The additional sanctions of contract debarment and cancellation now provided for under the Construction Safety Act would remain.

I believe that placing all construction employers under the recently enacted Construction Safety Act is the best way of handling the awkward circumstance of having one safety and health law which applies to all construction employers and another which applies to them where Federal and Federally assisted construction contracts are involved.

#### EFFECT ON OTHER LAWS

Both the substitute and H.R. 16785 provide that the act shall not apply where another Federal agency is exercising authority to prescribe or enforce occupational safety and health standards. Since Congress has provided for State agencies to exercise authority un-

der section 274 of the Atomic Energy Act of 1954, the substitute also includes those State agencies under this provision.

While this section does not foreclose the authority of the Secretary of Labor in instances where another agency or department has statutory authority in the area of occupational safety and health, but has taken no action, it is anticipated that these instances will be extremely rare. It is intended that the Secretary of Labor will not exercise his authority where another agency with appropriate jurisdiction has taken steps to exercise its authority, even though the action might be at the formative stage of regulations or enforcement.

#### STATE PROGRAMS

Section 21(g) of the substitute authorizes the Secretary to make grants to States having plans which he has approved in order to assist these States in administering and enforcing their programs. The Federal grant authorized here may be up to 50 percent of a State's total costs. The section provides that any variation in the percentage of costs granted to different States shall be determined on the basis of objective criteria. One positive consideration in determining the amount of a grant should be the effort expended by a particular State in the field of employee safety and health prior to its application for a grant. It is intended that States which take the lead in this area and develop effective programs should receive special consideration in the making of Federal grants.

The substitute would not require a State to adopt any particular standard setting and enforcement procedures in order for its plan to be approved by the Secretary. It is only necessary that the State comply with the criteria set forth in section 18(c) of the substitute. Central to these requirements is the provision of section 18(c) (2) which requires that a plan provide for the development and enforcement of standards which are at least as effective as the Federal standards to be promulgated under the act. A State plan must also designate an agency or agencies which will administer the plan, and assure the legal authority, personnel, and funds necessary for it to carry out its administrative and enforcement activities.

#### EFFECT ON BUILDING CODES

The substitute will not supplant local building codes. It is conceivable that there will be some overlap between certain standards developed under the bill and local regulations which cover the same substantive areas. For example, a standard might be promulgated by the Federal Occupational Safety and Health Board dealing with the necessity for, or placement of, fire exits in a plant. A local building code might also have regulations in this area. Whether the Federal standard would apply would depend upon the existence and operation of an applicable State plan. In addition, in the promulgation of such a Federal standard, it would be appropriate to consult local building codes and building safety officials in an effort to accommodate those codes as far as possible.

As far as requiring major remodeling of buildings, the setting of standards con-

templates taking into account "feasibility." Further, the substitute provides for the granting of variances from standards.

I cannot let this opportunity pass without paying tribute to the distinguished gentleman from Florida (Mr. SIKES). He recognizes the need for bipartisan support for an effective safety and health act. His help in bringing this substitute to the floor today has been invaluable. I cannot pay him adequate tribute for his guidance, wise counsel and support. This body owes him a great deal. He has my sincere respect and thanks.

This substitute has the support of Democrats and Republicans, business and labor groups, and the Nixon administration. It is strong. It is fair. It is workable. It would provide effective protection for America's working men and women. It offers the best method of bringing all the resources of the Federal Government to bear in bringing an end to job related injury, death, and disease.

When we return to the Whole House I would like to include at this point a letter from Labor Secretary Hodgson in support of this substitute.

Mr. Chairman, the President summed up my feelings on the consequences of our deliberations here today when he said:

More is at stake than the reputation of one political party or another for legislative wisdom or political courage. What is at stake is the good repute of American Government at a time when the charge that our system cannot work is hurled with fury and anger by men whose greatest fear is that it will.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I will be delighted to yield to the distinguished gentleman from Illinois.

Mr. ANDERSON of Illinois. I should like to congratulate the gentleman from Wisconsin for an extremely able presentation and a very lucid explanation of the need for this legislation. Also, he has stated the reasons why the substitute he has coauthored with the gentleman from Florida (Mr. SIKES) is to be preferred over the committee bill.

I do have one question as a result of listening both to the chairman of the committee and also the gentleman from Wisconsin. As I understand it, the focal point of the controversy or at least one of the points of controversy in this dispute is over the five-man board that would be appointed by the President to set standards.

The argument has been made here today and elsewhere that this would inevitably lead to the creation of a board that would be dominated by promanagement interests to the detriment of labor. On the other hand, if I have understood the gentleman from Kentucky correctly and the amendments that will be tendered to the so-called Daniels bill, they will include the idea that you will have a three-man Presidentially appointed enforcement board. Is that correct?

Mr. STEIGER of Wisconsin. As I review the letter that was written to all of us, I find nowhere in here on the five amendments to be offered to the Daniels

bill an amendment similar to that adopted in the Senate as offered by Senator JAVITS which creates a commission to handle the enforcement. So I am assuming that they make no change in the centralization of functions of the promulgation of standards, inspections, and investigations, and enforcement in the hands of the Secretary of Labor.

Mr. ANDERSON of Illinois. I thank the gentleman for clearing up that point, because there was something the gentleman from Kentucky said which to me indicated that there might be a willingness to go along with the idea of a three-man board for enforcement purposes. If that was indeed the position they are going to take, I would feel there would be less injury to have a board for enforcement than to have a board for the setting of standards.

Mr. STEIGER of Wisconsin. The point made by the gentleman from Illinois is correct. The structure of the substitute is based on the concept of the complete separation of the functions, because I do not believe in an area of this kind that you want to attempt to put into one hand all of that power. Therefore the substitute provides for that complete separation, and the Daniels bill, even with the amendments, does not provide for any separation of that which now in the Daniels bill rests with the Secretary of Labor.

Mr. ANDERSON of Illinois. If the gentleman will yield further, I agree with him and commend him on the work that he has done to present to us today an acceptable substitute.

Mr. STEIGER of Wisconsin. I thank the gentleman for his comments and yield back the balance of my time and include the letter from the Secretary of Labor referred to earlier in my remarks:

U.S. DEPARTMENT OF LABOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., November 23, 1970.

HON. WILLIAM A. STEIGER,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN STEIGER: I am writing you concerning H.R. 19200, an occupational safety and health bill which was introduced by Congressmen Steiger and Sikes, September 15, 1970. As you know, the President sent a special message to Congress in August of 1969 expressing his strong support for comprehensive occupational safety and health legislation. With the message the President transmitted a proposed occupational safety and health draft bill which was introduced by Congressman Ayres as H.R. 13733. Since the introduction of this legislation the President has mentioned on four separate occasions in messages to the Congress the need for enactment of a comprehensive occupational safety and health act.

I wish to indicate the Administration's support for H.R. 19200. It is very similar to a bill which Congressman Hathaway introduced by motion in the House Committee on Education and Labor. As such it represents a compromise between the Administration's original bill and the bill which the Committee reported. I was personally involved in the discussions with Congressmen and their representatives from both parties which lead to that compromise and I firmly believe that H.R. 19200 is a strong, comprehensive measure which include fair, effective procedures for promulgating and enforcing occupational safety and health standards.

My endorsement of H.R. 19200 is in the spirit of compromise, and a desire to see effective occupational safety and health legislation enacted this year.

Sincerely,

J. D. HODGSON,  
Secretary of Labor.

Mr. PERKINS. Mr. Chairman, I yield such time as he may consume to one of the distinguished sponsors of the bill, the gentleman from New Jersey (Mr. DANIELS).

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

Mr. DANIELS of New Jersey. I shall be happy to yield to the distinguished gentleman from California.

Mr. COHELAN. Mr. Chairman, I rise in strong support of H.R. 16735, the Occupational Health and Safety Act of 1970. This legislation would authorize the Secretary of Labor to promulgate, monitor, and enforce Federal job health and safety standards for workers.

Mr. Chairman, there is a strong need for strict Federal regulations regarding the health and safety of workers. Present efforts in this area, whether they be State or private, are inadequate for in the past 10 years the total number of deaths and disabling injuries has increased dramatically and this upward trend shows no sign of change. Statistics from the Department of Labor show that 55 working men and women are killed on the job each day—that is 14,500 are killed annually while 2.5 million Americans are disabled each year on the job and another 7 million are injured.

A recent study made for the Department of Labor, by Mr. Jerome Gordon, shows even more frightening figures. This unpublished report concludes that as many as 25 million serious injuries and deaths on the job are not counted each year by the Federal Government. Inadequate standards for counting injuries and faulty reporting seems to indicate that the injury rate for workers is 10 times higher than official figures show.

While human death and suffering can never be measured in dollar figures, there is an economic loss that must be considered with this issue. It has been estimated that workers injured or killed lose an estimated \$1.5 billion annually in wages and that the total economic loss to the Nation's economy is in excess of \$8 billion a year.

Under this bill, the safety and health of workers will be the Secretary of Labor's primary responsibility. I am pleased to see that this bill places the authority for the establishment, enforcement, and development of job health and safety standards in one appointee whose primary obligation is to protect the legitimate interests of the workers and to enforce public policy in these areas as given to him by the Congress and the President. I am opposed to the idea of a board or a commission having such authority as is appears and has been proven that boards and commissions have been used in the past as a common technique to avoid making decisions. A board whose members are appointed to a fixed term or at the pleasure of the President could

not be held accountable to any one for reasonable and consistent establishment of standards.

Under the provisions of this bill, full authority is given to the Secretary of Labor to issue occupational health and safety standards, with recourse to Federal courts to enforce such standards. Provision has been made for penalties against violations and the Secretary of Labor has the authority to shut down plants or curb operations where a Federal inspector finds an "imminent danger" of loss or injury for workers. Also, I am pleased to see that this legislation contains authority for the Secretary of Health, Education, and Welfare to authorize research into job health and safety problems, establish training and employee education programs, and provide for accurate reporting of job accident and disease statistics. This bill also sets up an ad hoc advisory committee to assist in the developments of standards and a 20-member national advisory committee.

Mr. Chairman, a comprehensive occupational safety and health program must be based on the individual rights of the worker. It must permit the worker to leave his post whenever and wherever conditions exist that endanger his health or safety. The worker must be guaranteed procedural safeguards in order to take corrective action in removing such dangers. Therefore, passage of this measure before this Chamber today is vital and necessary as all of these aspects of a comprehensive safety and health program as provided for in H.R. 16735.

It is time to act on this issue now. It is time for the Congress to pass strict legislation that will provide for the well-being of millions of Americans. We cannot tolerate conditions that take the lives of thousands of workers annually; we cannot tolerate dangerous working conditions that result in disabled workers.

Mr. Chairman, I urge my colleagues to adopt the Occupational Health and Safety Act of 1970 today in an effort to provide for better working conditions for all Americans.

Mr. DANIELS of New Jersey. Mr. Chairman, America's 80 million working people spend an average of 40 hours a week in some of the most polluted, physically hazardous, and physically damaging environments found anywhere. Eighty percent of these citizens work in places where no type of health service is provided, and the protection given the remaining 20 percent varies from excellent to minimal.

From across the country, the Select Subcommittee on Labor has received devastating accounts from individual working men and women of the appalling results from exposure to a contaminated workplace.

In the manufacture of matches in Louisiana, workers—most of them women—have reported numerous nervous breakdowns, becoming uncoordinated and having accidents.

From New Mexico, workers list 10 deaths in the Grants area from lung cancer from radiation.

Oil refinery employees in Tennessee count several cases of cancer in one small plant, two deaths from burning and one loss of life due to hydrogen sulfide.

In pesticide production plants, workers are dying and others are disabled due to lung conditions, primarily emphysema caused by chemical fumes.

From Michigan, plant workers report dust from cyanide in great quantities, with resulting lung ailments and death. Sulfuric acid spray is present in the atmosphere in such quantities that it eats paint off the cars in the parking lot in addition to causing harm to the employees.

Exposure to acrylamide in a New Jersey plant has resulted in worker paralysis and blinding.

Investigations of conditions in the textile mills reveals that among carders and spinners 29 percent had byssinosis, a progressive lung disease causing total disablement.

Among deaths of asbestos workers, studies have revealed that 10 percent were dying of asbestosis, a disease causing inability to breathe; over 20 percent were dying of lung cancer; 10 percent of cancer of the digestive tract; 10 percent of nasal mesothelioma—also a cancer—and another 10 percent of miscellaneous cancers.

Yet despite these tragic accounts, Congress and the State legislatures have passed safety and health legislation in a piecemeal fashion, usually in response to a disaster of major proportions in a particularly hazardous industry. Last year, Congress passed the landmark Federal Coal Mine Health and Safety Act. The main impetus for Federal action in this field came, unfortunately, because the lives of 78 West Virginia coal miners had been snuffed out one fatal day in 1968.

Testimony at that time concerning the provision in the Coal Mine Safety Act for compensation for black lung disease revealed that over 100,000 other men were slowly losing their battle for life as a result of exposure to minute airborne particles of coal dust. Their silent suffering does not make headlines. For every one of those afflicted miners, there are millions of other men and women in our workforce whose lives are daily being placed in jeopardy from chemicals, insecticides and pesticides, asbestos fibers, cotton fibers, inplant pollution, defective equipment, and faulty or nonexistent safety devices. We do not read about these workers in the newspapers; yet it is a fact of the modern industrial process—whether in our factories or on our farms—that our workers find their lives endangered while earning a livelihood.

Mr. Chairman, I am not overdramatizing. I am merely reporting to the Members of the House of Representatives the results of 15 days of public hearings in the 91st Congress and 11 days in the 90th Congress; the results of a study by Jerome B. Gordon, formerly of Delphic Systems & Research Corp., for the Department of Labor; and reports from labor, environmentalists, health experts, and interested citizens concerned about this problem.

I do not want to single out one particular industry as being extremely hazardous, for this body could not determine standards for each individual industry or occupation in this country. I believe, rather, that it is the proper duty of Congress to give national leadership in a campaign to end the carnage in America's workplaces. Today we have a historic opportunity to pass this Nation's first broad, comprehensive, and fair occupational safety and health bill, H.R. 16785. The Senate passed job safety legislation last week.

I can report to my colleagues that every witness appearing before the Select Subcommittee on Labor in the 91st Congress said there was need for Federal safety and health legislation. Collected in the three volumes of testimony compiling 2,584 pages from the 90th and 91st Congresses are the gruesome statistics and stories of occupational deaths and diseases.

It is a shameful fact that 2.2 million workers are maimed, disabled, or otherwise injured annually on the job. And another 14,500 die through job-related accidents and illnesses. Moreover, over 255 million man-days of work are lost yearly through job disability. It is estimated that the annual loss to the gross national product because of industrial accidents totals \$8 billion. Even more important than these figures is the tragic effect on the lives of the families which have endured these unfortunate accidents. In only 4 years' time, as many people die because of their employment as have been killed in almost a decade of American involvement in Vietnam.

National attention quite properly has been focused recently on environmental problems—the pollution of air and water and the destruction of other natural resources. However, this concern with the "environmental crisis" fails to give sufficient recognition to the pertinent question of occupational safety and health. Our environment consists not solely of the air we breathe traveling to and from work. It is also the air we breathe at work 8 or more hours daily.

This on-the-job pollution crisis is one of the most vital issues in the whole environmental question, for it is from the workplace that much of the pollution problem arises. To pass legislation dealing with dirty air spewing forth from smokestacks without simultaneously seeking solutions to the contaminated environment inside the factory makes little sense.

The statistics and records of occupational disease and death may not tell the whole story. According to the Gordon study for the Labor Department, the report figures may be undercounted by as much as tenfold, meaning that as many as 25 million men and women suffer injury annually from job-related accidents or illnesses.

It was reported to the subcommittee that safety records may also be misleadingly low because they refer only to violent physical injury causing immediate, visible physical harm. Records do not exist, on any meaningful basis, regarding the creeping death and disability caused by plant environmental hazards

to the health. The occasional man who is crushed by heavy equipment becomes a statistic; the man who withers away with cancer, emphysema, or brain damage does not.

The subcommittee further learned of the inadequacies of State laws. Particularly regarding the insidious "silent" killers such as toxic fumes, bases, acids, and chemicals. When, at this point in history, workers are much more endangered by environmental conditions which threaten their health than from safety hazards resulting in violent physical injury, it became clear to the subcommittee that State laws are woefully lacking in protection for employees so exposed.

Testimony during the 90th Congress revealed that a chemical, beta-naphthylamine, which has no safe limit of exposure because it causes bladder cancer, was banned from the State of Pennsylvania. The plant using the hazardous substance then moved to Georgia and continued its operations.

In the 91st Congress, the Chemical Workers Local 8-406 from Newark, N.J., my own State, testified that its members were "having trouble with beta-naphthylamine." Obviously, New Jersey statutes still permit the use of this known carcinogen.

Clearly, it is the workers and their families who are most directly affected by unsafe and harmful working conditions. Yet, leading environmentalists, health professionals, doctors, and medical students have joined with workers in supporting passage of H.R. 16785.

In a letter to all members of Congress these concerned citizens, including Dr. Paul Cornely, president, American Public Health Association; Prof. Rene DuBos of Rockefeller University; Barry Commoner of Washington University; Paul Ehrlich of Stanford University; and Ralph Nader of the Center for the Study of Responsive Law, stated:

Although the burden of hazardous work places falls most heavily upon the blue-collar workers, the problem of occupational safety and health affects all Americans. The in-plant environment is merely a concentrated microcosm of the outside environment. The environmental health hazards that workers face affect the entire population to a lesser degree. If industrial chemicals and processes were properly researched and monitored before they were put into use, the entire population would be spared.

The need for legislation is clear. The only question is what is the best legislation to deal with this problem of concern to us all. The bill has gone through many modifications during the committee's consideration, and we can now also profit from the deliberations in the other body which has just passed an occupational safety and health bill. We are not too proud to improve our bill; and, in order to make every concession to alleviate fears that have been expressed, we will propose modifications to the committee bill, that while not interfering with its effectiveness, will reduce areas of concern that have been expressed.

As modified by our amendments, the bill provides that employers must comply with occupational safety and health standards prescribed by the Secretary of Labor. These standards are of two types.

First, there will be interim standards consisting of Federal safety standards already in effect, consensus standards, or standards of other nationally recognized standards-setting groups. There is an expedited rulemaking procedure for putting these interim standards into effect pending the development of permanent safety standards.

Permanent safety standards will be prescribed only after public hearings and after receiving advice from experts in the field. The standards-setting procedures have been carefully designed by the committee to be both efficacious and to protect all legitimate interests. The bill also provides special procedures for dealing with emergencies and for granting variations to employers who can show that the safety of their employees will not be affected by a departure from the national standard.

These standards will also provide warning to employees about hazardous situations to which they are exposed as well as the use of appropriate protective equipment. Further, where it is necessary to protect employees, these standards will provide for measuring employee exposure to dangers. These provisions, similar to those in the Steiger substitute, have been added to the committee bill to take the place of the provisions regarding monitoring which caused concern that they might impose excessive costs on the employer. In addition, the provision in the committee bill which has been frequently misinterpreted as a "strike with pay" provision has also been deleted.

We must recognize that there will always be dangerous situations not covered by specific safety standards and there has been much controversy as to the proper obligations of the employer in these situations. Nearly all State and Federal safety laws provide a so-called general duty obligating the employer to furnish a safe and healthful place of employment. Fears that this obligation may be an undue burden on employers have been widely expressed. I believe and the committee believes that these fears are unwarranted, but in the spirit of seeking workable and acceptable solutions that has marked our efforts in this field, we have modified the duty to require only that the place of employment be freed from "recognized" hazards. Furthermore, there are no penalties for violations of this duty. The only penalty is if an employer fails to correct a recognized hazard within the time specified in a citation.

The Secretary is also empowered to enter the premises of an employer "at reasonable times" to conduct inspections and investigations and issue citations where there is a violation of the act. The philosophy underlying H.R. 16785 is not based on the assumption that American industry can be made safe and healthful simply by enacting a Federal law which emphasizes penalties. So, if an employer has violated an occupational safety and health standard, and no serious danger will result, a civil or criminal penalty will not be levied unless the violation is willful. The secretary enforces his orders in the Federal district court after a hearing under the Administrative Procedure Act

and a full opportunity is provided for judicial review.

The procedures to counteract imminent dangers have been among the bill's most controversial features. In the same spirit of seeking acceptable solutions, we have modified the committee bill and now rely exclusively on judicial remedies to counteract these imminent dangers. Our provision is now identical to that in the Steiger substitute. As a matter of legislative history, I want to make clear our intention that the secretary resort to the courts with utmost speed when he encounters these imminent danger situations. Our provision reflects our trust that the courts will be able to respond with the speed that is needed.

In order to assist the Secretary of Labor and his advisory committees in formulating standards, H.R. 16785 authorizes the Secretary of Health, Education, and Welfare to conduct research and develop criteria, particularly concerning the new problems created by technology, as well as motivational and behavioral factors involved in on-the-job safety.

H.R. 16785 does not repeal any other Federal laws prescribing safety or health requirements. A provision of the act also specifically exempts employees over whom as Federal agency exercises statutory authority to prescribe safety and health regulations. Our modification, however, follows the substitute bill in providing that the construction industry will be subject to the Construction Safety Act as well as to this bill.

A State could at any time submit a plan to the Secretary to reestablish its jurisdiction over an area covered by a Federal standard. The Secretary must approve the State plan if it meets specific requirements. As an encouragement for State action, the bill gives Federal financial support to assist States in assuming their own programs for worker safety. Planning grants with up to 90 percent Federal participation and program grants with up to 50 percent Federal participation are provided.

Adequate information is the precondition for responsive administration of practically all sections of this bill. The reporting section assures completeness of data and directs the Secretary of Labor to cooperate with the Secretary of Health, Education, and Welfare in developing regulations which implement this goal. At the same time, employers are assured that they will not be subject to duplicative record keeping.

The House of Representatives cannot delay or dilute its action on occupational safety and health legislation. Every day we postpone passage means 55 more American workers will die; 8,500 will be disabled, and 27,200 will be injured. Surely this appalling bloodletting in American workplaces must weigh heavily on the conscience of the American people. The House should act now so that this needless loss of life and limb can be effectively reduced.

I shall insert in the RECORD at this point the text of the amendments, with explanations that I shall offer to the committee bill so that all Members have an opportunity to examine them before voting tomorrow:

AMENDMENT No. 0 TO H.R. 16785 TO BE OFFERED BY MR. DANIELS OF NEW JERSEY

Page 46, line 15, strike out "Nothing" and insert the following: "Subject to the provisions of subsection (c), nothing"

Page 46, lines 22 and 23, strike out "Public Law 91-54, Act of August 9, 1969 (83 Stat. 96, 40 USC 333)."

Page 47, line 7, after line 7 insert the following:

"(c) Subject to the provisions of subsection (g) of section 107 of the Contract Work Hours Standards Act, nothing in this Act shall apply to any employer who is a contractor or subcontractor for construction, alteration, and/or repair of buildings or works, including painting and decorating, in the regular course of his business.

"(c) (1) Subsection (a) of section 107 of the Contract Work Hours Standards Act is amended by inserting '(1)' after '(a)' and by adding at the end thereof the following new paragraph:

"(2) Each employer (as defined in section 3(4) of the Occupational Safety and Health Act) who is a contractor or subcontractor for construction, alteration, and/or repair of buildings or works, including painting and decorating, in the regular course of his business shall comply with construction safety and health standards promulgated under paragraph (1) of this subsection."

"(2) Such section 107 is further amended by adding at the end thereof the following new subsection:

"(g) A construction safety and health standard promulgated under paragraph (1) of subsection (a) shall be considered for purposes of all the provisions of the Occupational Safety and Health Act, other than sections 6, 7, and 17 thereof, to be an occupational safety and health standard promulgated under such Act."

AMENDMENT No. 0

CONSTRUCTION INDUSTRY

1. *Explanation:* This amendment makes the standard-setting provisions of the Construction Safety Act, which now applies only to contractors on government and government-assisted work, applicable to the entire construction industry. Enforcement of these standards will be in accordance with the provisions of the general occupational safety and health bill. The provisions for debarment, contract cancellation, etc. now applicable to those performing on government work are left unchanged.

2. *Justification:* This Congress enacted the Construction Safety Act just over a year ago and the process of setting standards under that act is underway. As most contractors work on both government and nongovernment work, it makes sense to place all construction work under a single bill.

This approach is similar to the Steiger substitute with regard to the construction industry.

AMENDMENT No. 1 TO H.R. 16785 TO BE OFFERED BY MR. DANIELS OF NEW JERSEY

Page 47, strike out lines 10, 11, and 12, and insert the following:

"(1) shall furnish to each of his employees employment and a place of employment free from recognized hazards so as to provide safe and healthful working conditions, and"

AMENDMENT No. 1

GENERAL DUTY

1. *Explanation:* This amendment deletes the requirement that an employer furnish a "safe and healthful" place of employment and substitutes a more limited requirement that he furnish employment "free from recognized hazards." An amendment which I will offer to Section 15(b) changes the penalty for violating this modified General Duty.

2. *Justification:* Although a General Duty is contained in most states and Federal safety laws, fears have been expressed that employers will be harassed because the duty is too vague and undefined. Most safety situations will be covered by standards, but some provisions must be made for the occasional unique situation that does not fall within a standard. We have accepted the limitation of the General Duty to protection against "recognized" hazards to make sure that employers cannot be held responsible for protecting their employees against dangers which are not recognized to be such. By modifying the penalty provision for violation of the General Duty, we have eliminated any possibility that employers could be treated unfairly.

Our modified General Duty does, however, differ in important respects from the General Duty provisions in the Steiger substitute.

The first difference is that my amendment protects against "recognized" hazards while the Steiger substitute only protects against "readily apparent" ones. A recognized hazard is a condition that is known to be hazardous, and is known not necessarily by each and every individual employer but is known taking into account the standard of knowledge in the industry. In other words, whether or not a hazard is "recognized" is a matter for objective determination; it does not depend on whether the particular employer is aware of it.

I am afraid that "readily apparent" as used in the substitute, means apparent without investigation, even though a prudent employer would investigate under the circumstances. A danger, in other words, may be recognized as such in the industry, but may not be apparent to an employer who is ill-informed and does not choose to investigate the danger of the situation. That is not sufficient protection for employees.

AMENDMENT No. 2 TO H.R. 16785 TO BE OFFERED BY MR. DANIELS OF NEW JERSEY

Page 51, after line 16, insert the following:

"(5) Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secretary of Health, Education, and Welfare. The results of such examinations or tests shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the employee, to his physician."

AMENDMENT No. 2

LABELING AND MONITORING AMENDMENT

1. *Explanation:* This amendment provides that safety standards shall include requirements for warning employees about the hazards to which they are exposed by the

use of labels or other means. The standards must also prescribe protective equipment and proper emergency treatment. Under appropriate circumstances, the standards must also provide for monitoring employee exposure to insure their proper protection. This description of what must be included in standards is in lieu of the labeling and monitoring provisions contained in the research provisions of the bill, and when we get to that section I shall offer an amendment to delete those provisions.

2. *Justification:* These new provisions on labeling and monitoring are adopted from the Senate-passed bill and are similar to those contained in the Steiger Substitute. It seems sensible to include all necessary protections for the employee in the safety standard rather than to have separate and independent provisions on labeling and monitoring in the research part of the statute.

Section 19 of the Committee bill had different monitoring requirements depending on whether the substance was subject to a standard issued by the Secretary of Labor, was covered by criteria issued by the Secretary of HEW and whether the employer was or was not in compliance with the standard.

I will offer an amendment to delete these provisions when we get to Section 19. Under this amendment and the later amendment for Section 19, all the enforcement aspects of monitoring will be covered by the standards and the research aspects only will be covered in the research section. I think the amendment adds to the clarity of the bill.

AMENDMENT No. 3 TO H.R. 16785 TO BE OFFERED BY MR. DANIELS OF NEW JERSEY

Page 58, after line 21, insert the following:

"(f) Any employee or representative of employees who believe that a violation or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear or any record published, released, or made available pursuant to this Act. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violations or danger exist. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists he shall notify in writing the employees or representative of the employees of such determination."

AMENDMENT No. 3

REQUEST FOR INSPECTION AMENDMENT

1. *Explanation:* This amendment provides that employees may request an inspection by giving the Secretary written notice of the safety violations that threaten physical harm or imminent danger. The amendment requires the Secretary to make a special inspection as quickly as possible if he concludes that there are reasonable grounds to believe that such a danger exists.

2. *Justification:* This amendment is a substitute for the provision in Section 19 of the Committee bill permitting employees to absent themselves from dangerous situations without loss of pay. When we get to Section 19 I will offer an amendment to delete that provision.

The provision on employees not losing pay

was so generally misunderstood that we have decided to drop it. We have no provision for payment of employees who want to absent themselves from risk of harm; instead, we have this amendment which enables employees subject to a risk of harm to get the Secretary into the situation quickly. Instead of making provisions for employees when their employer is not providing a safe workplace, we have strengthened the enforcement by this amendment provision to try and minimize the amount that employees will be subject to the risk of harm.

AMENDMENT No. 4 TO H.R. 16785 TO BE OFFERED BY MR. DANIELS

Beginning with line 19 on page 63, strike out everything down through line 9 on page 65, and insert the following:

"Sec. 12. (a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act.

"(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to section 11 of this Act. The proceeding shall be as provided by Rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

"(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the Secretary that relief be sought.

"(d) If the Secretary unreasonably fails to petition the court for appropriate relief under this section and any employee is injured thereby either physically or financially by reason of such failure on the part of the Secretary, such employee may bring an action against the United States in the Court of Claims in which he may recover the damages he has sustained, including reasonable court costs and attorney's fees.

"(e) In any case where a temporary restraining order is obtained under this section by the Secretary, the court which grants such relief shall set a sum which it deems proper for the payment of such costs, damages, and attorney's fees as may be incurred or suffered by any employer who is found to have been wrongfully restrained or enjoined. In no case shall any employer wrongfully restrained or enjoined be entitled to a recovery for costs, damages, and attorney's fees in excess of the sum set by the court."

AMENDMENT No. 4

IMMINENT DANGER AMENDMENT

1. *Explanation:* This amendment substitutes the imminent danger provisions of H.R. 19200 for those of the Committee Bill. The amendment deletes completely the provision for an administrative imminent danger order and relies exclusively on temporary restraining orders and injunctive relief from the District Courts. Because the administrative order is deleted, the provision for damage actions when the Secretary arbitrarily issues or refuses to issue an order is also deleted. Instead, there is a provision for employee actions in the Court of Claims if the Secretary unreasonably fails to petition for judicial relief. Employers are protected by a provision which requires the Court to set a sum for the employer's damages if he is wrongfully restrained. The employers' recovery is limited to the amount set by the Court.

2. *Justification:* While administrative shutdown provisions are contained in the laws of 38 states and the District of Columbia, business groups have expressed great fears about the potential for abuse. They believe that the power to shut down a plant should not be vested in an inspector. While there is no documentation for this fear, we recognize that it is very prevalent. The Courts have shown their capacity to respond quickly in emergency situations, and we believe that the availability of temporary restraining orders will be sufficient to deal with emergency situations. Under the Federal rules of civil procedure, these orders can be used *ex parte*. If the Secretary uses the authority that he is given efficiently and expeditiously, he should be able to get a Court order within a matter of minutes rather than hours.

AMENDMENT No. 5 TO H.R. 16785 TO BE OFFERED BY MR. DANIELS OF NEW JERSEY

Page 67, line 2, after "10(b)" insert the following: "for a violation of a regulation prescribed under section 9(c) or a rule or order issued under section 7(b)".

AMENDMENT No. 5  
PENALTY PROVISIONS

1. *Explanation*

This amendment deletes any penalty for violating the modified general duty provision. However, it retains a penalty for failure to correct a violation of that duty within the time specified in the citation.

2. *Justification*

The deletion of the penalty is in response to the fear that employers could incur a penalty for violating a vague standard. We have not only made the standard more clear, but have also removed the penalty. Of course if an inspector gives a citation and the employer does not comply with its provisions for correcting the hazard there is no reason not to assess a penalty.

AMENDMENT No. 6 TO H.R. 16785 TO BE OFFERED BY MR. DANIELS OF NEW JERSEY

Beginning with line 11 on page 76, strike out everything down through line 23 on page 78, and insert the following:

(4) The Secretary of Health, Education, and Welfare, in order to develop needed information regarding potentially toxic substances or harmful physical agents, may prescribe regulations requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which the Secretary of Health, Education, and Welfare reasonably believes may endanger the health or safety of employees. The Secretary of Health, Education, and Welfare also is authorized to establish such programs of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of employees to such illnesses. Nothing in this or any other provision of this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. Upon the request of any employer who is required to measure and record exposure of employees to substances or physical agents as provided under this subsection, the Secretary of Health, Education, and Welfare shall furnish full financial or other assistance to such employer for the purpose of defraying any additional expense incurred by him in carrying out the measuring and recording as provided in this subsection.

AMENDMENT No. 6

RESEARCH

1. *Explanation:* This amendment makes the conforming deletions as required by the (pre-

viously adopted) amendments on "Labeling and monitoring" and "Request for inspection." In addition, it authorizes the Secretary of HEW to prescribe regulations requiring employers to monitor and make reports on employee exposure to potentially dangerous substances. This authority is a purely research authority and the amendment therefore provides that the Secretary of HEW will furnish full financial or other assistance to employers who incur additional expense in carrying out this research function.

2. *Justification:* Under the Committee bill the Secretary of HEW was required to make a decision on toxicity of substances on the request of employers or employees. This might have led to administrative difficulties, both because he might have been flooded with requests and because he might have had to use limited resources on unimportant priority items.

The amendment gives the Secretary a more flexible research authority and makes plain that the government and not the employer must bear the cost of research into toxicity.

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

Mr. DANIELS of New Jersey. I am happy to yield to the gentleman from Missouri.

Mr. RANDALL. In our mail on this bill the most frequent objection, voiced again and again was against the provision which would permit the Secretary of Labor to close down a business without a hearing of any kind or without a court order. My reply to all of those was that anyone and everyone always has resort to the courts, and that the doors of the courthouse would never be closed to any who had a grievance.

Now, as I understand it, the gentleman is proposing to offer an amendment to the end that anything in the bill which would seem to indicate there would be no judicial remedy, will be deleted.

Mr. DANIELS of New Jersey. In response to the gentleman, I will say that I propose to offer an amendment to the imminent danger provisions to which the gentleman, I believe, refers, where there is a high probability of loss of life or limb to workers in that plant. I will offer an amendment which will deny to the inspector the right to close down the plant for 5 days, as the language of the bill now stands, and propose under the amendment that the Secretary of Labor shall apply instead for a judicial remedy.

Mr. RANDALL. Mr. Chairman, I thank the gentleman from New Jersey.

I might add that in my opinion the Members of the House are indebted to our colleague who serves as the chairman of the Select Subcommittee on Labor as a member of the House Committee on Education and Labor.

I was grateful for the receipt of his letter in this morning's mail in which he pointed out that he would offer amendments to modify the committee bill, H.R. 16785, in at least five different respects. His letter pointed out that he would, at the appropriate time, propose the following amendments:

First. The "general duty" will be modified to require only that employers provide employment "free from recognized hazards" and there will be no penalty for violation of duty.

Second. The provision authorizing the Secretary to order closings without a court order in imminent danger situa-

tions will be deleted and exclusive reliance placed on judicial remedies.

Third. The provision that has been attacked as giving employees the right to "strike with pay" will be deleted.

Fourth. The monitoring provisions will be revised to eliminate fears of excess burdens on employers.

Fifth. The Construction Safety Act will be amended—as in H.R. 19200—to include all contractors instead of just those performing Government work.

It is my appraisal of the situation that just about everyone of us is in favor of the occupational safety and the protection of our workers from hazards to their lives and health at the place where they work. There have been some fears expressed concerning the committee bill. There have been some rather emotional expressions included in the mail which our office has received. If I had to pinpoint the one fear expressed most frequently, it is "imminent danger situation." The provisions of the committee bill would seem to permit the Secretary to order a plant to be closed down without a court order.

In response to the mail which I have received expressing this fear that a plant could be closed down, I pointed out repeatedly that due process could never be denied an employer and his plant closed if such an employer did not agree to the closing. Even as reported from the full committee it was my impression that an employer could say no to an inspector and the inspector would then have to pursue court proceedings against the employer.

Accordingly, whether the forthcoming amendment requires inspectors to resort to judicial remedies was needed or not it is most encouraging to see that such an amendment will be offered if for no other reason than to put to rest or eliminate any lingering fears that an employer would have to stand by and witness his plant closed down for 5 days which would seem to be a denial of due process of law.

Once again, let me say all of us are indebted to the gentleman from New Jersey (Mr. DANIELS) for his proposed five amendments. The adoption of these amendments will constitute a forthright rebuttal that there was any intention to make this a punitive bill. I am sure every Member, whether he is for the committee bill or for the substitute which may later be proposed, wants a strong bill and an effective bill. None of us want a punitive bill. The amendments of the gentleman from New Jersey will provide protection for our workers without punishing the employers.

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

Mr. DANIELS of New Jersey. I yield to the gentleman from Maine.

Mr. HATHAWAY. Mr. Chairman, to answer further the question of the gentleman from Missouri, may I reiterate the remarks I made when the gentleman from Wisconsin yielded to me, that under the Daniels bill as well as under the Steiger bill, the inspector really does not have authority to close down the plant if the employer does not wish to do so. If the inspector says, "You will close

down such and such a location," the employer may say no to the inspector, and the inspector then has to take the employer to court.

So really we do not need the amendment the gentleman from New Jersey is going to offer later on.

Mr. DANIELS of New Jersey. Mr. Chairman, I may say to the gentleman from Maine that so many fears have been expressed about that particular provision and so much emotion has been expressed by certain businessmen whenever I have come in contact with them, not only in my own State, but elsewhere, that it is the object of my amendment to eliminate those fears, and to satisfy them that we do not want a punitive bill. I believe that the committee bill is a strong bill, but it is a fair and reasonable bill, and it will be an effective bill if properly administered by the Secretary of Labor.

The CHAIRMAN. The gentleman from New Jersey consumed 24 minutes.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Chairman, if I may have the attention of my chairman of the Committee on Education and Labor, I might pose this question to him. We have worked on this bill for a long, long time. Why suddenly today are we told that this bill is going to be amended?

Mr. PERKINS. Mr. Chairman, let me say to my distinguished colleague, the gentleman from Iowa, that the subcommittee has worked on it for a long time, but I had the chance to sit in with the gentleman from New Jersey only last week.

Mr. SCHERLE. If I may interrupt my chairman, I am the ranking minority member on the subcommittee, so I am well aware of the work that went into this bill.

Mr. PERKINS. Mr. Chairman, I am sure the gentleman from Iowa is not objecting to these amendments. Is he?

Mr. SCHERLE. The only objection I have is, why all of a sudden does this come up? If these amendments were so good, since we have tried to put the bill in proper form, where have you been with all these amendments for the last 7 or 8 months? Why are we suddenly saddled with the idea that we are supposed to get amendments tomorrow? They have never been in the committee. They have never been worked on. We have got a good substitute.

Mr. DANIELS of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from New Jersey.

Mr. DANIELS of New Jersey. It is a question of fears, very frankly, and a question of many misstatements or erroneous statements disseminated throughout the length and breadth of this land, so I decided to amend the bill because I am sincerely and honestly and conscientiously anxious to do something about this problem. I have pointed out the dangers involved.

If we are sincere on both sides of the aisle in wanting an occupational health

and safety bill, I am proposing these amendments because I want a bill passed. It is as plain and simple as that.

Mr. SCHERLE. I thank the chairman of the subcommittee for his comments. However, we have worked together for many hours on this bill, and there has never been a subject between us as to which there was not extreme sincerity. We all want the type of bill which will be on behalf of the workingman and also of the employer. One of the things we must remember is that when we cease to have employers we will cease to have employees.

We are trying to make a constructive piece of legislation out of this, and we have worked long and hard, as was mentioned before. If we were sincere in our efforts, these amendments which are talked about now should have been proposed weeks ago, or within the last month. All of sudden now, because you know the substitute is going to pass, you are running panicky, and you press the panic button, and you are fearful that the right bill will pass.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to my colleague from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate very much the gentleman's comments. I might say that they will have that opportunity.

Mr. SCHERLE. I am well aware of it. Mr. STEIGER of Wisconsin. The substitute bill contains not only the five amendments that are going to be proposed to modify the new Daniels bill as contrasted with the old Daniels bill—one we really have not seen before—but it also, of course, provides for an even greater degree of equity and effectiveness in its approach.

I must say I am pleased that the gentleman from New Jersey is coming along in his efforts to get us closer to the adoption of the substitute.

Mr. DANIELS of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I am sorry, but I have a statement to make here now.

Mr. DANIELS of New Jersey. I would like to correct a statement by my colleague.

Mr. SCHERLE. Mr. Chairman, I rise in support of H.R. 19200, the substitute occupational safety and health bill. The main difference between the committee bill and the substitute bill lies not in the purpose of those measures but in the manner of achieving the purpose.

The true goal of any occupational safety and health legislation can be simply stated. It is to foster improved standards of safety and health for workers, and to do it in a way that is both reasonable and fair. I suppose, Mr. Chairman, that if I were to describe in one word my objection to the committee bill, the one word I would use is "unfair."

If legislation in this area is to be genuinely effective in promoting safe and healthful working conditions, it must be rooted in the clear recognition that its success will ultimately depend upon the cooperation and good will of employers

regarding the complex problems of job safety and health. I wish to make it clear, Mr. Chairman, that I am not advocating any sort of voluntarism. But I do believe that all the good that could be brought about under the bill's education, research, and enforcement provisions should not be rendered ineffective by understandable resistance to its unfair regulatory features.

Our greatest concern in this legislation should be protection of the safety and health of workers which can be achieved only under fair procedures. Unfair methods will only serve to alienate employers from officials—both State and Federal—who ought to be guiding employers toward compliance.

Unfortunately, the committee bill does not provide fair procedures. Instead, it follows the oversimplified approach of placing all functions in the Secretary of Labor. Under the committee bill, the Secretary sets the standards, conducts inspections and prosecutes violations before Labor Department hearing examiners. Under the committee bill, the Secretary would also be the one to issue citations and corrective orders, and to assess the monetary penalties.

In contrast, Mr. Chairman, the substitute bill would provide fair and equitable procedures for achieving its purpose. The substitute bill refocuses the responsibility for job safety and health by distributing functions. In an effort to achieve the fairest possible procedures for administering and enforcing the new law, the substitute bill would establish an independent Occupational Safety and Health Board whose five members would be appointed by the President. The sole function of the Board would be to issue occupational safety and health standards.

Under the substitute bill, the Secretary of Labor would be authorized to make inspections in much the same way as he does under the committee bill. But under the substitute bill the Secretary would not hear the case and pass judgment on the offender. Instead, the substitute measure would set up an independent presidentially appointed Occupational Safety and Health Appeals Commission whose function would be to conduct hearings on alleged violations discovered by the Secretary and the Commission would issue any necessary corrective orders, as well as assess civil penalties.

The distribution of functions provided by the substitute bill would provide the fairer and more equitable method of providing safe and healthful working conditions in American industry. Therefore, Mr. Chairman, in the strongest terms possible, I urge its enactment.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. ESHLEMAN).

Mr. ESHLEMAN. Mr. Chairman, very briefly and very concisely I should like to enumerate what I believe is wrong with this piece of legislation, which I guess we now label as the old Daniels bill.

First, I am thoroughly convinced it places too much power in the hands of the Secretary of Labor—whether he is a Democrat or a Republican. I would rather see a Presidential board or com-

mission created to handle the functions of this statute.

Second. As written, this bill sets up "one man justice." The Secretary of Labor is a combination rulesmaker, policeman, judge, and jury, thus going against our long established doctrine of separation of powers.

Third. With this bill we would create dual coverage. Employers would be subject to not only this new piece of legislation but also to other Federal safety laws which would result in employers being caught between conflicting rules and regulations.

Fourth. Some of the language in this bill is too vague in nature. For example, an employer must provide a safe place of employment with no criteria as to what constitutes a safe place. Therefore an employer could be subject to the judgment of an inspector. This certainly is an unhealthy situation.

Finally, I object to the "on the spot" plant closure which enables inspectors to close plants up to 5 days if in their judgment there be imminent danger. No effective check on the inspector nor any objective standards are provided to support the 5-day closing order.

All in all, no one objects to occupational health and safety. However, I object to the vagueness and generalities contained in this bill.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield 15 minutes to the gentleman from Illinois (Mr. ERLBORN).

Mr. ERLBORN. Mr. Chairman, we are here today to agree, and I think everyone does agree, that occupational health and safety legislation is necessary for the protection of the working men and women in this country. I do not think we will have any debate on that point or any difference of opinion. There is a difference of opinion, obviously, as to which is the best approach to attain this universally desired result.

It is somewhat difficult today, I guess, to debate this question not knowing whether we should direct our remarks to the bill as introduced or as the subcommittee reported it or as the full committee reported it or as it might be amended by the amendments offered by the gentleman from New Jersey. It reminds me of some of the amendments that have been offered from time to time to the OEO legislation. We would hear the question from the other side of the aisle: "Which substitute is it you are talking about?" That is the problem which perhaps faces us here today in having a little difficulty in getting our hands on exactly what version of the bill we ought to address our remarks to. Not having seen until I came to the floor today the proposed amendments that the gentleman from New Jersey apparently intends to offer, I prepared my remarks to the bill as I thought he was going to offer it for our consideration and as it was reported by the full committee.

I think it is deficient in several points. I feel sincerely that the Steiger-Sikes substitute will provide better legislation, more properly fashioned to fit the structure that we should have in our executive branch for the administration of this legislation. Actually it will provide more safety and better working conditions for

the working men and women as well as more equity for all who might be affected by the act.

Mr. Chairman, I would like to talk about several of the contrasting provisions between the committee bill and the Steiger-Sikes substitute and point out why I think the Steiger-Sikes substitute is better legislation and is better designed to do the job that we all want to have done and do it as early as possible.

I think the one outstanding difference of opinion has obviously been on the question of the proper method of setting the standards that industry must follow for safe and healthful working conditions. The committee bill would make the Secretary of Labor the legislator, policeman, and prosecutor, the judge and jury. It violates, really, the very basic concepts of good executive branch enforcement. The Steiger-Sikes substitute would separate out the separate functions. It would have a board to establish the standards for occupational health and safety. It would be an independent board appointed by the President. It would have a rather unique committee for the determination of violations on a contest after the citation had been issued. In this way the separate functions of legislative, executive, and judicial would be separated, as they are in our own federal system and our State systems setting up the three coordinate but equal branches of Government.

I think that basing our structure of this legislation on the traditional separation of these powers is a very wise thing to do. Advisory committees are required in the committee bill in the process of the establishment of standards. They are mandatory. That means there is going to be the element here in an emergency situation that will slow down the standard-making process which in my opinion—and I believe if anyone looks at this legislation they would agree with me—would deny to the working man and woman in an emergency situation the timely establishment of rules and regulations that they need for their safety and their health.

The Steiger-Sikes substitute on the other hand makes the use of these advisory committees discretionary in an emergency situation. Emergency standards could be established by the Board where there may be some new manufacturing process, some new toxic substance utilized by industry, and in the opinion of the Board it is to the best interest of the working men and women to immediately have some interim standards.

Under the Steiger-Sikes substitute this could be done without delay. Then the hearings and the recommendations and the reports of the advisory committees and all of the other time-consuming processes could be gone through thoroughly, but in the interim under the Steiger-Sikes substitute there would be the rules and regulations for the protection of our working people.

In this way I think it is clear that under the Steiger-Sikes substitute, without giving up due process will be more responsive to the needs of industry.

The committee bill in my opinion will also be slow in establishing the initial

standards for industry to follow. I think the procedures will be slow and cumbersome.

The Steiger-Sikes substitute on the other hand will put heavy reliance upon immediately putting into effect consensus standards and Federal standards already applicable and then provide the process for amending those standards and making them, after they come in as interim standards, fully applicable standards after the full hearing process.

Mr. Chairman, several comments have been directed to the general duty provision—and again, I do not know how this provision might read—when we come to actually voting on the bill. But as it is in the committee bill today it is too vague as to the general duty upon an employer to provide a working place that is safe and healthful. We will have all the process gone through of developing health and safety standards that will be clear for the employer to follow. If he then follows all of these standards and provides a working place that is in full compliance with all the written standards under the committee bill as reported, and an inspector comes into his plant he can say: "Yes, you have complied with everything, but in my opinion it will not provide a safe and healthful working place," and he could issue a citation of some subjective standard that the inspector would apply, one that had never been made known to the employer before the inspector appeared and made the charge.

Obviously, Mr. Chairman, this violates every concept of due process and it makes the standard-setting process a joke and a farce. Unless this is changed, it makes the bill a joke and a farce.

There is a question here that I do not believe has been discussed by the other speakers so far and that is the question of product safety. It is very difficult in an industrial health and safety bill when you are talking about a working place, to separate out the question of product safety as far as this applies to those tools that are utilized in the working place.

In the Steiger-Sikes substitute, section 18(c) (2), there is a provision that is similar or identical to the committee bill in section 17(c) (2), which encourages the States to adopt State plans, and then if the State plan is in conformance with this act or if the standards are at least as high as the standards that are developed under this act, then the State enforcement can be relied upon.

Now, neither of these bills at this point gives the safeguards that we might need in the area of product safety, and I will call this to your attention because I think an amendment may be offered by one of my colleagues, or by myself, when we get to the amending stage, to remedy this situation.

When I talk about product safety I am talking about those machines that might be manufactured in one State and then sold in interstate commerce in many different States. And if we do have the State plan situation that both of these bills would encourage, we then might find a great diversity of State requirements as to the safety devices on the machinery that is sold in interstate commerce. In

the other body the Senator from Ohio (Mr. SAKBE) offered an amendment that would remedy this problem, and a similar or identical amendment, I believe, will be offered in the House that would limit the variety of requirements in the State health and safety laws, and the State requirements in their diversity only if the standards that they applied were necessary to provide a greater degree of safety, and not unduly burden interstate commerce. In other words, why should we have a diversity of State requirements for something that is sold in interstate commerce if this is a variation, not in degree of protection, but only in kind? And I would hope that this amendment would receive universal support when it is offered because there will be an undue burden in interstate commerce to those who produce machinery for sale in interstate commerce if we have a great diversity of State requirements that would require in effect that machinery be made specially for each one of the jurisdictions involved.

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

Mr. ERLBORN. I yield to the gentleman from Maine.

Mr. HATHAWAY. Mr. Chairman, I just wonder whether the various manufacturers have any difficulty now under existing State requirements?

Mr. ERLBORN. I know why the gentleman asks that question. I had the same reaction. What is there in this bill that makes State requirements any different than today in the diversity of requirements?

To a certain extent there is, I think, a difference made by the two bills in that we are going to encourage the States to get into this area and to submit their plans and adopt health and safety rules. These bills are going to increase what is now a hazard faced by industry—and I am not contending that either of these bills creates a problem, but I believe they may exacerbate the problem and may make it more difficult.

Mr. HATHAWAY. I thank the gentleman.

Mr. ERLBORN. Mr. Chairman, there is another fault that I find with the committee bill. It is presently covered in the Steiger-Sikes substitute and that is the question of dual coverage. In the committee bill section 4(b) (1), (2), and (3) makes some exceptions, actually in effect repeals certain laws in the field of health and safety, but there are some obvious exceptions in the committee bill to this repeal which leaves a dual coverage in several areas.

Mr. HATHAWAY. I yield to the gentleman from Maine.

I call to mind the coal mine safety bill which is not repealed by this bill. Yet, the rules and regulations under this act, as provided in the committee bill, could and should and would get into the area of coal mine health and safety and the metallic and nonmetallic mine safety act and the health and safety act—all three of these would continue to exist and there would be no reason why the health and safety rules promulgated under this act would not also apply to those industries?

Mr. PERKINS. I would say to my distinguished colleague that he is incorrect in that statement because all of these various legislative acts as railway safety and mine safety are specifically exempted under section 22(b).

Mr. ERLBORN. I stand corrected.

Mr. Chairman, I was referring to an earlier section on coverage which made certain other exceptions and I did not realize that the committee had separated the exemptions and put them in two different places in the bill.

I think the gentleman is correct.

However, I would like to engage in a colloquy with the gentleman from Kentucky and the gentleman from New Jersey as to the interpretation of this language so there will not be any question as to what it means.

Is it your understanding that present Federal laws providing authority to the executive agency to prescribe health and safety standards that are being exercised will then exempt that industry from the coverage of this act?

Mr. DANIELS of New Jersey. All Federal agencies which are covered by the health and safety laws will be exempt from this act—with just one exception. That is the construction industry. In the construction industry where the Secretary of Labor makes the health and safety rules and regulations, we authorized the Secretary of Labor—we even exempt that area and let the construction safety and health law prevail over all construction except with respect to the penalty. The penalty will be covered by this act.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLBORN) has expired.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. ERLBORN. May I question the chairman of the subcommittee a little more closely on that question because I think the interpretation of this language might be a little bit tricky. I know the reason it is worded this way.

It says that:

Nothing in section 5 of this Act shall apply to working conditions of employees with respect to whom any Federal agency exercises statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

Now let me pose a couple of alternative questions.

If there is authority under the Federal law, but it has not yet been put into effect and it is not being exercised by the executive agency because they have no rules or regulations, then until they do adopt rules and regulations and exercise that authority—then this does apply; is that correct?

Mr. DANIELS of New Jersey. Yes; that would be correct. The gentleman has placed his finger on the key word—and the key word is "exercise."

If an agency fails to pursue the law and exercise the authority that has been given to it, then this law will step in.

Mr. ERLBORN. In other words, the mere existence of statutory authority does not exempt an industry? It is the exercise of that authority pursuant to

the statute that does exempt it; is that correct?

Mr. DANIELS of New Jersey. That is correct.

Mr. ERLBORN. I have one other question. This will certainly clear up any difficulty in interpreting this so far as the presently existing statutory authority presently being exercised.

Let me ask this question.

If presently existing statutory authority which is not presently being exercised at the time this bill goes into effect, but is then subsequently exercised; does that then at the time it is exercised exempt an industry?

Mr. DANIELS of New Jersey. At the time that that authority is exercised, that industry will be exempt.

Mr. ERLBORN. So this does have a prospective effect. In other words, we are not going to interpret this language only as though it were being interpreted as to conditions that exist on the day it becomes law, but it will have a prospective effect and the future exercise of authority will then exempt an industry from coverage under this law?

Mr. DANIELS of New Jersey. The gentleman is absolutely correct.

Mr. ERLBORN. There is one other situation where there is no present statutory authority, but subsequent to this bill becoming law, statutory authority is enacted, and then the exercise of that authority comes into play: Would that then exempt an industry?

Mr. DANIELS of New Jersey. I think it would depend upon the language employed in that future statute as to what was the intent of Congress. Would it be the intent of Congress that that particular industry should be exempt from the provisions of this bill, or shall we place all safety standards under one authority; namely, as provided in this particular bill?

Mr. ERLBORN. I would suspect that if there were separate authority enacted in the future, it would be clearly the intent of Congress that that separate authority would apply rather than the present authority, else legislative enactment would be a waste of time.

Mr. DANIELS of New Jersey. I would say it would depend upon the intent of Congress at that particular moment.

Mr. ERLBORN. I thank the gentleman for his help in clarifying the language and making some legislative history on that point. I think it will be helpful in the future in interpreting this language.

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

Mr. ERLBORN. I yield to the gentleman from Maine.

Mr. HATHAWAY. In the course of the gentleman's remarks, he stated that the general duty provided in the bill makes the bill too broad. I wonder if the gentleman would think that the common law duty of care which each and every one of us has as individuals in the pursuit of our daily lives is too broad, and yet we are able to live with it. I do not see why an employer could not live with language providing for a general duty of care to keep his plant in a safe and healthful condition.

Mr. ERLBORN. I think the gentleman can obviously see the difference between the exercise of some authority in the general duty section of the bill and the common law rule, because if the common rule were the same, you would have no need for the authority provided in the act. My problem with this is the question of who makes the determination on the question of general care, and it would appear in the committee bill that the inspector would use his subjective judgment.

In other words, the employer would have no way of knowing ahead of time what standard of care the particular inspector might impose on him. It would be a subjective judgment that you are calling upon the inspector to make, and one inspector would make a different judgment than another. We are going through a lot of trouble here to have the Secretary or some board establish some rules and regulations so both employer and employee will know what their rights and duties are, and then you negate it by saying there is provision for general care with subjective judgment so that some inspector would be able to override the established rules and regulations. This is the fault that I find.

The question of closing a plant in imminent danger may have become moot or may become moot with the chairman's amendment, or at least the amendment that the gentleman from New Jersey apparently intends to offer. But I think this is one of those items in the bill that duly and properly received a good deal of attention, because under the committee bill—and I think this was the basic difference in philosophy in the drafting of the bill with myself, Mr. STEIGER, and Mr. SIKES—under that provision of the bill the inspector was going to be given authority to act on the scene and he was going to have the authority to close down the plant. The alternative we argued for long and hard in the subcommittee was that we should have proper use of the judicial forum in a situation as serious as closing down a man's plant.

There is very little time spent in going into a no-notice injunctive, temporary relief situation in the Federal courts. So the question of time really is not much involved here, and probably in most cases would be no more than a matter of a few hours.

I think the bill will be greatly improved, I hope, by the adoption of the Steiger-Sikes substitute, with the provision for judicial temporary relief in an imminent dangerous situation. The bill would be greatly improved by the addition of this amendment requiring that the inspector of the Secretary go into the Federal district courts and get a temporary injunction, without notice. It could be done rapidly.

And then if the employer wilfully violates that injunction, it is clear that the employer would be subject to a penalty if he is in violation of the order. He would be found in contempt of court if he violates the injunction.

It is also clear the employer immediately has the forum to question the inspector's judgment. The Federal district

court would have provided the place where the employer would know he could go for relief, even before the expiration of the temporary injunction. He could go the same day or the next day, and on notice ask for and in the proper case get judicial relief without having his plant closed for 5 days, as would likely be the case if we follow the route of letting the inspector issue the order that would close the plant. In the committee bill the employer would have to seek a forum, would have to establish the forum, would have to establish jurisdiction.

Here all that would have been done, so the employer would know where to go to get his judicial relief and to get it promptly.

I think this is only a question of fairness, and I think the bills, either one of them, would be less than fair to the workingman and the employer if we did not have this element of judicial determination in closing a man's plant.

In sum, I think the Steiger-Sikes substitute should be adopted.

Mr. PERKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Maine (Mr. HATHAWAY).

Mr. HATHAWAY. Mr. Chairman, my purposes in speaking are to cover one point that has not been mentioned too emphatically in the debate and then to ask a few questions.

First of all, I would like to praise the chairmen of the committee and the subcommittee, and as a matter of fact the minority members as well, for their efforts to bring about, in good conscience, an occupational health and safety bill.

Mr. Chairman, I did participate with the minority, the gentleman from Wisconsin (Mr. STEIGER), and others, in trying to work out a compromise in the committee. This was for the purpose of compromise only. I support the Daniels bill, although I recognize the substitute bill is a worthwhile effort. I suppose I have to recognize it as a worthwhile effort, because I participated in drafting it myself. I, nevertheless, feel the Daniels bill is preferable.

Mr. Chairman, I want to bring out one point. We do have a provision in the Daniels bill, and the substitute, to allow the States to assume jurisdiction over this matter by simply submitting a State plan to the Secretary of Labor. Hopefully all the States throughout the country will submit their plans immediately upon the enactment of any standards by the standard-setting authority provided for in whichever bill may prevail, so that the Federal Government will not have to get into this area, and the States can still continue to exercise jurisdiction in this very important matter.

There were some questions I had that I wanted to pursue with the gentleman from Illinois (Mr. ERLBORN). I was speaking to the gentleman in the course of his remarks about the general duty, trying to show by analogy that we live under general duty ourselves in our daily lives. I do not think the general duty provision is any different. The gentleman said it would be up to an inspector to decide what the general duty was. I suppose that is true; it is up to the police-

man to decide in the first instance whether or not we have broken a law, too, but we do have resort to the courts, and we would have resort to the courts under this bill. So if an inspector thought an employer had broken the general duty in his workplace, the employer could go to court. And hopefully, after a while, a body of law could be formulated so that later cases would have precedents behind them, and we would be able to exercise a fairly uniform body of law throughout the country as to just what general duty is.

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

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

Mr. ERLENBORN. Mr. Chairman, does the gentleman suggest this general duty law does nothing more than repeat what the general duty law is, and that the employer is under this general duty law anyway?

Is that the point the gentleman makes?

Mr. HATHAWAY. Well, it is tantamount to that, but the point I make is that most employees now are under workmen's compensation and cannot avail themselves of any common law rights. It is necessary to reiterate the general duty here in this law in order that we may impose penalties, in order to keep the employer in line.

At the present time they are under that general duty, but most employees have given up their common law rights and cannot sue.

I am not saying this is bad, because it inures to the benefit of employees, because contributory negligence is not a factor in enabling him to get workmen's compensation if he is injured on the job. Workmen's compensation benefits both the employer and the employee.

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

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

Mr. ERLENBORN. It was my impression that this provision attempted to go somewhat beyond the common law general duty, to create some new obligation on the employer. If the gentleman's contention is that this obligation is already present, and if we can draw that interpretation, then the provision means nothing because it is already in the common law and we are not changing anything by adding this provision here.

Mr. HATHAWAY. No.

Mr. ERLENBORN. It is a question of remedies now, rather than the duty.

Mr. HATHAWAY. The provision is not meaningless, because under the present law there is no way to take advantage of it because, as mentioned, the employee has given up his common law rights when he goes to work under workmen's compensation. At the present time there are no penalties on an employer who violates his common law duties.

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

Mr. PERKINS. Mr. Chairman, I yield the gentleman 2 additional minutes, and ask the distinguished gentleman from Maine to yield to me.

Mr. HATHAWAY. I am happy to yield to the chairman of the committee.

Mr. PERKINS. Let me state to the gentleman from Illinois that the question which has been raised may well be moot, assuming that the substitute is voted down and the gentleman from New Jersey (Mr. DANIELS) has an opportunity to offer his amendment.

Nevertheless, many of the States in the Union presently under the so-called general duty clause have statutory requirements in addition to the so-called common law duty.

To my way of thinking, the statute just reaffirms the obligation of the common law that if one breaches a duty and damage results he is responsible.

In the State of New York I believe they can go into court and close down a plant. Thirty-six States today have statutes on the general duty section.

So we are just reiterating in the committee bill that presently happens to be in the statutes of many States of this Union, on these enforcement provisions. We have made a proposal that is clearly to the gentleman's liking, assuming that the substitute is defeated.

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

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

Mr. ERLENBORN. I would have to make the point that this would also be moot if the Steiger of Wisconsin-Sikes substitute were adopted. The gentleman's scenario for defeating the Steiger of Wisconsin-Sikes substitute and adopting the amendment of the gentleman from New Jersey is not necessary. We can do this quicker, easier, neater, and in a much better overall fashion if we adopt the Steiger of Wisconsin-Sikes substitute.

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

Mr. PERKINS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. HATHAWAY. The Steiger of Wisconsin-Sikes substitute does have a general duty provision; the substitute provision is confined to apparent hazards that may cause death or serious bodily injury.

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

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

Mr. ERLENBORN. It is my understanding that the same provision is to be offered by the gentleman from New Jersey, either identical to this or quite similar.

Mr. HATHAWAY. It is similar to that, but it takes away the penalty section which the Steiger of Wisconsin-Sikes substitute has. For that reason I am not going to support that amendment of the gentleman from New Jersey.

Mr. ERLENBORN. Is it safe to assume that the gentleman likes the Steiger-Sikes substitute provision better?

Mr. HATHAWAY. With respect to general duty, yes. Very much.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PERKINS. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. HATHAWAY. I would just like to

wind up and thank the chairman for his indulgence.

As I mentioned at the outset, I think the Daniels bill is a better bill. The important differences are that under the Steiger-Sikes substitute there is a tripartite provision for making the rules, for enforcing them, and for judging them. It is important, if you want to draft the Constitution of the United States, to have this kind of a setup, but even though the Daniels bill does not provide for a tripartite division as envisioned by the substitute, nevertheless any individual adversely affected by any action of the Secretary of Labor has resort to the courts, you realize in that way we guard against any usurpation of power by the Secretary of Labor.

Furthermore, if you have a five-man Board, as envisioned under the substitute bill, there will be a great deal of difficulty experienced by the general public and by labor in particular—because they are the ones representing the working men and women in this country—in getting the five-man Board to act. It is true they are Presidential appointees and serve at the discretion of the President, and I suppose you could go to the President and say to him, "Your five-man Board is inactive in coming out with safety standards," but it is not as easy as going to the Secretary of Labor and exerting pressure on him to come up with something.

I believe everyone agrees we have to have safety standards as soon as possible. This is a drastic situation which we face in this country, with the number of deaths and injuries on the job. The sooner we get enforceable standards the better off we will be. I think the Daniels bill will do the job better and that is all there is to it.

Mr. STEIGER of Wisconsin. Will the gentleman yield?

Mr. HATHAWAY. I yield to the gentleman.

Mr. STEIGER of Wisconsin. I appreciate the gentleman yielding.

It pains me to have the gentleman from Maine speaking in support of the Daniels bill. I do seriously, however, disagree, obviously about this question as to promptness, equity, and ability to put the pressure on. It seems to me the establishment of standards in the working places of this country affect tens of thousands of employers and millions of employees, so something should be done and it ought not to be subjected to pressure. What we are saying in essence is if we are probusiness, it ought to be in the hands of the Secretary of Commerce, because they have greater clout with him, and if it is prolabor, then it ought to be in the hands of the Secretary of Labor, because they have greater clout with him. I reject both views and think it ought to be in the hands of an independent commission.

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

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

Mr. MEEDS. Mr. Chairman, I thank the gentleman from Maine for yielding.

Mr. Chairman, the House of Repre-

representatives is fortunate to have this opportunity to debate and then to pass a bill of profound significance to the welfare of the American workingman. This debate should mean more to American labor than all the oratory of Labor Day combined. For it should show American blue-collar and white-collar workers how the Congress is concerned with their health and safety on the job as no other legislation in recent years has done. We owe a debt of gratitude to Mr. DANIELS and his Select Subcommittee on Labor for having drafted such an excellent bill, both in terms of the comprehensiveness of its approach and the fairness to all parties concerned.

Rather than dwell on the need for this bill in general or try to catalog its main provisions, I should like to concentrate my remarks upon an aspect of the bill which may otherwise receive relatively slight attention but which nonetheless is of central importance. It is an aspect that we in the House of Representatives confront in a large proportion of the measures we are called upon to consider; namely, the relationships between the States and the Federal Government. In view of the important responsibilities of the States in the field of industrial safety and industrial health, these relationships are carefully formulated in this bill, and done so in such a manner that the legitimate rights and interests of the States and the proper role of the Federal Government are both protected while at the same time far greater protection is afforded the American working man against the hazards of industrial accident and disease than ever before. Let me outline a few of the more important of these provisions as they are found in section 17 of the bill.

In the first place, a State may assert jurisdiction under State law over any occupational health or safety issue with respect to which no standard is in effect under section 6—interim standards—or section 7—occupational safety and health standards—of this bill. Further, States can submit a State plan for the development and enforcement of standards relating to occupational safety and health which the Secretary of Labor shall approve if it meets the following eight requirements: First, a State agency, or agencies, must be designated for administering the plan. Second, development and enforcement of standards must be at least as effective as section 7 standards. Third, provision must be made for the effective right of entry and inspection of all workplaces subject to the act, at least as effective as provided in section 9 of this act, and must include a prohibition on advance notice of inspections. Fourth, it must contain assurances of legal authority and qualified State personnel. Fifth, it must contain assurances of adequate State funds for administration and enforcement. Sixth, it must make all standards included in the plan applicable to all employees of public agencies of the State and its political subdivisions. Seventh, it must require employers in the State to make reports in the same manner and extent as if the plan were not in effect. And eighth, it must provide that the State agency will

make reports to the Secretary of Labor in such form as he shall from time to time require.

Section 17 also provides that in case the Secretary of Labor disapproves such a State plan, due notice and opportunity for a hearing shall be granted. Provision is included in the section for appeal through the courts.

The importance which this bill pays to State initiative and enforcement in this field is also reflected in the Federal grants to the States which it authorizes—in section 21. Planning grants for the next 3 years with up to 90 percent Federal participation and program grants for the next 3 years with up to 50 percent Federal participation are provided. The 90-percent grant is designed to encourage States to identify needs and to develop plans and programs for collecting statistical data, increasing personnel capabilities, and improving administration and enforcement. The 3-year concept of these grants is designed in the virtual certainty that practically all States will, in the next few years, require Federal assistance to provide quality programs of occupational safety and health. But they are, as you see, to be their State programs, and not a monolithic superimposed Federal system.

I should add that the act also makes special provision for safety and health programs within the Federal agencies for the 3 million or so Federal employees. This bill directs each Federal agency to purchase and maintain safety devices and to require their use. Agencies must also keep adequate records and make an annual report on occupational accidents and injuries to the Secretary of Labor.

Clearly, the health and safety of American workers require active, even aggressive, action by both Federal and State agencies pursuing in harmony the same goal. And the need for such action is urgent. I would close by citing the following statement from a recent—August 29—Business Week issue, in its Washington outlook page:

The forthcoming Congressional fight over job safety legislation will be intensified by new evidence that more people get hurt at work than statistics show. A private study done for the Labor Department shows that the 2.2 million disabling injuries reported by industry and government last year should have been at least 2.5 million. In addition, there were some 25-million "serious" work injuries, many of them unreported.

Our task is obvious. We cannot tolerate delay. Let us get the Daniels bill passed now:

Mr. PERKINS. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. HATHAWAY. Mr. Chairman, will the gentleman yield to me for an observation I did not have time to make when my remarks were cut off?

Mr. DENT. I yield to the gentleman from Maine.

Mr. HATHAWAY. Let me say further to the gentleman from Wisconsin when you consider the equal pressure I was talking about, it was not with regard to standards themselves but the pressure to get going. Even the Secretary of Labor would be preferable to having a five-man

Board. Taking into account the nature of human beings, the five-man Board just will not have the independence. The chairman would go from one member to the other to see if he would get along with him, and if two would, he would be able to get the job done. However, if you have the Secretary of Labor, you cannot pass the buck the way you can with a five-man commission.

Mr. STEIGER of Wisconsin. Will the gentleman yield to me?

Mr. DENT. Shortly.

Mr. STEIGER of Wisconsin. I might say I am interested in that compromise concept substituting the Secretary of Commerce for the Secretary of Labor. I hope the gentleman from Maine indicates his support for such a compromise. But it is interesting. Beyond that, I will say, as I said in my remarks earlier, I attempted to point out one of my problems with this bill, H.R. 16785, is the fact of the establishment of standards because of the appointment of an advisory committee. I believe that has really nothing to do with whether it is a board or the Labor Department. It is just the built-in provision of the Daniels bill as reported.

Mr. Chairman, I am most grateful to the distinguished gentleman from Pennsylvania for yielding some of his time to me.

Mr. HATHAWAY. I thank the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, the apparent controversy at this particular point seems to be on the question of whether there is to be an independent board named by the President or whether there is to be a department head named by the Congress.

Mr. Chairman, history has shown that in this type of controversial legislation, if you really want some action and if you want to get expeditious administration, on every occasion where the administration was left in the hands of a Cabinet official we had better results and the intent of the Congress was closely followed, or more closely followed.

Mr. Chairman, the commission form lends itself to delay. It lends itself to setting aside the intent of the Congress all too often.

Mention was made here of the mine safety bill. The mine safety bill put the full responsibility with the Secretary of the Interior, who then in turn could delegate all appeals to a board if he so desired but he cannot dodge the responsibility. Under a commission-type operation, however, or a board which would set up standards and criteria, he could dodge the responsibility. In fact, that is the concept of the so-called Cabinet form of government. You place within the hands of a department head the full responsibility for all of the activities within the scope of his jurisdiction.

Now, for instance, here is another illustration. When we put through the Commission with reference to seeking a solution to the problems of the aged and the aging—it was my legislation—I voted against setting up a commission, and to this date practically nothing has been done following the intent of the Congress in that area of very serious Federal concern. I think that particular argument

may be a red herring in this whole thing. It is a shadow-boxing activity.

Mr. Chairman, the real fight here is to keep from having Federal jurisdiction over industrial safety. That is the real fight. It is not new. It has been going on for so many years. I have heard this same statement made by many individuals over many years.

Mr. Chairman, no one is against industrial safety, but we do not have any legislation. I voted for many years in the State of Pennsylvania to try to get a worthwhile piece of legislation on safety in mines and mining and in the general industrial field. During the days of slavery no idea was even considered that bordered upon making any kind of reforms in working conditions, any kind of advancement in trying to save the life and limbs of men and women who work under those conditions. Then, after slavery, we had a form of conscripted labor and then during those days only the owner of conscripted labor had the responsibility to set up his own little rules to protect himself against his investment. Then, of course, we got into the field, followed by the world practically, of free labor. One of the demands of free labor has been conditions of work that allow many men and women to work within some measure of safety; in being able to do their job without fear of being maimed for life or having to be deprived of their livelihood.

Very frankly, almost every type of employment has some inherent danger in it. It is surprising to see the number of accidents that occur in jobs that appear to be safe from every angle. There is no danger apparently involved. Yet, we had to consider very seriously the question of the safety of miners working on farms. Why? Because we have gone past the old day of the spade and hoe. We are in the day of advanced equipment on our farms. We had in the minimum wage law and the child labor law provisions having to do with certain types of employment on farms that cannot be performed by children because of the nature of the employment.

Mr. Chairman, it would be a sad day, if under the guise of a technicality or a question of a power struggle, as it were, between departments or between the administration and one of its departments, it would totally frustrate the hopes and desires and the needs of the people who work for a living in this country.

For instance, when the mine safety bill, which was passed, within a few weeks, a year ago, it was heralded as one of the finest safety measures ever written by any legislative body, but it carried with it a provision, not in that particular law, but in the makeup of the Department of the Interior, which gave the Secretary of the Interior the full run of the legislation, the full responsibility for establishing rules and regulations, setting up criteria, enforcement, administration of it, all the way. However, because of the nature of mine safety and the history of mine safety it had to work through the so-called Safety Board which then works through the Secretary of the Interior, the administrator of the

mine safety law is the Director, and the Senate has the right to confirm.

Now, the man selected was withheld from confirmation and we have stayed without a Director until just 3 weeks ago tomorrow.

Now, Mr. Chairman, here is the will of the Congress being thwarted by something that is extraneous to the matter of safety in the mines. There have been many men killed since that legislation was passed who might not have been killed, and there have been many men injured in the mines who may not have been injured if we had proceeded to go along with expeditious enforcement, administration, and the writing of rules and regulations in that area. And that is what will happen with this matter. If it took them a year, within a few weeks, to confirm the Director, can you imagine what will happen with the substitute bill which calls for the confirmation by the Senate of eight persons? And when they go in the Senate to be confirmed or not confirmed, there are matters that are brought into the discussion that have nothing to do with the ability of a person to deal with the problems that will be met under his jurisdiction.

Today is the day in which controversy exists. Today is the day of many misunderstandings. In fact, today is the day of much pretention. So we will find ourselves with eight persons who will have the jurisdiction over this legislation facing the Senate for confirmation before this act can go into effect. If it took us a year under established procedure that has been in existence now for over 30 years, if it took us that long to get that legislation started moving forward, how long do you think it will take for this legislation? I would predict that we will be back here next year, and maybe the year after and maybe the year after that, and there still will not be one defined, definite method of calculating the types, or figuring out just what can be done, or is being done under this legislation.

If we are working on the basis of trying to do something for the 14,000 deaths that occurred in the general industry of this country, and the 2 million disabling injuries since 1968, if we are going to try to do something about that, let us not turn it over to the weaknesses or the strengths, or personal opinions or desires of the Members of the Senate who will probably have little or no regard for what the bill intends to do. They will simply react to the personalities of the men who come before them.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PERKINS. Mr. Chairman, I yield 5 additional minutes to the gentleman from Pennsylvania.

Mr. DENT. I appreciate this opportunity—I sincerely do appreciate this opportunity to discuss this occupational safety and health bill. It has been a long time coming. It is overdue.

What this really does is to authorize the enforcement of standards developed under the act and assists and encourages the States in their efforts to try to have helpful working conditions.

There was a discussion here a mo-

ment ago about the jurisdiction of the States overlapping—or keeping the States that have good safety laws from enforcing them.

No, you do not do that by this legislation. Federal legislation has never yet superseded State legislation when the State law is superior to the provisions of the Federal law.

We took care of that in the mine safety law. For instance, two areas where we have Federal legislation dealing with this very, very important and controversial subject are the Mine Safety Act and the Longshoreman's Safety Act. The Longshoremen Act comes under the Secretary of Labor and the Mine Safety Act comes under the Secretary of Mines or the Secretary of the Interior and the Secretary of Health, Education, and Welfare.

Since HEW did not have to go before the Senate for any type of approval of key personnel, it has enforced the portion of the act dealing with miner's lung disease.

I might say to the Congress that while I have been keeping a very close watch on it, I have absolutely nothing but praise for the way the HEW took hold of that serious problem and today there are thousands upon thousands of diseased miners, and widows, and children receiving benefit payments under that act which was passed by the Congress last December.

So throughout this thing, we must remember that the objective is to pass a safety act. We cannot write it so that everybody agrees with it. Besides, everybody does not see the same thing in a piece of legislation.

Last week I wondered to myself whether I was in the same Hall with the same people I had been in before when we were discussing the trade bill. I could not find anything they were saying that I agreed with. So we could not possibly get together on that. But we can get together on this. We can get together on the meaning and intent of what we are trying to do today.

Former Labor Secretary George Shultz made this statement:

During the past four years more Americans have been killed where they work than in Vietnam.

If we only had an uprising of the youth on the campuses today demanding places of safety for their parents to work, places of reasonable security in which to do their share in maintaining the economy of this country, we would have very little trouble today in writing a safety law.

Remember, outside of the question of the time element of putting into effect this kind of legislation, there is not too much difference between us.

I understand that there are going to be some amendments. I want to compliment the chairman of the subcommittee and the chairman of the full committee on recognizing the need for compromise and recognizing the need for meeting demands that are made in order to get legislation.

It is important, I think, to compromise on everything but on the safety

of the workers and we will still get some legislation on the books that will give us an opportunity to say to the men and women who work in the industries of this country that we are aware of the problem and we know the time is long past when we should be discussing it and that it should have been done a long time ago.

For a nation that has done so much with technology—for a nation that has come so far in its great development and advancement—to say that the Federal Government, up until this moment, has shirked responsibility for the safety of the workers in the fields is something that is hardly believable. Yet, only four of five States in the Union have respectable and workable safety laws in industry.

Although I am very much disturbed over adding new costs to the operation of our production facilities because of the threats from abroad, I would say there is a greater concern and that must be for the production men who do the producing—the men who work in the service industries and the men and women in this country who daily go out and keep the economy moving and make it safe for all of us to live and to work and to be able to prosper in it. Then I say this legislation is very, very important.

If you face up to the realities of the accident rate in this country, if you realize the accident rate is 4 million disabling injuries in 1 single year, how can anybody take the time of this Congress and spend hours debating whether or not this language should be used or that language should be used? It is obvious that the primary goal, which is to prevent accidents, seems to be forgotten, and the entire debate, as I have heard it this afternoon, has been based on how we do it. It has been this kind of debate that has kept this legislation from becoming law for these many years—the question of how we do it. There will always be that argument, and so long as we have two bodies politic vying with each other for acclaim, and two bodies politic under different leadership, we will continue to have the argument of how to do it. It is not any longer a question of how to do it. The question is, it must be done, and I assure the Congress there has been an awakening. The problem in the textile industry has been outlined by the chairman of the subcommittee, who has made a study of brown lung.

The incidence of brown lung in the textile industry has been completely ignored by congressional and governmental agencies over these many years. We find that we have as many or more, percentage-wise, crippled ex-textile workers as we have mine workers in the United States, and we are not going to be able to shove them under the rug very much longer. This Congress must deal with that kind of question.

We talk about environment, we talk about ecology, we talk about yesterday's sins and today's problems and tomorrow's virtues, and none of us seem to realize that every time we take up the time of Congress to work on legislation which has a primary and specific purpose of this type, we spend most of our

time discussing how to do it. We know how to do it. There is nothing in the legislation, which is sponsored by the good gentleman from New Jersey (Mr. DANIELS), and the chairman of the committee (Mr. PERKINS), and many others of us—there is nothing in this legislation that will do any of the dire things that were predicted here, because even when the coal mine safety bill was before the House for consideration they told me it would close down every mine in the country if that bill went into effect. It never closed them down. They will not close any plant down unless—and I doubt if there is one single Member who would not want it closed down—unless there is a flagrant violation of the common concept of safety.

Even without the rules and criteria issued by the Secretary, there are certain safety rules promulgated by the industry itself and by the safety committees of industrial workers that are very, very strong. And yet even these rules have been bent once in awhile in view of certain conditions that appear to be a type of accident-incident conditions and yet it really is not. The Secretary having it entirely in his control, will have his fingers right on the problem and can, in short order, countermand an injudicious order given by an inspector in the field. But you cannot do it with a commission.

First, most of the Commissioners take the job as an honor and a little bit of side money. Normally they do not do it for a living, and they are not around when you want them anyway. Eight men would decide whether a plant would be burned down or closed down. We have to put it into the hands of the Secretary to make a decision so that he can say, "Set this aside until I get into it and find out exactly what it is about." No one wants a plant shut down because an inspector says there is imminent danger, but there ought to be some provision for shutting it down.

By the same token, there must be a provision for the injudicious decision by some inspector who reads the letter of the law and does not have brains enough to interpret it. That is one of the problems and one of the arguments that have been given me on this bill. They are not against this act. They are against the kind of inspection services they have been getting in some other areas of Federal law that have made it impossible for them to have redress of any kind for wrongdoing or bad decisions on the part of an agent. I say this bill has no more danger in it for industry than any other safety bill that has ever been proposed. What does it do? It will give safety to the workers in the mines and mills and factories of this country.

I appreciate this opportunity to discuss H.R. 16785, the Occupational Safety and Health Act. This piece of legislation is long overdue and is designed to assure safe and healthful working conditions for our working men and women. It authorizes enforcement of the standards developed under the act and assists and encourages the States in their efforts to assure safe and healthful working conditions by providing for research, information, education, and training in

the field of occupational safety and health.

The National Safety Council reported over 14,500 deaths and over 2 million disabling injuries due to industrial accidents in 1968. Since some States have incomplete statistics, we can assume this figure to be even higher. An AFL-CIO safety committee estimated that the true industrial accident rate is closer to 4 million disabling injuries a year.

Surely, faced with these statistics no one can doubt the urgency of the legislation before us today. Since there are too many essential provisions of H.R. 16785 for me to consider at this point, I would like to concentrate my remarks on the provision for training and employee education and the need for more personnel in this field.

Naturally, the primary goal of this act is to prevent accidents. Most necessary to this goal is the appropriation of proper resources for safety training and education. Hearings conducted on this bill revealed a dearth of occupational health experts in this country and both Federal and State safety and health inspectors are severely inadequate in number. There are only 1,600 State safety inspectors and fewer than 100 Federal inspectors. Some States claim that they do cover all or most of their working men and women under an occupational health and safety law, but in most cases it is to no avail because there are too few inspectors to enforce these laws. Only three States have over 100 inspectors; about half have fewer than 25; 16 have a dozen or less; and four States have no inspection personnel at all. Clearly a substantial increase in manpower with professional competence is needed to bring about a successful program. I am happy to see that H.R. 16785 provides for the expansion of the number of properly trained personnel to work in the field of occupational safety and health.

The bill also provides that the Secretary of Health, Education, and Welfare, together with the Secretary of Labor, conduct education and preparation of safety and health personnel. Unsafe acts or unsafe work practices are frequently the result of failure to train workers in safe work practices. Unsafe work practices may be of many forms: using the wrong tool, using a tool incorrectly, failure to use guards or protective equipment, taking unnecessary chances, and assuming an awkward position, to name but a few. Such unsafe practices indicate lack of effective safety training and safety training should be a part of the routine job training. In order to promote this greater awareness of safety in the workplace the bill provides for employee and employer training with special emphasis on technical assistance to both labor and management for the adoption of sound safety and health practices.

Unquestionably H.R. 16785 can do much to advance training and employee education and to supply more personnel in this area.

Mr. Chairman, I find it unconscionable for us in the Congress to let another session of Congress go by without enacting this vital piece of legislation. I, therefore, ask my colleagues to join me in

support of this necessary bill with the understanding worked out with the sponsor on certain amendments dealing with the eminent danger provisions and the type of enforcement relating thereto.

It is my understanding that there will be refining amendments under the 5-minute rule.

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

Mr. DENT. I yield to my colleague, the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I wish to compliment the gentleman in the well for his very practical and sincere observations. I think the gentleman is making a very important point, and I am in full agreement, and I wish to commend the gentleman on his past activities with the committee in conjunction with the chairman of the subcommittee, the gentleman from New Jersey (Mr. DANIELS), and of course the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS).

Mr. Chairman, we are the greatest industrial Nation in the world. But Americans are beginning to question the price of this achievement. They will no longer tolerate industrial pollution when pollution can be avoided. They will no longer accept needlessly dangerous and defective products. In short, they will no longer accept a "public be damned—business as usual" attitude on the part of the business community which needlessly contaminates and endangers the enjoyment of prosperity.

Yet, in our concern for health, and ecology, we have ignored one of man's most lethal environmental situations. A substantial portion of our population are working men and women. These Americans spend nearly a quarter of their time in surroundings that have escaped the environmentalist. Much has been said about the air we breathe in our streets but little has been said of the polluted air that causes death and disease among factory workers and miners. Much has been said of the harmful effects of chemicals on consumers and on nature in general but little mention has been made of the effect on the American farm or factory worker whose exposure to the danger is far more intimate. This failure to establish priorities among our environmental concerns has led to some almost absurd situations. It is a fact that in the States today there are 1,600 occupational health and safety inspectors and 2,800 game wardens. Elk and deer are better protected than working men and women.

Heretofore, State and Federal governmental efforts to insure the occupation health and safety of the American worker have been piecemeal and inconsistent. Some of the States have been fairly conscientious. Others have been oblivious to the problem. The Federal Government has sought to protect some workers such as those in mining, transportation, or Government contracts but it has left a substantial number unprotected.

The statistics verify the ineffectiveness of such random protection. There were 14,500 deaths and 2,200,000 injuries on the job in 1968. More Americans died at

work in 4 years than in Vietnam in 10. There are 390,000 new cases of occupational disease reported annually.

Some persons suggest that these statistics do not justify increased Federal scrutiny and in fact that they demonstrate the tremendous strides American business has made in making industry safer for its workers in the last 50 years. They also argue that the figures demonstrate that more people are killed on the highway than on the job. I find no such satisfaction in such contentions. The fact that halfway solutions have been halfway effective hardly seems to justify stopping short of a more complete, more effective solution of occupational health and safety problems.

I am not alone in my concern for this problem, the President in a message to Congress in August of last year declared:

There has been much discussion in recent months about the quality of the environment in which Americans live. It is important to note in this regard that during their working years most American workers spend nearly a quarter of their time at their jobs. For them, the quality of the workplace is one of the most important of environmental questions. The protection of that quality is a critical matter for Government attention. . . .

For many decades, governmental responsibility for safe workplaces has rested with the States. But the scope and effectiveness of State laws and State administration varies widely and discrepancies in the performance of State programs appear to be increasing. Moreover, some States are fearful that stricter standards will place them at a disadvantage with other States. . . .

The Federal role in occupation safety and health has thus far been limited. A few specific industries have been made subject to special Federal laws and limited regulations have been applied to workers in companies who hold certain government contracts. In my message to Congress last March on Coal Mine Safety, I outlined an important area in which further specific Federal action is imperative. But something broader is also needed, I believe. I am therefore recommending a new mechanism through which safety and health standards for industry in general can be improved.

The Select Subcommittee on Labor of the House Committee on Labor and Education conducted extensive hearings in Washington, D.C. and San Francisco, Calif., where the testimony of State and Federal officials and private spokesmen was taken. After much deliberation the committee reported out the Occupational Health and Safety Act, H.R. 16785.

The bill is a comprehensive approach to the problems of occupational health and safety. For the first time, there will be a law to insure the health and safety of all American workers. It has been suggested that such additional coverage is unnecessary. This is just not true. Even opponents admit there are over 8 million workers not now covered by Federal law and 3 million Federal employees not covered by any health and safety law at all. The figures prove that even those who are covered are not sufficiently protected. Tell the families of the 14,000 who die needlessly every year that we are doing enough; tell the 400,000 men and women who develop industrial diseases every year that they are sufficiently protected; tell the 2 million workers injured every

year that there is something totalitarian about giving them a safer, more healthful place to work. Solace them with such statements, for I cannot.

The Occupational Safety and Health Act is the first nationwide effort to handle this nationwide problem. The bill strives to incorporate the strengths of the existing system in two principal areas—that of employer-employee relations and that of State regulations of occupational health and safety where it can be effective. The bill does not envision a complete takeover of the field by the Federal Government. On the contrary, the Federal Government would merely see to it that certain minimum requirements were met and that beyond those the health and safety of most workers would be left to those States. The bill has a third characteristic which I think is extremely important. It places heavy emphasis on the importance, on the indispensability of research and training by the Federal Government and by the States, aided and encouraged by the Federal Government.

The new Federal health and safety program would be entrusted to the Secretary of Labor. Such a delegation is logical since our prime concern is the protecting of the laboring American. Opponents suggest that it is a mistake to delegate so much authority to a single agency. They claim it is contrary to the separation of powers concept inherent in one Federal system. Let me say first that the division of authority they envision would defeat one of the primary purposes of this bill—that is a uniform national policy on occupational health and safety. Second, their objection demonstrates a basic miscomprehension of the concept of separation of powers. That concept refers to the system of checks and balances imposed on the legislative, executive, and judicial branches of Government lest the power granted to any of the branches be abused. It has long been a legislative practice to delegate regulatory authority to an agency and at the same time permit the agency to establish a factfinding enforcement procedure. Those aggrieved by the enforcement of the agency's regulations may contest the agency's action in the Federal courts. We have established a similar procedure here. The implication that we have given the Secretary of Labor some heretofore unheard of authority is simply unfounded. We have legislatively granted an administrative agency the authority to insure compliance with the legislative policy subject to review by the judiciary; nothing could be more in keeping with the separation of powers.

We need the kind of standards envisioned here now. Unfortunately, fair, effective standards cannot be instantly promulgated. Serious extensive, continuing study is necessary. In order to meet present health and safety needs and at the same time recognizing the importance of careful deliberation in this area, interim standards would be authorized. The Secretary of Labor would be commanded to establish interim standards within 2 years of the bill's enactment. Before such interim standards become

effective a public hearing must be held to ascertain the position of the parties to be affected by the standard.

The Secretary may select the interim standard from any of three alternative sources. He may accept some existing Federal standard. He may choose a standard put forth by a nationally recognized group. Finally, a national consensus standard may be accepted. The single criterion used to guide the Secretary in his selection must be the protection of the employees affected. There are obvious advantages in such a process. The Secretary benefits from the expertise of those long concerned with the problem. The work product of these experts is to be submitted to the fire of an adversary hearing.

But these standards are exactly what their name implies—interim. Within 90 days of their promulgation, the Secretary is required to imitate procedures for the establishment of permanent standards. Whether triggered by the promulgation of an interim standard, the petition of an interest party, a representative of a State or one of its political subdivisions, the Secretary of Health, Education, and Welfare or by the initiative of the Secretary himself, an advisory committee must be appointed to make recommendations within 15 months. A standard must be issued 90 days after a public hearing held on the advisory committee's recommendation and other relevant issues.

The Occupation Health and Safety Act contains fair, sophisticated systems of enforcement. At the heart of this system are procedures for inspection, investigation and reports to facilitate enforcement of the act. These procedures and subsequent enforcement steps have been drafted with an eye to the protection and convenience of the employee acting in good faith. Inspections are to be conducted at reasonable times; every effort is to be made to avoid overburdening or inconveniencing the employer. In case of less serious transgressions, the employer may contest the findings and even where he chooses not to object he has more than 2 weeks to bring his operation within the law. Where trade secrets are disclosed in the process of the inspection or investigation they are to be treated with the strictest confidentiality. Even the penalties for violations are relatively mild considering the volume of business in the industry involved.

There is even authority for the Secretary to grant "variations, tolerances, and exemptions" in the interest of national defense.

In summation, I would like to point out that this bill seeks to answer a serious need of the American working man. It would protect at least 11 million workers now outside Federal protection; it would protect at least 80 million workers now afforded insufficient protection. Occupational health and safety is the one area where our concerns for the environment, for protection from unsafe products, and for the welfare of the "silent majority," merge. It is difficult for me to believe that Congress will ignore the health and safety of millions of Americans in this day of growing concern, for the sake of business as usual.

Mr. STEIGER of Wisconsin. Mr. Chairman, I reserve the balance of my time.

Mr. PERKINS. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. SCHEUER).

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

Mr. SCHEUER. I yield to the gentleman from New York.

Mr. PODELL. Mr. Chairman, if the gentleman will permit me, I would like to ask the gentleman from New Jersey a question.

As my distinguished colleague knows, the U.S. Bureau of Mines of the Department of the Interior now has jurisdiction over the health and safety conditions of many mining industries pursuant to the Federal Metal and Non-Metallic Mine Safety Act of 1966. Does section 22(b) provide for a transfer of this jurisdiction to the Secretary of Labor?

Mr. DANIELS of New Jersey. Mr. Chairman, if the gentleman will yield, the answer is "No." Section 22(b) would only allow the Secretary of Labor to assert jurisdiction over health and safety conditions within the mining industries now subject to the Federal Metal and Non-Metallic Mine Safety Act when the Secretary of Interior has failed to exercise his statutory authority to set health and safety standards or otherwise declines to assert any jurisdiction over the mining industries under that act. In other words, only when the Secretary of Interior completely abrogates his responsibilities under the Federal Metal and Non-Metallic Mine Safety Act would the Secretary of Labor be allowed to invoke section 22(b) and set standards for the mining industries now subject to the Mine Safety Act.

Mr. SCHEUER. Mr. Chairman, I congratulate the subcommittee chairman, the gentleman from New Jersey (Mr. DANIELS) for the tremendous effort that he and others have made in bringing this bill to the floor of the House.

Mr. Chairman, I wish to add my support for passage of H.R. 16785, the Daniels Occupational Safety and Health Act. The Daniels bill will do what has long been needed—provide strict but reasonable standards of health and safety in the workplace, and make it possible to enforce these standards effectively.

Mr. Chairman, the hearings held in September, October, and November of 1969 by the Select Subcommittee on Labor, chaired by my distinguished colleague, Representative DANIELS of New Jersey, made it unmistakably clear that a strong program for dealing with hazards of the workplace is urgently needed. On-the-job safety has become one of modern industry's most pressing problems. The annual toll taken by occupational accidents and illnesses is of frightening proportions, and existing efforts to meet this problem are plainly insufficient.

Mr. Chairman, are we going to need a major catastrophe, a slaughter, before we will get action? Must we have a holocaust such as the disaster in the coal mines of Farmington, W. Va., where 78 miners were killed just before Thanksgiving in November 1968? That tragedy

sparked the emotion and initiative which led to passage of the 1969 Federal Coal Mines Health and Safety Act. Are we in truth a government only by crisis, a claim made by those who would derogate the Congress of this country?

Unsafe as is coal mining, there are jobs in the United States which are even less safe. The Metropolitan Life Insurance Co. points out that the accidental death rate for tunnel construction workers is three times as high as that in coal mining, and for electrical construction workers twice as high as in coal mines. Another extremely dangerous job, according to Metropolitan Life, is that of lumbermen. Lumbermen have a death rate four times that of standard insurance risks, and are especially susceptible to injuries of the spinal cord, bones, and joints. Some of these job dangers may be inevitable, but safety experts are becoming more aware and more vocal about the fact that many dangers in these and other industries and occupations are controllable and avoidable.

No doubt you have heard the grim statistics on occupational death and injury before. But they bear repeating, they deserve repeating, they should be repeated.

Over 14,000 workers die each year as a result of job-related causes. In only 4 years' time, as many Americans have died because of their employment as were killed in almost a decade of our country's involvement in Vietnam. In the last 25 years—since the end of World War II—more than 400,000 Americans have been killed by industrial accidents and disease. This is a larger total than the 300,000 dead which World War II cost our Nation, and a more tragic figure because so much of it could have been avoided had we had a law such as the Daniels bill.

Which false prophet was he who said that work never killed anyone?

So far I have mentioned figures only on actual deaths. Besides this, about 2.5 million workers suffer on-the-job injury every year, according to Labor Department estimates. And this statistic, incredibly high as it is, has been challenged as understating the actual situation. In testifying before the Senate last year, Ralph Nader estimated that annually between 200,000 and 400,000 industrial accidents go uncounted by Federal and State tallies. A partial explanation for this, Nader said, is that there are few incentives for reporting injuries and fewer penalties for not reporting them.

A recent report by safety expert Jerome Gordon, prepared under contract for the U.S. Labor Department, substantiates Nader's conclusions. The Gordon study estimates that present Labor Department industrial accident statistics understate work injuries by about 200,000 cases a year. One basic cause for this understatement, according to the Gordon report, is improperly run and underfunded programs operated by the Federal Government and the National Safety Council. Gordon also blames industry domination of private safety-standards organizations, which allows most firms literally to compose their own records on industrial accidents.

As if all these facts and figures are not depressing enough, the crusher comes in the knowledge that the overall trend of

injuries on the job has worsened in the last decade or so. Job safety began to slip back after 1958, when the factory accident rate had fallen to a record low of 11.4 disabling injuries per million man-hours worked. By 1968, the rate had increased by over 20 percent to 14 disabling injuries per million man-hours worked.

Mr. Chairman, the need is clear. The facts have been demonstrated repeatedly. The time for action is now. I urge my colleagues to join in support of the Daniels Occupational Safety and Health Act, H.R. 16785.

Mr. PERKINS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman, as one of the early cosponsors of the occupational health and safety proposal, I am proud to support the legislation now under consideration by the House, H.R. 16785, the Occupational Safety and Health Act of 1970. The bill has the potential to be a landmark of the utmost importance in the history of social legislation. It is designed to insure a safe and healthful work environment for the 80 million men and women workers in our country, and hence to benefit their dependents as well.

Large numbers of working people spend an average of 40 hours a week in some of the most polluted, physically hazardous and mentally devastating environments imaginable. Eighty percent of these citizens work in places where no type of health service is provided, Mr. Chairman, and the protection given the remaining 20 percent varies from excellent to minimal, according to the Environmental Actions, Inc.

At a time when we are much concerned with enhancing the quality of life in general, it is inconceivable that 14,500 workers are killed each year in industrial mishaps, while 2.2 million more are disabled through job-related accidents.

A recent study authorized by the U.S. Department of Labor and conducted among a sample of California businesses revealed that this figure might be 10 times too low, and that the national figure might be closer to 25 million injuries. We do not even have a realistic estimate of the number of workers who suffer or die from occupationally caused disease.

Hopefully, we will learn this from the research which is provided for in this bill. Our almost total ignorance of the nature and extent of the problem of work-related disease is itself a cause for alarm and action.

Although we do not know the exact magnitude of the problem, we do know that industrial accidents alone inflict, by far, a greater number of casualties each year than has the Indochina war.

The highest casualty rate in Vietnam occurred in 1968 when 12,588 of our servicemen were killed. In that same year, even conservative estimates show that 14,300 workers were killed on the job—1,812 more than died in Vietnam.

The National Safety Council has found that during the first months of 1967, the total number of injuries and deaths rising out of the work situation were far

greater than those due to motor vehicle accidents. Specifically, there were 873,600 motor vehicle injuries or deaths. Yet there were over 2.2 million work injuries resulting in temporary or permanent disablement or death.

In 1967, work accidents and illnesses cost the American economy over \$8 billion. Ten times more man-days are lost in America every year due to injury than are lost because of strikes, lockouts and walkouts all combined.

Mr. Chairman, I want to commend the distinguished chairman of the Select Labor Subcommittee, the gentleman from New Jersey, Mr. DANIELS, for his able work in structuring this landmark bill and bringing it to the House floor for consideration. I would also like to recognize the Chairman of the Education and Labor Committee, the gentleman from Kentucky, Mr. PERKINS, for his contributions and foresight in reporting such a strong bill from the committee. I congratulate them on this momentous achievement in behalf of all Americans.

This bill is not in response to some sudden disaster, Mr. Chairman, but to the continuing health and safety hazards of our Nation's accelerated industrialization. The 40 workers who die each day, the 6,000 who are injured each 24-hour shift, represent personal tragedies which have not yet aroused any great public outcry. Yet the work force of America has a vital and personal concern in the passage of this legislation. The figures, as appalling as they are, can never adequately convey the agony of the injured and the anguish of each individual family, much less the discomfort that arises from unhealthy, unsafe working conditions under which the health of millions of workers is being eroded.

While some States have acted to establish and enforce safety and health standards, only a relative few have modern laws and have devoted adequate resources to their administration and enforcement. At least eight States have no identifiable programs in occupational health at all. In the States today, there are a total of 1,600 health and safety inspectors, and 2,800 game wardens. Elk and deer are better protected, Mr. Speaker, than working men and women.

In States with strong occupational safety and health standards, the accident rate is 19 per 100,000 workers. In States with weak programs, it is 110 per 100,000—a number 500 percent greater. In no State are enforcement standards adequate to force total industry compliance with existing standards.

The Occupational Health and Safety Act of 1970 would show our concern for a healthy environment for all of our citizens. It would especially show, Mr. Chairman, that we as a nation will no longer tolerate a situation where the cost of employment for many individuals is the strong likelihood that they will be maimed or crippled for life. Despite the many disruptive forces in our land today, I feel that our increasing concern for the quality of life and our compassion for the individual hold out a bright promise for tomorrow.

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

Mr. ANNUNZIO. Mr. Chairman, I wonder if the gentleman from Wisconsin would yield to me 1 additional minute?

Mr. STEIGER of Wisconsin. Mr. Chairman, I shall be happy to yield 1 minute to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, as the former Director of Labor for the State of Illinois where I have had broad experience in the implementation of workmen's compensation and the occupational disease bill in Illinois, I can unequivocally state that the Javits amendment, as provided for in the Senate bill, will weaken this legislation on behalf of the working men and women of America. The full responsibility for the implementation of this act must rest in the Secretary of Labor if this bill is to be meaningful.

All of us are familiar with the Board that was appointed known as the Mine Safety Review Board. A perusal of the list of members for that Board will show that none of the members are representatives of organized labor; none are people who have had experience at the grassroots level in the industrial plants of America; or who have a keen understanding of the problems that confront us at this time.

I vividly recall when I attended my first safety conference in Washington, D.C., in 1950, and for over 20 years, those who have supported the objectives of this conference have stated to the various legislatures of America that too many lives and too many man-hours of work are being lost because American workers are not being adequately protected. The American worker has waited too long. Let us put the responsibility where it belongs—on the highest appointed labor official in Government—the Secretary of Labor.

I wholeheartedly support, as one of the original cosponsors, the Daniels Occupational Safety and Health Act and the amendments recommended by the subcommittee. I urge my colleagues to vote down the Steiger substitute. I urge my colleagues to support the Daniels bill so that we can get on with the business of protecting our fellow citizens.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Did I hear that statement correctly?

Mr. ANNUNZIO. You heard it correctly.

Mr. STEIGER of Wisconsin. Well, had I only known.

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

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, at the appropriate time I intend to offer an amendment which I believe will strengthen the legislation that we now have under consideration.

Mr. Chairman, a main purpose of this legislation is to strengthen State pro-

grams concerning industrial or in-plant safety. Traditionally, industrial safety programs have been aimed at the design and arrangement of the plant itself and the establishment of safety rules and practices to be followed by the employees. The bills before us today, however, are even more inclusive. They cover all types of products which might be used on worksites and would permit each State to issue design standards for the safety of these products.

The difficulty with product design standards is that products are frequently mass produced on a national market basis and without any particular plant or worksite in mind. Contrasted with a plant, which is nearly always custom designed and laid out, some products which might be used in that plant are often not custom designed, but instead are of a uniform design and are nationally distributed and sold. Thus a forklift or tractor, or even a lawn mower, are all often used in or around a plant or worksite and yet are seldom designed or manufactured for any particular customer. These products are designed for a national market. The problem which I hope to avoid would arise when under this legislation the States promulgate standards which deal with the design of such products. It would be possible to have each of the 50 States enact a varying standard and thus require the product manufacturer to custom build an unnecessarily expensive and slightly different model of his product for each of the 50 States. Even if the manufacturer did this it would not solve the problem a user of the product would have where he brought the product into several States with varying standards and might have to customize it for use in each of those States.

My amendment would specify that with respect to the standards which a State may promulgate, the standards should not present an undue burden on interstate commerce and should only be applied to the area of product safety when a compelling local condition can be shown, unless there is no national or Federal standard applicable. In other words, where a product is built to a Federal standard, it should not have to be custom-built to varying State standards, either by the manufacturer or the user, unless required by compelling local conditions.

It should be noted that my amendment does not deny the States the right to issue product design standards, it only requires that there be a sufficient showing of compelling local conditions which would justify the deviation from a national standard. In this regard, I note the recommendation of the National Commission on Product Safety, created by Public Law 90-146 in 1967:

That a mandatory Federal safety standard for a consumer product preempt any State or local standard, with appropriate provision for exemption where clear and compelling conditions in the State make it necessary.

The Product Safety Commission, in explaining its recommendation stated:

States seldom impose safety standards for consumer products. Where requirements apply to product safety, these vary consider-

ably. For this reason, many manufacturers cannot produce for a national market except by designing different models for individual States. Ultimately, consumers pay the wasteful cost of several models being produced where one would do.

I think that we could all agree with such reasoning.

The Commission concluded that:

With a provision for exemption of State regulations that do not unduly burden interstate commerce, national safety standards for unreasonably hazardous consumer products can be expected to enhance protection for the public and conserve time, money, effort, and resources. At the same time, the possibility of exemptions will leave States free to develop innovative safety methods and to satisfy unusual local needs.

This is exactly the approach which my amendment is intended to take.

I might just mention that this amendment was offered in the Senate by Senator SAXBE and was accepted by the Senate committee, and by Senator WILLIAMS. I had a chance to discuss this amendment with the sponsor of what will be a substitute amendment, and it was acceptable to him—I have not had a chance to discuss it with all the leadership of the committee on the Democratic side, but I have had the chance to talk to some, and I will be glad to give them a copy of the amendment—but it is my sincere hope that the amendment will be acceptable to them as well.

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

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

Mr. ERLBORN. Mr. Chairman, I thank the gentleman for yielding, and I have asked for this time so that I might direct a question to the chairman of our committee.

As I understand it, the amendments will be presented either by the chairman of the committee, or the chairman of the subcommittee, the gentleman from New Jersey?

Mr. PERKINS. If the gentleman will yield, I personally see no objection to the amendment, but I do wish to discuss it with the gentleman from New Jersey (Mr. DANIELS), before I make a commitment on the amendment.

Mr. ERLBORN. Mr. Chairman, could the gentleman tell me whether the five amendments that are intended to be offered from that side will be offered as amendments, or will they be incorporated in a rewritten proposal in the form of a substitute?

Mr. PERKINS. That decision has not as yet been arrived at, but it is my thinking that if a substitute is voted down that these amendments will be offered at the appropriate place in the committee bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield 3 additional minutes to the gentleman from Illinois.

Mr. ERLBORN. Mr. Chairman, would the gentleman yield further?

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

Mr. ERLBORN. Mr. Chairman, I just wanted to make the observation that it would make a difference to those

Members, such as the gentleman in the well, who are proposing to offer amendments to the bill, whether the amendments were offered individually as amendments or incorporated in an overall substitute.

Mr. PERKINS. I think that you gentleman can assume that if the substitute is voted down that these amendments will be voted on separately to the committee amendment.

Mr. ERLBORN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I want to compliment the gentleman in the well for calling this problem to our attention. And having worked long, diligently and very strenuously, as I know the gentleman has, from having talked to the gentleman over the past several months concerning this problem, I can say that it was not easy to find the kind of language that would resolve the problem without in some way or other giving rise to other problems, and I think the gentleman has done that.

I think it is of special interest that the language the gentleman uses, or is proposing to offer, is similar or identical to the language that has been proposed by the Product Safety Commission.

So I do want to compliment the gentleman on the fine work that he has done.

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman very much. I also want to thank the distinguished chairman of the committee for the remarks that he has made.

Mr. PERKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I wish to commend the chairman of the full committee and the chairman of the subcommittee, and all of the distinguished members who have worked so long and hard to bring this bill to the floor. It is a fine piece of legislation. I strongly support it.

Mr. Chairman, at a time when our country is intensely concerned with environmental problems, it is hard to accept resistance or apathy toward Federal legislation on occupational health and safety. The factory, mill, office, and shop is the environment for millions of working Americans. In industry after industry, the workplace is a polluted place—with a dangerous pollution that robs working people of their health and their lives. These intolerably hazardous conditions must be ended as rapidly as possible. For this reason I wholeheartedly support the Daniels Occupational Safety and Health Act, H.R. 16785.

No President called to public attention the problem of occupational injuries and diseases in American industry generally until Lyndon Johnson did so in 1968. But the bills introduced in support of President Johnson's recommendations to end the loss of life, limb, and sight due to industrial accident and occupational illness died in committee hearings during the 90th Congress. In August 1969 President Nixon reintroduced the proposal for a Federal occupational safety and health law.

H.R. 16785 is a carefully thought out statute, developed after 15 days of public hearings and seven markup sessions un-

der the able and dedicated chairmanship of my esteemed colleague, Representative DANIELS of New Jersey. From my study of this bill, I believe it will establish fair and reasonable standards for the prevention of on-the-job accidents and illnesses, as well as effective procedures for the enforcement of these standards.

Mr. Chairman, technology and shifting consumer preferences have been causing fundamental changes in our country's occupational structure and industrial processes. These changes are expected to continue to occur at an even faster rate than in the past. It has been estimated that each year approximately 600 new chemicals are introduced in America's factories, mills, and laboratories. At the 1969 hearings on occupational safety and health, the Daniels subcommittee learned that roughly 6,000 chemicals currently are in use in industry. And yet—note this significant statistic—health authorities today know the safe threshold values for only about 500.

These facts say something to me, and to all of us. They say that we had better learn more about the chemicals and other substances which are being used in increasing numbers and variety in the production processes of this country, especially whether or not they are toxic. They tell us that we need more measurement as to the amounts of these materials which are being employed, and more knowledge of safe threshold levels. They warn us that we urgently need more regulation of the use of these products and greater prevention of their abuse. This whole area of the industrial consumption of chemicals and of the occupational diseases which result is one of the major preoccupations of the Daniels bill—and the one to which I am primarily addressing myself today, Mr. Chairman. Time constraints restrict me to this field, although as you know the Daniels bill goes beyond occupational health, and concerns itself also with the more visible and well-known question of industrial accidents and on-the-job injury.

No one knows for sure how many workers have been struck down by silent killers in the form of corrosive chemicals, noxious fumes, and debilitating dust particles that have become commonplace ingredients of the manufacturing process. One of the deadliest and most widespread of industrial illnesses is pneumoconiosis, commonly referred to as black-lung disease. This is an occupational hazard of coal miners, caused by a build-up of coal dust in the lungs. The Coal Mine Health and Safety Act of 1969 has done something about this killer by establishing maximum allowable coal dust standards in mines.

But there are other potent respiratory diseases to which millions of American workers are subject and for which virtually no Federal regulation exists. In the insulating trade, according to estimates of Dr. Irving J. Selikoff of New York's Mount Sinai School of Medicine, 8 percent of all workers will die from asbestosis caused by breathing tiny particles of asbestos. The disease was identified in 1924; when New York City

passed safety standards last spring for the spraying of asbestos, it was the first city in the United States to do so. Ah yes, the mills of the legislative gods grind slowly—nearly half a century behind the wheels of industry—while the specter of noiseless and often invisible industrial death stalks the land.

Among the worst man-killers, according to Senator HARRISON WILLIAMS of New Jersey, are the textile mills. More than 100,000 of the Nation's 1 million textile-mill workers have contracted byssinosis, or brown-lung disease, from inhaling cotton dust, according to the Senator's estimates. A study of men working the coke ovens in the steel industry showed they suffered a lung cancer mortality rate 62 percent higher than the average steel worker who does not breathe the rufid gases exhausted by the coke ovens. Another example of what Ralph Nader aptly terms "a silent kind of violence" is berylliosis, a lung disease caused by the inhalation of dust or fumes from the space-age metal beryllium. Berylliosis is a prime instance of the by-product impact on worker health and safety of new materials, new processes, and new technologies, posing a whole new set of hazards and potential hazards. Silicosis is another major crippling and deadly respiratory disease common to industry.

Mr. Chairman, there is an unconscionable gap between the minimal protection being given to several million workers regularly exposed to the gases, dusts, and mists of American industry, and the protection they need. There is a frightening gap between our knowledge about these substances, and what we need to know. There is a depressing gap between the supply of trained personnel to develop standards for a safe handling of these materials and to enforce observance of those standards, and our requirements for those personnel. The Daniels bill is designed to narrow and eventually close these gaps. I urge my colleagues to support this bill now.

Mr. PERKINS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Ohio (Mr. FEIGHAN).

Mr. FEIGHAN. Mr. Chairman, I commend my colleagues, the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS), and the chairman of the subcommittee, the gentleman from New Jersey (Mr. DANIELS), and the members of the full committee for bringing an occupational safety and health bill to the floor of the House.

Occupational health and safety is an area which cries out for a positive Federal role. State and private industry safety measures are piecemeal, fragmented, or nonexistent.

In the latest year in which any data are available, 1968, the evidence is staggering—14,000 workers killed, 2,200,000 suffered disabling injuries, 390,000 occupational illnesses—and yet we are told that this information is based upon incomplete reports. The totals may even be larger.

I have listened to the debate with great interest, in particular on those

matters to which the committee has given an indication that it will accept amendments to be offered by Mr. DANIELS to the committee bill to eliminate any possible objection to the procedure the bill would authorize in securing safe working places. With these amendments I agree. The amendments according to the documented record today will modify the reported bill in the following respects:

First, the "general duty" will be modified to require only that employers provide employment "free from recognized hazards" and there will be no penalty for violation of duty;

Second, the provision authorizing the Secretary to order closedowns without a court order in imminent danger situations will be deleted and exclusive reliance placed on judicial remedies;

Third, the provision that has been attacked as giving an employee the right to "strike with pay" will be deleted;

Fourth, the monitoring provisions will be revised to eliminate fears of excess burdens on employers; and

Fifth, The Construction Safety Act will be amended, as in H.R. 19200, to include all contractors instead of just those performing Government work.

I urge my colleagues to support the committee bill as modified.

Mr. PERKINS. Mr. Chairman, I yield the remaining time on this side to our distinguished colleague, the gentleman from Michigan (Mr. O'HARA).

Mr. O'HARA. Mr. Chairman, the question on this bill, of course, is not whether or not we should have an Industrial Health and Safety Act. That question now seems to be settled and it is a good thing for the country that it is. We can all agree that the toll of death and of injury that the workers of this country suffer in on-the-job accidents—14,500 deaths a year, 2 million disabling injuries a year, and other millions of serious but not disabling injuries—is too high and that it has been paid for too long.

But there are differences, Mr. Chairman, and very substantial differences, among the proposals that have been made to correct this problem. I believe very strongly that the bill reported by the committee is a reasonable, careful and a cautious approach to this problem. I say that despite anything you may have heard to the contrary. It is a reasonable careful and cautious approach to this problem for which the gentleman from New Jersey (Mr. DANIELS) is to be commended because it has been under his leadership and that of the gentleman from Kentucky (Mr. PERKINS) that this bill has been brought this far. It is only with great reluctance that I would accept the amendments, which it is my understanding will be offered by the majority during the consideration of this bill.

I do not think this bill goes too far, the way it stands. I think, if anything, this bill does no go far enough, the way it stands—with 14,500 killed in industrial accidents this year and 2 million disabled in industrial accidents. No, Mr. Chairman, this bill does not try to go too far, too fast.

But I will accept the amendments which will be offered by the majority, because I recognize that they are necessary, unfortunately, in order to correct misimpressions that have been deliberately fostered by the opponents of this legislation. I make no bones about calling them opponents of the legislation. They are the same people who came before the committee in the last Congress and said that they did not want any bill at all—no legislation is what they wanted. They came before the committee in this Congress and in response to a question said that they still preferred no legislation at all, but they would accept the administration bill. And, indeed, the administration bill was very close to no bill at all. But even after the acceptance of these amendments, which we do only reluctantly, there is still an important difference between the committee bill, the Daniels bill, and the bill that my friend, the gentleman from Wisconsin is offering. Under the Daniels bill, it is at least possible to fix responsibility and to find out who it is that is supposed to set the standards and who it is that is supposed to enforce them. If the program is not adequately implemented and if not strictly enforced for the American people to be able to hold accountable the responsible officials—in this case the President and his Secretary of Labor.

It is proposed that we substitute for that accountability, which is the most important part of this legislation, a faceless board, none of whom will be known to the people, none of whom will be accountable to the people, and behind whose skirts an entire administration will be trying to hide. That is an important difference, and even with the reluctant acceptance of the amendment that will be offered from the majority side of the committee, that important difference will remain. Mr. Chairman, I hope that this committee will reject the substitute and agree to the committee bill, the Daniels bill, with the amendments that will be offered.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield myself 3 minutes.

The CHAIRMAN. The gentleman is recognized.

Mr. STEIGER of Wisconsin. Mr. Chairman, I have listened with interest to the remarks of the gentleman from Michigan as well as those of the other speakers who have directed their attention to the issue that we shall face tomorrow when we vote on the Steiger-Sikes substitute which will be offered.

Let us understand, first of all, the amendments which the distinguished and able chairman of the subcommittee, the gentleman from New Jersey (Mr. DANIELS) has announced he intends to offer are good. I do not deny that. They significantly improve the bill. But they do not do it anywhere near enough. You are still going to be faced, even as amended, if the substitute is defeated, with an imperfect bill reported by the Committee on Education and Labor, im-

perfect in at least two regards, not to belabor the point.

One is the failure to provide for the separation of powers. The bill H.R. 16785, maintains the Labor Department and the Secretary of Labor as a czar to set the standards to enforce and inspect plant sites and to penalize those who have violated the law.

Second is the failure to change the status of the inspector himself. Though under the amendment that the gentleman from New Jersey intends to offer the imminent danger section will be modified to bring it into line with the Steiger-Sikes substitute, still the issuance by an inspector of the citation forthwith with a penalty to be levied at a later time, is not good.

Going down the list, Mr. Chairman, of those who have supported the concept of the independent board to set the standards and the separation of functions—the Department of Industry, Labor, and Human Relations of the State of Wisconsin, the Department of Labor, State of New York, the American Society of Safety Engineers, the Department of Labor and Industry, Commonwealth of Pennsylvania, the Industrial Medical Association, the American Academy of Occupational Medicine, the National Safety Council, the Council of Occupational Health, American Medical Association, the Ad Hoc Committee on Occupational Safety and Health, International Association of Government Labor Officials, the American Industrial Hygiene Association, the International Association of Industrial Accident Board and Commissions, the American Public Health Association, the American Conference of Governmental Industrial Hygienists, the Building and Construction Trades Department—I really wonder, are those the people the gentleman from Michigan is talking about who are not in favor of the bill and who oppose any kind of legislation? The answer is, obviously, no. The gentleman from Michigan knows it. These are people who are committed to having a bill passed, but who believe the separation of functions is an absolutely essential part of equitable legislation.

So these, then, are the issues which we will face tomorrow as we come to a close of the debate today. The question is whether or not we can be willing to accept the bipartisan compromise to be offered by the gentleman from Florida and myself in an effort to get a bill that can be passed in this session, and which can be supported by all segments of the economy and bipartisanly here in the Congress, or whether we will have to try to maintain the posture of the Committee on Education and Labor.

I hope the substitute will be agreed to. I yield back the remainder of my time.

Mr. KARTH. Mr. Chairman, every factory, mill, and office in this country could well post a cautionary sign next to its front entrance—"Warning: Working May Be Hazardous to Your Health." Rapidly changing technology has been introducing novel and gravely serious threats to the health and safety of our employed men and women. Today we are

asking our workers to perform far different tasks from those they performed 15 or even 5 years ago. It is only right that the on-the-job protection we provide for these workers also be up to date.

For this reason I am strongly supporting the Daniels Occupational Safety and Health Act, H.R. 16785. I believe it to be a carefully thought-out instrument to help prevent industrial accidents and occupational illnesses. And it is needed, Mr. Chairman. It is urgently needed because of the dangerous weaknesses in the present dams and dikes that stand to stem the tide of rising job-related hazards.

True, many industries and businesses have made commendable progress on their own in protecting worker health and safety. Some have managed to reduce the frequency of accidents by as much as 80 or 90 percent, demonstrating what can be accomplished with proper effort. But such voluntary successes are not widespread nearly enough.

Collective-bargaining agreements often include safety and health provisions. Many professional organizations have suggested voluntary standards. Groups like the National Safety Council have worked to promote safer working conditions. But the overall record is spotty and uneven.

As far as legislation is concerned, for many decades governmental responsibility for safe workplaces has rested mainly with the States. Again, the scope and effectiveness of State laws and State administration vary widely. Some States are fearful that stricter standards will place them at a competitive disadvantage with other States in attracting and holding industry.

A few jurisdictions—such as California and New York—have strong occupational safety and health programs. But most State programs are inadequate. Although all States recognize in varying degrees their responsibility for insuring the wage earner a safe and healthful working environment, many State safety laws apply to only limited areas of activity, such as boiler and elevator safety. State programs are becoming even more inadequate with the introduction of new industrial chemicals and processes that menace health and life in complex and often unpredictable ways.

Some States have very few inspectors, and spend as little as two cents per worker a year in job safety enforcement. There are only 1,600 State safety inspectors altogether in this country. Only three States employ over 100 inspectors each; about half the States have fewer than 25 inspectors each; 16 have a dozen or fewer; four States have no inspection personnel at all. Only three States have inspectors who are trained in the field of occupational health and hygiene. Ironically, there are twice as many fish and game wardens in the United States as there are safety and health inspectors. The Daniels subcommittee hearings in 1969 revealed a severe shortage of occupational health experts in this country.

Senator HARRISON WILLIAMS, of New Jersey, chairing the Senate Labor Sub-

committee considering job safety legislation, has pointed out that some 65 million workers in smaller plants have little or no occupational health protection, for which he blames "archaic laws, administered by inadequate, ill-paid and ill-trained staffs, a wide variation in safety standards and starvation budgets." The chairman of the full Senate Committee on Labor and Public Welfare, Senator RALPH YARBOROUGH, of Texas, has been equally caustic. He has compared present on-the-job safety efforts to "a sneeze in a hurricane." The Federal role in occupational safety and health has been severely limited so far. The Walsh-Healey Public Contracts Act sets standards, but these apply only to workers employed on Federal contracts for supplies and equipment. Safety standards also are included in the McNamara-O'Hara Service Contract Act of 1965, applying to workers engaged in contract work supplying services for the Federal Government. Great strides forward were made last year by this Congress when it enacted the Federal Coal Mine Health and Safety Act and the Federal Construction Safety Act, but of course these apply only to the specific industries mentioned, although admittedly industries which are among our country's most hazardous.

Something broader is needed in the way of Federal job safety legislation. These are not my words, but those of President Nixon in his message of August 6, 1969, recommending Federal occupational safety and health legislation. In so doing he was repeating a recommendation also made in 1968 by Lyndon B. Johnson.

I heartily subscribe to the recommendations of our present and past Presidents, and I wholeheartedly endorse the Daniels bill, H.R. 16785, as the best way to do the job. I hope all of you will endorse it too.

Mr. MICHEL. Mr. Chairman, I am strongly opposed to H.R. 16785 on the grounds that it would place unlimited power in the hands of the Secretary of Labor and will work a hardship on industry in my State of Illinois as well as other States.

On the other hand, I realize that everyone is interested in effective and reasonable occupational health and safety legislation. For this reason I feel that H.R. 19000 introduced by Representatives STEIGER and SKES is a more reasonable measure than the Daniels bill because it contains, among other matters, the following elements:

First. Creation of an independent national occupational safety and health board, composed of qualified experts to establish standards;

Second. Authorization of the Secretary of Labor to enforce these standards;

Third. An occupational safety and health appeals commission to hold hearings on alleged violations and impose fines; and

Fourth. A provision that a plant could be ordered closed only by order of a U.S. district court.

H.R. 16785, if passed, would almost surely be held unconstitutional. It stretches my imagination to believe that

sound-thinking Members of this House would even propose it in its present form.

If H.R. 16785 passes as is, it will add more fuel to the fire in an already turbulent labor arena. Unions could and would use H.R. 16785 to disregard the no-strike provisions in collective agreements. Further, even if union officers were against a local strike, "red hot" rank-and-file members could and would disregard their contractual no-strike pledge.

This bill disregards constitutional due process; puts unreasonable power and authority in the hands of inspectors, many of whom might be incompetent or easily influenced; gives only vague guidelines on what is expected although penal in nature; and gives ultimate penal authority to the Secretary of Labor without possibility of court review.

I think that everyone here is aware that most accidents result from unsafe acts by employees, not by unsafe equipment, and it would be unwise to try to legislate a product designed to make corrections for this fact.

And to permit an employee representative to inspect the plant to determine what is safe as far as equipment and working conditions would put undue burden on the employer.

The only way to achieve real improvement is through cooperative action involving employers and employees—with assistance and guidance from government. Instead of providing the cooperative climate and assistance that are needed, H.R. 16785 would be a divisive influence that would achieve little, if any, safety improvement.

I am not opposed to sensible requirements for safety and health, but when a bill starts out on the basis of safety and health and then goes on to give the Secretary of Labor almost unlimited regulatory powers beyond these requirements, I become opposed.

I urge all my colleagues to vote against H.R. 16785. It is seriously lacking from the standpoint of fairness and due process, but is replete with provisions that are unduly punitive, administratively unworkable, and potentially highly disruptive of labor-management relations.

Mr. Chairman, we need an occupational safety and health bill. But one that makes sense and not one that is forced upon us by the pressure and power politics of the AFL-CIO.

Mr. BROOMFIELD. Mr. Chairman, every year 14,000 workers are killed on the job and another 25 million suffer disabling injuries. In 1967, industrial accidents cost the economy \$7.3 billion with 10 times more man-days lost to injury than to strikes.

It should be clear that every American shares our concern for occupational safety and health, business as well as labor, Republican as well as Democrat; yet, we continue to discuss this technical failure in political terms. There is no room for partisanship where the health of a worker is concerned; there is only the self-evident need for an expert and professional authority to set health and safety standards for all American workers.

I have read both the Daniels and the Steiger bills carefully, and it seems that

only the second can insure efficiency and professionalism without taking sides. The Steiger bill, H.R. 19200, does not view the problem of occupational safety and health in partisan terms, as a question of balancing the rights of business and labor. This is not to say that the element of fairness can be ignored, but merely that it is must be secondary to our recognition of the technical nature of a problem shared by both business and labor.

The Steiger bill would permit standards to be set and enforced by experts, trained in a field where all considerations are objective and all solutions scientific. The individual working man would not be allowed to suffer while business and labor dicker over the relative shares of power. The measure proposed by the Subcommittee on Education and Labor, on the other hand, would encourage both sides to take each case of industrial accident as a battleground for furthering their own interests. This is exactly what we must avoid. It should be testimony to the worth of the Steiger bill that in guaranteeing efficient and objective action by scientific experts it necessarily inspires confidence in every segment of the American public.

Probably the most controversial aspect of the substitute bill is its call for a division of powers. Proponents of the Daniels' measure, which places all functions in the Office of the Secretary of Labor, argue that the checks and balances imposed by a separation are not necessary to insure fairness on the part of a single government department. In their obsession with balancing rights of business and labor, I believe they have missed the whole point of this key article of the Steiger bill. The division of standard setting, judicial and enforcement functions, is not primarily designed to guarantee fair treatment, but rather to permit the efficient operation of all these functions. No element in this structure would be overburdened with extra duties; it is just an added help that none of these duties would conflict to the injury of one interest or another.

The Steiger bill places the authority to set standards in the National Occupational Safety and Health Board, appointed by the President solely on the basis of ability and experience in the field of occupational safety and health. This Board would have no other duties but to set standards. The Secretary of Labor would be authorized to conduct inspections, make recommendations to this Board, and enforce the orders of the occupational safety and health appeals commission, which would arbitrate business-labor disagreements over violations. Each element of this structure, therefore, has specific and narrowly defined areas of responsibility; already composed of experts in their respective fields, they would only increase their efficiency and objectivity with experience.

The Daniels, on the other hand, places all responsibility on the Secretary of Labor. He would set standards through a time-consuming and complicated procedure involving ad hoc advisory committees. The progress could take as long as 2 years; and it would always take that long because for each new standard an

entirely different and inexperienced ad hoc committee would have to be appointed. Further, the Secretary would enforce the standards, prosecuting violators before Labor Department hearing examiners. Finally, he would issue corrective orders along with assessing civil penalties. It is difficult for me to see how one man or even one department could handle the burden of duties assigned by the committee bill. Certainly, the Steiger substitute provides a much more realistic approach to the goal of efficiency and objectivity.

As for the actual process of setting standards, again the substitute bill is much simpler. It does not require ad hoc committees because it already has a permanent Board to examine the evidence and decide any controversy. The Board would use the formal procedures of the APA, so that a full hearing will be held with an opportunity to cross-examine.

In cases of grave dangers to workers from toxic substances or hazards resulting from new processes, the Board can issue temporary emergency standards which go into effect immediately upon publication in the Federal Register. Emergency standards in the Daniels bill are not effective until 30 days after publication in the Register.

Clearly, the emphasis of the Steiger bill is on the efficient operation of all three functions. But it also includes several provisions which insure fairer treatment than the Daniels bill would. First, the substitute measure permits judicial review of standards by the U.S. court of appeals. There is no such provision in the committee bill.

Second, the Steiger proposal asserts only that employers must provide conditions free from readily apparent dangers, not the vague statement of the committee that employers must furnish safe and healthful working conditions. The confusion that this general coverage will cause when applied to such complex and technical circumstances as those of an industrial plant cannot now be measured, but I am sure that it will prove quite substantial. Besides, a general standard like this only discourages the formulation of specific standards, which is, after all, the basic purpose of the bill.

Third, the substitute measure would authorize relief from situations of imminent danger only through injunctions issued by the district courts. The Daniels bill gives this power to a Labor Department inspector who unfortunately may choose to shut down a plant arbitrarily and may be influenced by business or union pressure. The court injunction provides relief just as quickly, but on the basis of fact not whim.

Fourth, the Steiger bill requires that both employer and employee representatives accompany an inspector; thus, if one is unable to participate in the inspection the other cannot take unfair advantage of his absence.

I believe the subcommittee must be commended for including worthwhile provisions for training grants, research, State involvement, and safety for Federal jobs. But these are also contained in the substitute bill.

In closing, Mr. Chairman, I can only reiterate the necessity for scientific and objective approach to the technical problem of industrial accidents. When 75 out of every 100 teenagers now entering the work force can expect to suffer a disabling injury sometime in his working career, I believe it is time that we face the goal of occupational safety and health not as a matter for partisan politics, but as a challenge to the science and technology of our country. Many of the problems we face are a direct result of the innovations science has enabled us to make; there is no reason, Mr. Speaker, that this same scientific genius should not be applied to their solution.

Mr. SIKES. Mr. Chairman, the House is ready for consideration under the 5-minute rule of the Occupational Safety and Health bill. There is now before us the committee bill, H.R. 16785, and the Steiger-Sikes substitute, H.R. 19200. The sponsors of the committee bill have made it clear in the debate on today that they recognize the bill contains serious deficiencies and they are proposing a number of amendments which are intended to improve the bill. Undoubtedly, these amendments would improve the bill. The fact remains, however, that the substitute will be a much better bill than the improved committee bill. This I am sure will be brought out as the debate continues on tomorrow. Specifically, at that time I want to call attention to the fact that the amendments which are to be offered to the committee bill will fail in important areas to eliminate serious weaknesses which already have been pointed out in the committee bill. I list these in order.

H.R. 16785 vests all functions in the Secretary of Labor. It does not provide for a separate independent Occupational Safety and Health Board to set standards nor for an independent adjudicatory body to hear the cases of alleged violations developed by the Secretary of Labor.

The Daniels bill has an unrealistic set of criteria to which a standard must measure up. For example, standards must in effect guarantee that "no employee will suffer any impairment of health or functional capacity, or diminished life expectancy."

The Daniels bill contains no provision for judicial review of standards. Both the Steiger bill and the Senate-passed bill provide such review.

The Daniels bill requires that a representative of the employer and an authorized representative of the employees be given an opportunity to accompany an inspector on his inspection. This is too broad and inflexible a provision. The Steiger bill permits an employee-authorized representative to accompany an inspector on his rounds only where an employer exercises his option to accompany an inspector.

The Daniels bill would make it a crime—misdemeanor—for any person to give advance notice of a pending inspection. This is a particularly objectionable provision. It is aimed at Labor Department personnel, the very people upon whom Congress would rely so much to carry out the responsibilities under the

bill; and by implication, this provision would make every employer, regardless of his record or good faith, a furtive wrongdoer who somehow must be caught in the act of violating safety and health standards.

In the State-plan section, the Daniels bill requires a State to include in its plan a provision to the effect that the State will make all standards included in the plan applicable to all public employees of the State and its political subdivisions. The problem with this provision is that some States do not exercise control over all public employees working in the State; in some States the local governments control their own public employees. Therefore, both the Senate-passed bill and the Steiger bill provide that to the extent permitted by its law, the State will establish an occupational safety and health program applicable to all employees in the State, which program is as effective as the standards contained in the plan.

H.R. 16785 dangerously extends the Federal Government's jurisdiction to State and local employees. We think this extension unwise and the matter is properly treated in the Steiger-Sikes substitute.

The CHAIRMAN. All time has expired. Pursuant to the rule, the Clerk will read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 16785

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Act".*

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STEIGER OF WISCONSIN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. STEIGER of Wisconsin: Strike out all after the enacting clause and insert:

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments.

(b) The Congress declares it to be its purpose and policy, through the exercise of its powers, to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources—

(1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;

(2) by providing that employers and employees have separate but dependent responsibilities and rights with respect to

achieving safe and healthful working conditions;

(3) by creating a National Occupational Safety and Health Board to be appointed by the President for the purpose of setting mandatory occupational safety and health standards applicable to businesses affecting interstate commerce, and by creating an Occupational Safety and Health Appeals Commission for carrying out adjudicatory functions under the Act;

(4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;

(5) by providing for research in the field of occupational safety and health, including the psychological factors involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;

(6) by exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety;

(7) by providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;

(8) by providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;

(9) by providing for the development and promulgation of occupational safety and health standards;

(10) by providing an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and sanctions for any individual violating this prohibition;

(11) by encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws by providing grants to the States to assist in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this Act, to improve the administration and enforcement of State occupational safety and health laws, and to conduct experimental and demonstration projects in connection therewith;

(12) by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem;

(13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.

#### DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Labor.

(2) The term "Safety and Health Appeals Commission" means the Occupational Safety and Health Appeals Commission established under section 12 of this Act.

(3) The term "Board" means the National Occupational Safety and Health Board established under section 8 of this Act.

(4) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than a State as defined in paragraph (8) of this subsection), or between points in the same State but through a point outside thereof.

(5) The term "person" means one or more

individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(6) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

(7) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(8) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(9) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(10) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (a) has been adopted and promulgated by a nationally recognized public or private standards-producing organization possessing technical competence and under a consensus method which involves consideration of the views of interested and affected parties and (b) has been designated by the Board, after consultation with other appropriate Federal agencies.

(11) The term "established Federal standard" means any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any Act of Congress in force on the date of enactment of this Act.

#### APPLICABILITY OF ACT

SEC. 4. This Act shall apply only with respect to employment performed in a workplace in a State, Wake Island, Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act, Johnston Island, or the Canal Zone, except that this Act shall not apply to any vessel underway on the Outer Continental Shelf lands. The Secretary of the Interior shall, by regulation, provide for judicial enforcement of this Act by the courts established for areas in which there are no Federal district courts having jurisdiction.

#### DUTIES OF EMPLOYERS

SEC. 5. Each employer—

(a) shall furnish to each of his employees employment and a place of employment which are free from any hazards which are readily apparent and are causing or are likely to cause death or serious physical harm to his employees;

(b) shall comply with occupational safety and health standards promulgated under this Act.

#### OCCUPATIONAL SAFETY AND HEALTH STANDARDS

SEC. 6. (a) The National Occupational Safety and Health Board established under section 8 of this Act is authorized to promulgate rules prescribing occupational safety and health standards in accordance with sections 556 and 557 of title 5, United States Code.

(b) Without regard to the provisions of sections 553, 556, and 557, title 5, United States Code, the Board shall, as soon as practicable, but in no event later than three years after the date of enactment of this Act, by rule promulgate as an occupational safety and health standard, any national consensus standard or any established Federal standard, unless it determines that the promulgation of such a standard as an occupational safety and health standard would not

result in improved safety or health for affected employees. In the event of conflict among such standards, the Board shall promulgate the standard which assures the greatest protection of the safety or health of the affected employees. Such national consensus standard or established Federal standard shall take effect immediately upon publication and remain in effect until superseded by a rule promulgated pursuant to subsection (a) of this section.

(c) (1) Whenever the Board promulgates any standard, makes any rule, order, decision, grants any exception or extension of time, it shall include a statement of the reasons for such action, and such statement shall be published in the Federal Register; and

(2) Whenever a rule issued by the Board differs substantially from an existing national consensus standard, the Board shall include in the rule issued a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.

(d) Any agency may participate in the rulemaking under this section.

(e) The Secretary of Labor (with respect to safety issues) or the Secretary of Health, Education, and Welfare (with respect to health issues) may submit a request to the Board at any time to establish or modify occupational safety and health standards indicated in the request. Within sixty days from the receipt of the request, the Board shall commence proceedings under this section.

(f) Any interested person may also submit a request in writing to the Board at any time to establish or modify occupational safety and health standards. The Board shall give due consideration to such request and may commence proceedings under this section on the basis of such request.

(g) If, prior to the publication of the rule, an interested person or agency which submitted written data, views, or arguments makes application to the Board for leave to adduce additional data, views, or arguments and such person or agency shows to the satisfaction of the Board that additions may materially affect the result of the rulemaking procedure and that there were reasonable grounds for failure to adduce such additions earlier, the Board may receive and consider such additions.

(h) In determining the priority for establishing standards under this section, the Board shall give due regard to the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The Board shall also give due regard to the recommendations of the Secretary and the Secretary of Health, Education, and Welfare regarding the need for mandatory standards in determining the priority for establishing such standards.

(i) (1) The Board shall provide without regard to requirements of Ch. 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if it determines (A) that employees are exposed to grave danger from exposure to substances determined to be toxic or from new hazards resulting from the introduction of new processes, and (B) that such emergency standard is necessary to protect employees from such danger.

(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

(3) Upon publication of such standard in the Federal Register the Board shall commence a hearing in accordance with sections 556 and 557 of title 5, United States Code, and the standard as published shall also serve as a proposed rule for the hearing. The Board shall promulgate a standard under

this paragraph no later than six months after publication of the emergency temporary standard as provided in paragraph (2) of this subsection.

(j) (1) Whenever the Board upon the basis of information submitted to it in writing by an interested person (including a representative of an organization of employers or employees, or a nationally recognized standards-producing organization) or by the Secretary or the Secretary of Health, Education, and Welfare, a State or a political subdivision of a State, or on the basis of information otherwise available to it, determines that a rule should be prescribed under subsection (a) of this section, the Board may appoint an advisory committee as provided for in section 7(e) of this Act, which shall submit recommendations to the Board regarding the rule to be prescribed which will carry out the purposes of this Act, which recommendations shall be published by the Board in the Federal Register, either as part of a subsequent notice of proposed rule-making or separately. The recommendations of an advisory committee shall be submitted to the Board within two hundred and seventy days from its appointment, or within such longer or shorter period as may be prescribed by the Board, but in no event may the Board prescribe a period which is longer than one year and three months.

(2) After the submission of such recommendations, the Board shall, as soon as practicable and in any event within four months, schedule and give notice of a hearing on the recommendations of the advisory committee and any other relevant subjects and issues. In the event that the advisory committee fails to submit recommendations within two hundred and seventy days from its appointment (or such longer or shorter period as the Board has prescribed) the Board shall make a proposal relevant to the purpose for which the advisory committee was appointed, and shall within four months schedule and give notice of hearing thereon. In either case, notice of the time, place, subjects, and issues of any such hearing shall be published in the Federal Register thirty days prior to the hearing and shall contain the recommendations of the advisory committee or the proposal made in absence of such recommendation. Prior to the hearing interested persons shall be afforded an opportunity to submit comments upon any recommendations of the advisory committee or other proposal. Only persons who have submitted such comments shall have a right at such hearing to submit oral arguments, but nothing herein shall be deemed to prevent any person from submitting written evidence, data, views, or arguments.

(k) The Board shall within sixty days (where an advisory committee is utilized) or one hundred and twenty days (where no advisory committee is utilized) after completion of the hearing held pursuant to section 6(a) issue a rule promulgating, modifying, or revoking an occupational safety and health standard or make a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date for such period (not in excess of ninety days) as the Board determines may be appropriate to insure that affected employers are given an opportunity to familiarize themselves and their employees with the requirements of the standard.

(1) Any affected employer may apply to the Board for a rule or order for an exemption from the requirements of section 5(b) of this Act. Affected employees shall be given notice by the employer of each such application and an opportunity to participate in a hearing. The Board shall issue such rule or order if it determines on the record, after an opportunity for an inspection and a hearing, that the proponent of the exemption has demonstrated by a preponderance of the evidence that the conditions, practices,

means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Board on its own motion in the manner prescribed for its issuance at any time after six months after its issuance.

(m) Standards promulgated under this section shall prescribe the posting of such labels or warnings as are necessary to apprise employees of the nature and extent of hazards and of the suggested methods of avoiding or ameliorating them.

#### ADVISORY COMMITTEES

SEC. 7. (a) There is hereby established a National Advisory Committee on Occupational Safety and Health (hereafter in this section referred to as the "Committee") consisting of twelve members appointed by the Secretary, four of whom are to be designated by the Secretary of Health, Education, and Welfare, without regard to the civil service laws and composed equally of representatives of management, labor and the public. The Secretary shall designate one of the public members as Chairman. The members shall be selected upon the basis of their experience and competence in the field of occupational safety and health.

(b) The Committee shall advise, consult with, and make recommendations to the Secretary and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act. The Committee shall hold no fewer than two meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

(c) The members of the Committee shall be compensated in accordance with the provisions of subsection 8(g) of this Act.

(d) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

(e) An advisory committee which may be utilized by the Board in its standard-setting functions under section 6 of this Act shall consist of not more than fifteen members and shall include as a member one or more designees of the Secretary of Health, Education, and Welfare, and also as a member one or more designees of the Secretary of Labor and shall include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the employers involved, and of persons similarly qualified to present the viewpoint of the workers involved, as well as one or more representatives of health and safety agencies of the States. An advisory committee may also include such other persons as the Board may appoint who are qualified by knowledge and experience to make a useful contribution to the work of such committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health, and one or more representatives of nationally recognized standards-producing organizations, but the number of persons so appointed to any advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Persons appointed to advisory committees from private life shall be compensated in the same manner as consultants or experts under sec-

tion 8(g) of this Act. The Board shall pay to any State which is the employer of a member of such committee who is a representative of the health or safety agency of that State, reimbursement sufficient to cover the actual cost to the State resulting from such representative's membership on such committee. Any meeting of such committee shall be open to the public and an accurate record shall be kept and made available to the public. No member of such committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

#### NATIONAL OCCUPATIONAL SAFETY AND HEALTH BOARD

SEC. 8. (a) The National Occupational Safety and Health Board is hereby established. The Board shall be composed of five members, having a background either by reason of previous training, education, or experience in the field of occupational safety or health, who shall be appointed by the President, by and with the consent of the Senate, and shall serve at the pleasure of the President. One of the five members may be designated at any time by the President to serve as Chairman of the Board.

(b) Subchapter II (relating to Executive Schedule pay rates) of chapter 52 of title V of the United States Code is amended as follows:

(1) Section 5314 (5 U.S.C. 5314) is amended by adding at the end thereof the following: "(54) Chairman, National Occupational Safety and Health Board."

(2) Section 5315 (5 U.S.C. 5315) is amended by adding at the end thereof the following: "(92) Members, National Occupational Safety and Health Board."

(c) The principal office of the Board shall be in the District of Columbia. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the Secretary of the Board.

(d) The Chairman of the Board shall, without regard to the civil service laws, appoint and prescribe the duties of a Secretary of the Board.

(e) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board, and shall appoint, in accordance with the civil service laws, such officers, hearing examiners, agents, attorneys, and employees as are deemed necessary and to fix their compensation in accordance with the Classification Act of 1949, as amended.

(f) Three members of the Board shall constitute a quorum.

(g) The Board is authorized to employ experts, advisers, and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, and allow them when away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

(h) To carry out its functions under this Act, the Board is authorized to issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and administer oaths. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(i) The Board may order testimony to be taken by deposition in any proceeding pending before it at any stage of such proceeding. Reasonable notice must first be given in writing by the Board or by any party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and de-

pose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as provided in subsection (j) of this section. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(j) In the case of contumacy by, or refusal to obey a subpoena served upon any person under this section, the Federal district court for any district in which such person is found or resides or transacts business, upon application by the United States, and after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and produce documents before the Board, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(k) The Board is authorized to make such rules as are necessary for the orderly transaction of its proceedings.

#### DUTIES OF THE SECRETARY

##### Inspections, Investigations, and Reports

Sec. 9. (a) In order to carry out the purposes of this Act, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

(1) to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and

(2) to question any such employee and to inspect and investigate during regular working hours and at other reasonable times and within reasonable limits and in a reasonable manner, any such area, workplace, or environment, and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein.

(b) If the employer, or his representative, accompanies the Secretary or his designated representative during the conduct of all or any part of an inspection, a representative authorized by the employees shall also be given an opportunity to do so.

(c) Each employer shall make, keep, and preserve for such period of time, and make available to the Secretary such record of his activities concerning the requirements of this Act as the Secretary may prescribe by regulation or order as necessary or appropriate for carrying out his duties under this Act.

(d) In making his inspections and investigations under this Act the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy, failure, or refusal of any person to obey such an order, any district court of the any territory or possession, within the jurisdiction of the United States courts of diction of which such person is found, or resides or transacts business, upon the application by the Secretary, shall have jurisdiction to issue to such person an order requiring such person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(e) In carrying out his responsibilities under this Act, the Secretary is authorized to—

(1) use, with the consent of any Federal agency, the services, facilities, and employees of such agency with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the

agencies of such State or subdivision with or without reimbursement; and

(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually; compensate individuals so employed at rates not in excess of the rate specified at the time of service for grade GS-18 in section 5332 of title 5, United States Code, including travel-time, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

(3) delegate his authority under subsection (a) of this section to any agency of the Federal Government with or without reimbursement and with its consent and to any State agency or agencies designated by the Governor of the State and with or without reimbursement and under conditions agreed upon by the Secretary and such State agency or agencies.

(f) Any information obtained by the Secretary, the Secretary of Health, Education, and Welfare, or a State agency under this Act shall be obtained with a minimum burden upon employers, especially those operating small businesses. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

(g) The Secretary shall prescribe such rules and regulations as he may deem necessary to carry out his responsibilities under this Act, including rules and regulations dealing with the inspection of an employer's establishment.

(h) There are hereby authorized to be appropriated such sums as the Congress shall deem necessary to enable the Secretary to purchase equipment which he determines as necessary to measure the exposure of employees to working environments which might cause cumulative or latent ill effects.

#### CITATION AND SAFETY AND HEALTH APPEALS COMMISSION HEARINGS

Sec. 10. (a) If, upon the basis of an inspection or investigation, the Secretary believes that an employer has violated the requirements of section 5, 6, or 9(c) of this Act, or subsection (e) of this section, or regulations prescribed pursuant to this Act, he shall issue a citation to the employer unless the violation is de minimis. The citation shall be in writing and describe with particularity the nature of the violation, including a reference to the requirement, standard, rule, order, or regulation alleged to have been violated.

(b) In addition, the citation shall include—

(1) the amount of any proposed civil penalties; and

(2) a reasonable time within which the employer shall correct the violation.

(c) The Secretary shall issue each citation within forty-five days from the concurrence of the alleged violation but for good cause the Secretary may extend such period up to a maximum of ninety days from such occurrence.

(d) If an employer notifies the Secretary that he intends to contest a citation issued under this section, the Secretary shall notify the Safety and Health Appeals Commission of the employer's intention and the Safety and Health Appeals Commission shall afford the employer an opportunity for a hearing as provided in section 11 of this Act. However, if the employer fails to notify the Secretary within fifteen days after the receipt of the citation of his intention to contest the citation issued by the Secretary, the citation shall, on the day immediately following the expiration of the fifteen-day period, become a final order of the Safety and Health Appeals Commission.

(e) Each employer who receives a citation under this section shall prominently post such citation or copy thereof at or near each place a violation referred to in the citation occurred.

(f) No citation may be issued under this section after the expiration of three months following the occurrence of any violation.

(g) Whenever the Secretary compromises, mitigates, or settles any penalty assessed under this Act, he shall include a statement of the reasons for such action, and such statement shall be published in the Federal Register.

#### OCCUPATIONAL SAFETY AND HEALTH APPEALS COMMISSION

##### SEC. 11. A. ORGANIZATION AND JURISDICTION—

(1) STATUS.—The Occupational Safety and Health Appeals Commission is hereby established as an independent agency in the Executive Branch of the Government. The members thereof shall be known as the Chairman of the Commission and the Commissioners of the Occupational Safety and Health Appeals Commission.

(2) JURISDICTION.—The Commission shall have such jurisdiction as is conferred on it by this Act.

(3) MEMBERSHIP.—(a) The Commission shall be composed of three Commissioners, appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office.

(b) The salary of the Chairman of the Commission shall be equal to that provided for the executive level in section 5314, title 5, United States Code, and the salary of the remaining two Commissioners shall be in accordance with the executive level as provided in section 5315, title 5, United States Code.

(c) The terms of office of the Commissioners shall be as follows: one Commissioner shall be appointed for a term of two years, one Commissioner shall be appointed for a term of four years, and the remaining Commissioner for a term of six years, respectively. Their successors shall be appointed for terms of six years each, except that vacancy caused by death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term. A Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(d) A Commissioner removed from office in accordance with the provisions of this section shall not be permitted at any time to practice before the Commission.

(4) ORGANIZATION.—(a) The Commission shall have a seal which shall be judicially noticed.

(b) The President may at any time designate one of the three Commissioners to serve as Chairman of the Commission.

(c) A majority of the Commissioners shall constitute a quorum for the transaction of the Commission's business. A vacancy shall not impair its powers nor affect its duties.

(d) The principal office of the Commission shall be in the District of Columbia, but it may sit at any place within the United States giving due consideration to the expeditious conduct of its proceedings and the convenience of the parties.

(5) HEARING EXAMINERS.—(a) The Commission may appoint hearing examiners to conduct such business as the Commission may require. Each hearing examiner shall be an attorney at law and shall be selected from the Civil Service Commission list of individuals eligible for selection as administrative hearing examiners.

(b) Except as otherwise provided in this Act, the hearing examiners shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to 5 U.S.C.

5108. Each hearing examiner shall receive compensation at a rate not less than the GS-16 level.

#### B. PROCEDURE—

(1) REPRESENTATION OF PARTIES.—The Secretary or his delegate shall be represented by the Solicitor of Labor or his delegate before the Commission. The respondent shall be represented in accordance with the rules of practice prescribed by the Commission.

(2) RULES OF PRACTICE, PROCEDURE, AND EVIDENCE.—The proceedings of the Commission shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Commission may prescribe and in accordance with the rules of evidence applicable in trials without a jury in the United States District Court of the District of Columbia.

(3) SERVICE OF PROCESS.—The mailing by certified mail or registered mail or any pleading, decision, order, notice or process in respect of proceedings before the Commission shall be held sufficient service of such pleading, decision, order, notice, or process.

(4) ADMINISTRATION OF OATHS AND PROCUREMENT OF TESTIMONY.—For the efficient administration of the functions vested in the Commission any Commissioner of the Commission, the clerk of the Commission, or any other employee of the Commission designated in writing for the purpose by the Chairman of the Commission, may administer oaths, and any Commissioner may examine witnesses and require, by subpoena ordered by the Commission and signed by the Commissioner (or by the Secretary of the Commission or by any other employee of the Commission when acting under authority from the Secretary of the Commission)—

(a) "The attendance and testimony of witnesses, and the production of all necessary books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, or

(b) The taking of a deposition before any designated individual competent to administer oaths under this title. In the case of a deposition the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall then be subscribed by the deponent.

(5) WITNESS FEES.—(a) Any witness summoned or whose deposition is taken shall receive the same fees and mileage as witnesses in courts of the United States.

(b) Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

(A) In the case of witnesses for the Secretary or his delegate, such payments shall be made by the Secretary or his delegate out of any moneys appropriated for the enforcement of this Act and may be made in advance.

(B) In the case of any other witnesses, such payments shall be made, subject to rules prescribed by the Commission, by the party at whose instance the witness appears or the deposition is taken.

(6) HEARINGS.—Notice and opportunity to be heard upon any proceeding instituted before the Commission shall be given to the respondent and the Secretary or his delegate. If an opportunity to be heard upon the proceedings is given before a hearing examiner of the Commission, neither the respondent nor the Secretary nor his delegate shall be entitled to notice and opportunity to be heard before the Commission upon review, except upon a specific order of the Chairman of the Commission. Hearings before the Commission shall be open to the public, and the testimony, and, if the Commission so requires, the argument, shall be stenographically reported. The Commission is authorized to contract for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Commission and to others and agencies.

(7) REPORTS AND DECISIONS.—(a) A report upon any proceeding instituted before the Commission and a decision thereon shall be made as quickly as practicable. The decision shall be made by a Commissioner in accordance with the report of the Commission, and such decision so made shall, when entered, be the decision of the Commission.

(b) It shall be the duty of the Commission to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion. The Commission shall report in writing all its findings of fact, opinions, and memorandum opinions.

(c) A decision of the Commission dismissing the proceeding shall be considered as its decision.

(8) PROCEDURES IN REGARD TO THE HEARING EXAMINERS.—(a) A hearing examiner shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such hearing examiner by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceeding.

(b) The report of the hearing examiner shall become the report of the Commission within thirty days after such report by the hearing examiner unless within such period any Commissioner has directed that such report shall be reviewed by the Commission. Any preliminary action by a hearing examiner which does not form the basis for the entry of the final decision shall not be subject to review by the Commission except in accordance with such rules as the Commission may prescribe. The report of a hearing examiner shall not be a part of the record in any case in which the Chairman directs that such report shall be reviewed by the Commission.

(9) PUBLICITY OF PROCEEDINGS.—All reports of the Commission and all evidence received by the Commission, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public; except that after the decision of the Commission in any proceeding which has become final the Commission may, upon motion of the respondent or the secretary or his delegate, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Commission; or the Commission may, on its own motion, make such other disposition thereof as it deems advisable.

(10) PUBLICATION OF REPORTS.—The Commission shall provide for the publication of its reports at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the reports the Commission shall provide for the publication of the United States and of the several States without any further proof or authentication thereof. Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

(11) Upon issuance of a citation and notification of the Commission, pursuant to section 10, the Commission shall afford an opportunity for a hearing, and shall issue such orders, and make such decisions, based upon findings of fact, as are deemed necessary to enforce the Act.

#### C. MISCELLANEOUS PROVISIONS.—

(1) EMPLOYEES.—(a) Appointment and Compensation. The Commission is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1949 (63 Stat. 954; 5 U.S.C., chapter 21), as amended to fix the compensation of such employees, including a Secretary to the Commission, as may be necessary to efficiently execute the functions vested in the Commission.

(b) Expenses for Travel and Subsistence.

The employees of the Commission shall receive their necessary traveling expenses, and expenses for subsistence while traveling on duty and away from their designated stations, as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C., chapter 16).

(2) EXPENDITURES.—The Commission is authorized to make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary to efficiently execute the functions vested in the Commission. All expenditures of the Commission shall be allowed and paid, out of any moneys appropriated for purposes of the Commission, upon presentation of itemized vouchers therefor signed by the certifying officer designated by the Chairman.

(3) DISPOSITION OF FEES.—All fees received by the Commission shall be covered into the Treasury as miscellaneous receipts.

(4) FEE FOR TRANSCRIPT OF RECORD.—The Commission is authorized to fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

#### PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 12. (a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act.

(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to section 11 of this Act. The proceeding shall be as provided by Rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the Secretary that relief be sought.

(d) If the Secretary unreasonably fails to petition the court for appropriate relief under this section and any employee is injured thereby either physically or financially by reason of such failure on the part of the Secretary, such employee may bring an action against the United States in the Court of Claims in which he may recover the damages he has sustained, including reasonable court costs and attorney's fees.

(e) In any case where a temporary restraining order is obtained under this section by the Secretary, the court which grants such relief shall set a sum which it deems proper for the payment of such costs, damages, and attorney's fees as may be incurred or suffered by any employer who is found to have been wrongfully restrained or enjoined. In no case shall any employer wrongfully restrained or enjoined be entitled to a recovery for costs, damages, and attorney's fees in excess of the sum set by the court.

#### JUDICIAL PROCEEDINGS

SEC. 13. (a) (1) Any employer required by an order of the Commission to comply with the standards, regulations, or requirements under this Act, or to pay a penalty, may obtain judicial review of such order by filing a petition for review, within sixty days after service of such order, in the United States

court of appeals for the circuit wherein the violation is alleged to have occurred or wherein the employer has its principal office. A copy of the petition shall forthwith be transmitted by the clerk of the court to the Commission and to the Secretary.

(2) The Secretary may also obtain judicial review or enforcement of a decision of the Commission as provided in subsection (1) of this section.

(3) Until the record in a case shall have been filed in a court, as herein provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part any finding, order, or rule made or issued by it.

(4) Upon the filing of a petition for review under this section, such court shall have jurisdiction of the proceeding and shall have power to affirm the order of the Commission, or to set aside, in whole or in part, temporarily or permanently, and to enforce such order to the extent that it is affirmed. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order requiring compliance with the terms of the order of the Commission. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court, operate as a stay of the order of the Commission.

(5) No objection to the order of the Commission shall be considered by the court unless such objection was urged before the Commission or unless there were reasonable grounds for failure to do so. The findings of the Commission as to the facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive, but the court, for good cause shown, may remand the case to the Commission for the taking of additional evidence in such manner and upon such terms and conditions as the court may deem proper, in which event the Commission may make new or modified findings and shall file such findings (which, if supported by substantial evidence on the record considered as a whole, shall be conclusive) and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence.

(6) The judgment of the court affirming or setting aside, in whole or in part, any order under this subsection shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(7) An order of the Commission shall become final under the same conditions as an order of the Federal Trade Commission under section 45(g) of title 15, United States Code.

(b) Any interested person affected by the action of the Board in issuing a standard under section 6 may obtain review of such action by the United States Court of Appeals for the District of Columbia by filing in such court within thirty days following the publication of such rule a petition praying that the action of the Board be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon the Board and thereupon the Board shall certify and file in the court the record upon which the action complained of was issued as provided in section 2112 of title 28, United States Code. Review by the court shall be in accord with the provisions of section 706 of title 5, United States Code. The court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may thereupon make new or modified findings of fact and may modify its previous action and shall certify to the court the record of the further proceedings. The remedy provided by this subsection for reviewing a standard or rule shall be exclusive. The judg-

ment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of a proceeding under this subsection shall not, unless specifically ordered by the court, delay the application of the Board's standards.

(c) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil suit in the name of the United States brought in the Federal district court in the district where the violation is alleged to have occurred or where the employer has its principal office.

(d) The Federal district courts shall have jurisdiction of actions to collect penalties prescribed in this Act and may provide such additional relief as the court deems appropriate to carry out the order of the Occupational Safety and Health Appeals Commission.

#### REPRESENTATION IN CIVIL LITIGATION

SEC. 14. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court and the Court of Claims, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

#### CONFIDENTIALITY OF TRADE SECRETS

SEC. 15. All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when essential in any proceeding under this Act. However, any such information shall be recorded and presented off the official public record, and shall be kept and preserved separately.

#### VARIATIONS, TOLERANCES, AND EXEMPTIONS

SEC. 16. The Board, on the record, after notice and opportunity for a hearing may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as it may find necessary and proper to avoid serious impairment of the national defense. Such action shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing.

#### PENALTIES

SEC. 17. (a) Any employer who willfully or repeatedly violates the requirements of section 5 of this Act, any standard or rule promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, may be assessed a civil penalty of not more than \$10,000 for each violation.

(b) Any citation for a serious violation of the requirements of section 5 of this Act, of any standard or rule promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, shall include a proposed penalty of up to \$1,000 for each such violation.

(c) Any employer who violates the requirements of section 5 of this Act, any standard or rule promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, and such violation is specifically determined by the Secretary not to be of a serious nature, the Secretary may include in the citation issued for such violation a proposed penalty of up to \$1,000 for each such violation.

(d) Any employer who violates any order or citation which has become final in accordance with the provision of section 10 of this Act may be assessed a penalty of up to \$1,000 for each such violation. When such violation is of a continuing nature, each day during which it continues shall constitute a separate offense for the purpose of assessing the penalty except where such order or citation is ending review under section 11 of this Act.

(e) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of inspections or investigatory duties under this Act shall be fined not more than \$5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years or both. Whoever kills a person while engaged in or on account of the performance of inspecting or investigatory duties under this Act shall be punished by imprisonment for any term of years or for life.

(f) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed by the Commission a civil penalty of up to \$1,000 for each such violation.

(g) Any person who discharges or in any other manner discriminates against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in such proceeding, shall be assessed a civil penalty by the Commission of up to \$10,000. Such person may also be subject to a fine of not more than \$10,000 or imprisonment of a period not to exceed ten years or both.

(h) The Commission shall have authority to assess and collect all penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(i) For purposes of this section a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the Secretary determines that the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

#### STATE JURISDICTION AND STATE PLANS

SEC. 18. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect under section 6.

(b) Any State which, at any time, desires to assume responsibility for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of safety and health standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) are or will be at least as

effective in providing safe and healthful employment and places of employment as the standards promulgated under section 6 which relate to the same issues.

(3) provides for a right of entry and inspection of all workplaces subject to the Act which is at least as effective as that provided in section 9(a)(1), and includes a prohibition on advance notice of inspection.

(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program is as effective as the standards contained in an approved plan,

(7) requires employers in the State to make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect, and

(8) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 9, 10, 11, and 12 with respect to comparable standards promulgated under section 6, for the period specified in the next sentence. The Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such determination for at least three years after the plan's approval under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of sections 5(b), 9 (except for the purpose of carrying out subsection (c)), 10, 11, and 12, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 10 or 11 before the date of determination.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(g) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of

notice of such decision a petition praying that the action of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan to be arbitrary and capricious, the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

#### FEDERAL AGENCY SAFETY PROGRAMS AND RESPONSIBILITIES

SEC. 19. (a) It shall be the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6. The head of each agency shall (after consultation with representatives of the employees thereof)—

(1) provide safe and healthful places and conditions of employment, consistent with the standards set under section 6;

(2) acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees;

(3) keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action;

(4) consult with the Secretary with regard to the adequacy as to form and content of records kept pursuant to subsection (a)(3) of this section; and

(5) make an annual report to the Secretary with respect to occupational accidents and injuries and the agency's program under this section. Such report shall include any report submitted under section 7902(e) (2) of title 5, United States Code.

(b) The Secretary shall report to the President a summary or digest of reports submitted to him under subsection (a)(5) of this section, together with his evaluations of and recommendations derived from such reports. The President shall transmit annually to the Senate and the House of Representatives a report of the activities of Federal agencies under this section.

(c) Section 7902(c)(1) of title 5, United States Code is amended by inserting after "agencies" the following: "and of labor organizations representing employees".

(d) The Secretary shall have access to records and reports kept and filed by Federal agencies pursuant to subsections (a)(3) and (5) of this section unless those records and reports are specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy, in which case the Secretary shall have access to such information as will not jeopardize national defense or foreign policy.

#### TRAINING AND EMPLOYEE EDUCATION

SEC. 20. (a) The Secretary of Health, Education, and Welfare, after consultation with the Secretary of Labor, the Board and with other appropriate Federal departments and agencies, shall conduct, directly or by grants or contracts (1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and (2) informational programs on the importance of and proper use of adequate safety and health equipment.

(b) The Secretary is also authorized to conduct (directly or by grants or contracts) short-term training of personnel engaged in work related to his responsibilities under this Act.

(c) The Secretary, in consultation with the Secretary of Health, Education, and Welfare,

shall provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in employments covered by this Act, and to consult with and advise employers and employees, and organizations representing employers and employees as to effective means of preventing occupational injuries and illnesses.

#### GRANTS TO THE STATES

SEC. 21. (a) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 18(c) to assist them (1) in identifying their needs and responsibilities in the area of occupational safety and health, (2) in developing State plans under section 18, or (3) in developing plans for—

(A) establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(B) increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; (or)

(C) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of this Act.

(b) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States for experimental and demonstration projects consistent with the objectives set forth in subsection (a) of this section.

(c) The Governor of the State shall designate the appropriate State agency, or agencies, for receipt of any grant made by the Secretary under this section.

(d) Any State agency, or agencies, designated by the Governor of the State, desiring a grant under this section shall submit an application therefor to the Secretary.

(e) The Secretary shall review the application, and shall, after consultation with the Secretary of Health, Education, and Welfare, approve or reject such application.

(f) The Federal share for each State grant under subsection (a) or (b) of this section may be up to 90 per centum of the State's total cost. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(g) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans approved by the Secretary pursuant to section 18 of this Act. The Federal share for each State grant under this subsection may be up to 50 per centum of the State's total cost. The last sentence of subsection (f) shall be applicable in determining the Federal share under this subsection.

(h) Prior to June 30, 1973, the Secretary shall, after consultation with the Secretary of Health, Education, and Welfare, transmit a report to the President and to Congress, describing the experience under the program and making any recommendations he may deem appropriate.

#### ECONOMIC ASSISTANCE TO SMALL BUSINESSES

SEC. 22. (a) Section 7(b) of the Small Business Act, as amended, is amended—

(1) by striking out the period at the end of "paragraph (5)" and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (5) a new paragraph as follows:

"(6) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to par-

ticipate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in affecting additions to or alterations in the equipment, facilities, or methods of operation of such business in order to comply with the applicable standards promulgated pursuant to section 6 of the Occupational Safety and Health Act or standards adopted by a State pursuant to a plan approved under section 18 of the Occupational Safety and Health Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of the Small Business Act, as amended, is amended by striking out "or (5)" after "paragraph (3)" and inserting a comma followed by "(5) or (6)".

(c) Section 4(c)(1) of the Small Business Act, as amended, is amended by inserting "7(b)(6)," after "7(b)(5)".

(d) Loans may also be made or guaranteed for the purposes set forth in section 7(b)(6) of the Small Business Act, as amended, pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965, as amended.

#### RESEARCH AND RELATED ACTIVITIES

SEC. 23. (a) (1) The Secretary of Health, Education, and Welfare, after consultation with the Secretary, the Board, and with other appropriate Federal departments or agencies, shall conduct (directly or by grants or contracts) research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems.

(2) The Secretary of Health, Education, and Welfare shall from time to time consult with the Board in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce criteria, including criteria identifying toxic substances, enabling the Board to meet its responsibility for the formulation of safety and health standards under this Act; and the Secretary of Health, Education, and Welfare, on the basis of such research, demonstrations, and experiments and any other information available to him, shall develop and publish at least annually such criteria as will effectuate the purposes of this Act.

(3) The Secretary of Health, Education, and Welfare shall also conduct special research, experiments, and demonstrations relating to occupational safety and health as are necessary to explore new problems, including those created by new technology in occupational safety and health, which may require ameliorative action beyond that which is otherwise provided for in the operating provisions of this Act. The Secretary of Health, Education, and Welfare shall also conduct research into the motivational and behavioral factors relating to the field of occupational safety and health.

(4) The Secretary of Health, Education, and Welfare shall publish within six months of enactment of this Act and thereafter as needed but at least annually a list of all known toxic substances by generic family or other useful grouping, and the concentrations at which such toxicity is known to occur.

(5) The Board shall respond, as soon as possible, to a request by any employer or employee for a determination whether or not any substance normally found in a working place has toxic or harmful effects in such concentration as used or found.

(b) The Secretary of Health, Education, and Welfare is authorized to make inspections and question employers and employees as provided in section 9 of this Act in order

to carry out his functions and responsibilities under this section.

(c) The Secretary is authorized to enter into contracts, agreements, or other arrangements with appropriate public agencies or private organizations for the purpose of conducting studies relating to his responsibilities under this Act. In carrying out his responsibilities under this subsection, the Secretary and the Secretary of Health, Education, and Welfare shall cooperate in order to avoid any duplication of efforts under this section.

(d) Information obtained by the Secretary, the Board, and the Secretary of Health, Education, and Welfare under this section shall be disseminated by the Secretary to employers and employees and organizations thereof.

#### STATISTICS

SEC. 24. (a) In order to further the purposes of this Act, the Secretary shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this Act but shall not cover employments excluded by section 4 of the Act.

(b) To carry out his duties under subsection (a) of this section, the Secretary may:

(1) Promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics.

(2) Make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics.

(3) Arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(c) The Federal share for each State grant under subsection (b) of this section may be up to 50 per centum of the State's total cost.

(d) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(e) On the basis of the records made and kept pursuant to section 9(c) of this Act, employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

(f) Agreements between the Department of Labor and the States pertaining to the collection of occupational safety and health statistics already in effect on the effective date of this Act shall remain in effect until superseded by grants or contracts made under this Act.

#### EFFECT ON OTHER LAWS

SEC. 25. (a) Nothing in this Act shall be construed or held to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, occupational or other diseases, or death of employees arising out of, or in the course of, employment.

(b) Nothing in this Act shall apply to working conditions of employees with respect to whom other Federal agencies, and State agencies acting under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021) exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(c) The safety and health standards promulgated under the Walsh-Healey Public

Contracts Act (41 U.S.C. 35 et seq.), the Service Contract Act (41 U.S.C. 351 et seq.), and the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.), are deemed repealed and rescinded on the effective date of corresponding standards promulgated under this Act, as determined by the Secretary of Labor to be corresponding standards.

(d) Nothing in this Act shall apply to any employer who is a contractor or subcontractor for construction, alteration, and/or repair of buildings or works, including painting or decorating in the regular course of his business.

(e) The Secretary shall, within three years after the effective date of this Act, report to the Congress his recommendations for legislation to avoid unnecessary duplication and to achieve coordination between this Act and other Federal laws.

(f) Section 2 of the Act of August 9, 1969 (Public Law 91-54; 83 Stat. 96), is hereby amended to read as follows:

"Sec. 2. The first section and section 2 of the Act of August 13, 1962, are each amended by inserting 'and Construction Safety and Health' before 'standards' each time it appears."

(g) Subsection 107 of Public Law 91-54 (83 Stat. 96) is amended to read as follows:

"Sec. 107. (a) (1) It shall be a condition of each contract which is entered into under legislation subject to Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and is for construction, alteration, and/or repair, including painting and decorating, that no contractor or subcontractor contracting for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards promulgated by the Secretary by regulation based on proceedings pursuant to section 553 of title 5, United States Code, provided that such proceedings include a hearing of the nature authorized by said section. The Secretary of Labor shall consult with the Advisory Committee on Construction Safety and Health created by subsection (f) and shall give due regard to the Committee's recommendations and information in framing proposed rules or subjects and issues in setting standards in accordance with section 443 of title 5, United States Code.

"(2) Each employer as defined in section 3(6) of the Occupational Safety and Health Act who is a contractor or subcontractor for construction, alteration, and/or repair of buildings or works, including painting and decorating in the regular course of business, shall comply with construction safety and health standards promulgated under this section."

(b) Subsection (b) of section 107 of Public Law 91-54 (83 Stat. 96) is amended to read as follows:

"(b)(1) The Secretary is authorized to make inspections and investigations pursuant to sections 9 (a), (c), and (d) of the Occupational Safety and Health Act. If upon the basis of inspection or investigation, the Secretary believes that an employer subject to the provisions of section 107(a)(2) has violated any health or safety standard promulgated under section 107(a) of this Act, or has violated the condition required of any contract to which subsection (a) of this section applies, the Secretary shall issue a citation to the employer unless the violation is de minimis. The provisions of section 10 (except subsection (c) thereof) of the Occupational Safety and Health Act shall apply to citations issued under this Act. In issuing citations under this Act, the Secretary shall issue each citation at the earliest possible

time from the occurrence of the alleged violation but in no event later than forty-five days from the occurrence of the alleged violation except that for good cause the Secretary may extend such period up to a maximum of ninety days from such occurrence. The provisions of section 12 of the Occupational Safety and Health Act shall also apply to this Act.

"(2) If, after notice and opportunity for hearing, the Commission determines that a violation has occurred of any condition prescribed by this section for a contract of the type described in clause (1) or (2) of section 103(a) of this Act, the governmental agency for which the contract work is done shall have the right to cancel the contract, and to enter into other contracts for the completion of the contract work, charging any additional cost to the original contractor. If, after notice and opportunity for hearing, the Commission determines that a violation has occurred of any condition prescribed by this section for a contract of the type described in clause 3 of section 103(a), the governmental agency by which financial guarantee, assistance, or insurance for the contract work is provided shall have the right to withhold any such assistance attributable to the performance of the contract. Section 104 of this Act shall not apply to the enforcement of this section."

(1) Subsection (c) of section 107 of Public Law 91-54 (83 Stat. 96) is hereby repealed and subsection (d) of that section is redesignated as subsection "(c)" and is amended to read as follows:

"(c) (1) If the Commission determines on the record after an opportunity for hearing that by repeated willful or grossly negligent violations of this Act, a contractor or subcontractor has demonstrated that the provisions of subsection (b) of this section and actions by the Secretary under paragraph (3) of this subsection are not effective to protect the safety and health of his employees, the Commission shall make a finding to that effect and shall, not sooner than thirty days after giving notice of the findings to all interested persons, transmit the name of such contractor or subcontractor to the Comptroller General.

"(2) The Comptroller General shall distribute each name so transmitted to him to all agencies of the Government. Unless the Commission otherwise recommends, no contract subject to this section shall be awarded to such contractor or subcontractor or to any person in which such contractor or subcontractor has a substantial interest until three years have elapsed from the date the name is transmitted to the Comptroller General. If, before the end of such three-year period, the Commission, after affording interested persons due notice and opportunity for hearing, is satisfied that a contractor or subcontractor whose name he has transmitted to the Comptroller General will thereafter comply responsibly with the requirements of this section, the Commission shall terminate the application of the preceding sentence to such contractor or subcontractor (and to any person in which the contractor or subcontractor has a substantial interest); and when the Comptroller General is informed of the Commission's action he shall inform all agencies of the Government thereof.

"(3) Any person aggrieved by an action of the Commission under subsections (b) or (c) of this section may seek a review of such action in the appropriate United States Court of Appeals pursuant to the provisions of section 13(a) of the Occupational Safety and Health Act. The Secretary may also obtain judicial review or seek enforcement as provided in sections 13(a) and 13 (c) and (d), and section 14 of the Occupational Safety and Health Act."

(j) Section 107 of Public Law 91-54 (83 Stat. 96) is amended by adding a new subsection "(d)" immediately after the new

section "(c)". Subsection (e) of section 107 of Public Law 91-54 (83 Stat. 96) is hereby redesignated as subsection "(f)" and subsection (f) of section 107 of Public Law 91-54 (83 Stat. 96) is accordingly redesignated as subsection "(g)". The new subsection "(d)" shall read as follows:

"(d) (1) Any employer who willfully or repeatedly violates the standards promulgated by the Secretary under section 107(a) of this Act, may be assessed a civil penalty of not more than \$10,000 for each violation.

"(2) Any citation for a serious violation of the standards promulgated by the Secretary under section 107(a) of this Act shall include a proposed penalty of up to \$1,000 for each such violation.

"(3) Any employer who violates the standards promulgated by the Secretary under section 107(a) of this Act and such violation is specifically determined by the Secretary not to be of a serious nature, the Secretary may include in the citation issued for such a violation a proposed penalty of up to \$1,000 for each such violation.

"(4) Any employer who violates any order or citation which has become final in accordance with the provisions of section 10 of the Occupational Safety and Health Act may be assessed a penalty of up to \$1,000 for each such violation. When such violation is of a continuing nature, each day during which it continues shall constitute a separate offense for the purpose of assessing the penalty except where such order or citation is pending review under section 11 of the Occupational Safety and Health Act.

"(5) Any employer who violates any of the posting requirements, as prescribed in section 10(e) of the Occupational Safety and Health Act, shall be assessed by the Commissioner a civil penalty of up to \$1,000 for each such violation.

"(6) Any person who discharges or in any other manner discriminates against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, shall be assessed a civil penalty by the Commission of up to \$10,000. Such person may also be subject to a fine of not more than \$10,000 or imprisonment of a period not to exceed ten years, or both.

"(7) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of inspections or investigatory duties under this Act shall be fined not more than \$5,000 or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years or both. Whoever kills a person while engaged in or on account of the performance of inspecting or investigatory duties under this Act shall be punished by imprisonment for any terms of years or for life.

"(8) The Commission shall have authority to assess and collect all penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

"(9) For the purpose of this subsection a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been or are in use, in such place of employment unless the Secretary determines that the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation."

#### AUDITS

SEC. 26. (a) Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any grant under this Act that are pertinent to any such grant.

#### REPORTS

SEC. 27. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health, Education, and Welfare shall each prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress concerning the achievement of its purposes, the needs and requirements in the field of occupational safety and health, and any other relevant information, and including any recommendations to effectuate the purposes of this Act.

#### OBSERVANCE OF RELIGIOUS BELIEFS

SEC. 28. Nothing in this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such medical examination, immunization, or treatment is necessary for the protection of the health or safety of others.

#### APPROPRIATIONS

SEC. 29. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

#### EFFECTIVE DATE

SEC. 30. This Act shall take effect one hundred and twenty days after the date of its enactment.

#### SEPARABILITY

SEC. 31. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Mr. STEIGER of Wisconsin (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

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

Mr. O'HARA. Mr. Chairman, reserving the right to object, I would like to inquire of the gentleman from Wisconsin if the amendment can be found by the Members in bill form, and is it identical to the language in the bill?

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

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

Mr. STEIGER of Wisconsin. Mr. Chairman, it is found in bill form as H.R. 19200. It has been available, of course, to the Members. If the gentleman will yield further under his reservation, it is

identical to the bill introduced previously.

Mr. O'HARA. Mr. Chairman, I withdraw my reservation of objection.

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

Mr. DANIELS of New Jersey. Mr. Chairman, reserving the right to object, I would like to announce that, in connection with my remarks in the course of the debate today, I inserted with my remarks the text of all the proposed amendments I intend to offer tomorrow together with an explanation as to the effect of those amendments. I mention that so all Members of the House may have an opportunity tomorrow morning to look at the CONGRESSIONAL RECORD and acquaint themselves with the amendments I propose to offer.

Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

Mr. PERKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. CORMAN, 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. 16785) to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes, had come to no resolution thereon.

#### GENERAL LEAVE

Mr. STEIGER of Wisconsin. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to extend their remarks and include extraneous matter on the bill H.R. 16785, which has been under consideration.

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

There was no objection.

#### A MOMENT OF THANKS

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. Though we have endeavored for nearly a year, in a campaign to highlight the positive side of this Nation's growth and promise, I think it is especially appropriate as we approach Thanksgiving Day to emphasize again that economically, spiritually, and culturally the United

States does, indeed, have good reason to be thankful. It is heartening to see the pride in this Nation's achievements reflected in the news media of southeastern Ohio. Mr. Ralph Wilson, editor and publisher of the Spirit of Democracy, which has been serving the citizens of Monroe County, Ohio, since 1844, has authored a fitting and thoughtful editorial underscoring the significance of Thanksgiving Day. With your permission, Mr. Speaker, I include this editorial in the RECORD at this time:

#### A MOMENT OF THANKS

This being the week of Thanksgiving, the SPIRIT finds it only fitting and proper—and necessary—to take time to recount all the blessings we have to be thankful for.

Too many people—especially young people—think of Thanksgiving as a day of pleasure, of rich turkey dinners and a vacation from the monotony of every day life. There are invariably relatives and friends to gather with, for fun and gaiety.

And older folks, having lived more and known more of life, are more likely to appreciate their happiness, they, too, may not find time to be really thankful.

The Pilgrims originated Thanksgiving Day, to show their thanks for the blessings bestowed upon them, in the New World of freedom, in a land of opportunity and choice.

Even today, after over three centuries of building and creating and learning, we set aside a special day of remembrance to offer thanks for the bounties provided us, for the land called America, and for the freedom to truly show thanks to the God of our choice.

Today, America greatly changed, greatly advanced and progressed, we accept what we have in a matter-of-fact sort of way. We stumble along, day to day, living in self-made worlds. And seldom, if ever, do we really consider what put us in the positions we are in, what gave us the ability to shape our lives and careers.

We have children, to be proud of, to share with, to be part of. Through some undefined power, we create life from love, and build both from there.

Better medical facilities, saving countless lives, and for many people making life livable and worthwhile, are available.

Better food, better housing, modern conveniences and even better jobs. All part of a very normal, everyday life—all taken for granted.

Better education, the opportunity to go on to college, to become anything, anyone you wish to be—all taken for granted.

And America—a land of beauty and freedom, with all the rights and privileges that go hand in hand with being an American—and all taken for granted.

On this Thanksgiving Day, let us stop and examine ourselves. Let us take time to fully realize all that we have to be thankful for.

And on this Thanksgiving Day, let us somewhere, sometime, take a moment to consider the world we live in, and the wonder of all we have.

Let us be thankful, and give thanks.

#### THE GROWING PROBLEM OF "OBSESSIVE ANTIMILITARISM"

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL), is recognized for 15 minutes.

Mr. MICHEL. Mr. Speaker, as we know, the Congress was not in session earlier this month when the Nation observed the celebration of Veterans Day in honor of those millions of men and

women who have served their country in a military capacity over the years.

In the November 11 edition of the Washington Evening Star, Columnist Smith Hempstone, recalled some of his own wartime experiences and then went on to some serious discussion of a growing problem which, as a former combat infantryman, has caused me a great deal of concern. I am referring to what Mr. Hempstone very accurately characterizes as an "obsessive antimilitarism" attitude expressed by certain individuals and groups around the country, especially the intellectual community and, also I am sorry to say, Members of the Congress itself.

I ask that Mr. Hempstone's column be placed in the RECORD at this point in my remarks and then I should like to express some thoughts as to what effect this antimilitary attitude might have on our efforts to abolish the draft and move in to a system of an all-volunteer armed service for defense of the country.

The article follows:

[From the Washington Evening Star, Nov. 11, 1970]

BRINGING CHICO HERNANDEZ DOWN FROM HILL 722

(By Smith Hempstone)

From the forests of the Ardennes to the black sands of Iwo Jima, the long rows of crosses and stars of David march in ordered ranks. The military cemeteries spotted around the world, which contain the final resting places of some of the 658,000 Americans who gave their lives in this country's nine major wars, are quiet places which no man can visit and leave unmoved.

Always, no matter how remote the site, there will be a few other people there. Perhaps two old people, in search of a son's grave, or a middle-aged woman come to gaze on all that remains of a remembered love, a joy extinguished.

The memories come flooding back, the faces of those whose luck ran out at some unnamed crossroad, some razor backed ridge identified only by its altitude. Sometimes it is hard to remember the names of those with whom you served, but you do not forget the faces, or the times that were either very good or very bad. Remembering how it was, you do not want it back again, but you would not trade those memories for gold, if only because they recall days when you were a part of something bigger than yourself and there were only those who shared what you had known, and the rest of the world, which had not.

Was it worth it? Was that miserable piece of real estate they called Heartbreak Ridge (and one American in 100,000 couldn't tell you where it is) really worth the lives of The Greek (presumably he had another name but not for us) and Jimmy Dunn and all the others? Were freedom and democracy served by the breaking of the body of Chico Hernandez, who cried quietly in Spanish for his mother as we carried him down Hill 722 in a poncho slung between two rifles, only to find him dead at the bottom?

It would be presumptuous for one who was lucky to try to answer. It would be blasphemous for one who was not there to say. Only Chico could say, and he is in no position to do so. Because he was not very smart—otherwise he would have faked a physical debility and avoided the draft—I rather suspect that he would be appalled by the question.

Anyway, today is Veterans Day and it is about time the people of this country—and particularly what passes for the intellectual community—acknowledged their debt to

Chico Hernandez and The Greek and give a little thought to their attitude toward the present generation of military men.

The military are not and should not be any more exempt from criticism than lawyers or doctors or trade unionists or, perish the thought, intellectuals. But the delight with which certain elements of society seize upon incidents such as the alleged atrocities at My Lai or the recent (and culpable) faking of a citation for a general serving in Vietnam betrays an obsessive anti-militarism that is as dangerous as it is unjust. Indeed, as sociologist Charles C. Moskos Jr. points out, anti-militarism has become the anti-Semitism of the intellectuals.

Ward Just, in his very fine and fair book, "Soldiers" (to be published in hardback in January; it was featured in the October and November issues of *The Atlantic*), points out that there is among the military a "sense of isolation" from the rest of American society which is "palpable." As anyone who has any contact with the military knows, Just could not be more right: the morale of the men and women charged with the defense of this country could hardly be lower than it is at this moment.

Fundamentally, this malaise stems from the Vietnam war and the attitude of the public—or, more correctly, of those who shape public opinion—toward it. As anyone who is not totally divorced from reality knows, very few military men—officers or enlisted, regulars, reserves or draftees—have enjoyed the Vietnam war. Most men who have known war have a healthy dislike for it; the George S. Pattons are the exception, not the rule.

But military men do feel that they did the best they could in a dirty situation, that they carried out to the best of their ability the task the politicians imposed upon them. And while mistakes were made—they always are—the military is right in this.

The regular soldier or sailor lives by a simple code which is well summed up in West Point's brief motto: "Duty, Honor, Country." He does not expect to be paid as much as his civilian counterpart or to have his every action received with fulsome praise from all sides. But he does not appreciate being made the object of ridicule or having the code by which he lives denigrated by those who speak often of their rights, seldom of their obligations.

This is not and must never become a garrison state, but this is an appropriate day for the lucky ones to remember Chico Hernandez, who couldn't quote Jefferson but had an idea what this country is all about, to keep in mind what he gave and for whom he died in that bloody poncho, at the bottom of Hill 722.

In a recent address, the Chief of Staff of the Army, Gen. William C. Westmoreland declared:

We cannot attract the kind of soldier we need in an organization maligned by some, directly attacked by others, and halfheartedly supported by many. This country cannot have it both ways. If the Army is viewed by a large segment of the population, particularly the youth, as an organization to be shunned and avoided, no amount of money will encourage young men to enlist.

General Westmoreland's remarks go to the root of one of our more serious national problems.

For the past few years, a campaign of defamation and vilification of the military profession has been carried on in press and pulp, on television and radio, in lectures and pamphlets by those who serve as opinionmakers in our society. I regret to say that this campaign has been

conducted even in the halls of Congress and in its committee rooms.

When I speak of a campaign, I do not mean to suggest that there is any centrally directed conspiracy which has plotted the verbal attacks against the military which have become commonplace.

And I certainly do not suggest that the military or any individuals in uniform should be granted immunity from valid criticism.

But when the military is subjected to false and unfair attack, when it is the victim of canards and unsupported allegations, when only its errors, its faults, and shortcomings are presented to the public, then a cruel and vicious wrong is done to our servicemen and our future security is put in the gravest peril.

My remarks may reflect undue concern about the current onslaught on the military. Yet, as I observe some of the irresponsible attacks of today, I recall a similar national aberration of the 1930's and the dangerous consequences it had. Then it was fashionable to lay the blame for war on those called the merchants of death—the munitions makers. An influential part of the press, the Congress and the public was persuaded that the way to avoid war was to maintain token military forces and to stop "fattening munitions makers" by spending for armaments. And so, while Hitler created the military force that was to sweep across most of Europe, the United States allowed its Armed Forces to become weak. Our weakness put us in a position to prevent World War II and in poor position to fight it for a year or more after we got in it.

Much of the harsh criticism now being leveled at the military disturbs me greatly, because for the most part, it is totally misplaced. It frightens me because it is symptomatic of a frame of mind which can have grave consequences for the security of our country.

Our men in uniform carry out national policy; they do not formulate it. Civilians decide our national security policy; civilians decide the strategies we shall follow; civilians decide our force structures; and civilians run the Department of Defense. Decisions on national policy are made, not by military men, but by civilians in the executive and legislative branches of Government and ultimately by the civilian Commander in Chief, the President of the United States. The men and women of our armed services execute those policies—with courage and determination, and loyalty; they do not choose the commitments we have around the world. But they do undertake the hardships and risks necessary to honor those commitments.

It seems particularly ironic to me that the military is blamed today for policy decisions made earlier during periods when civilian control over the military was tighter and more extensive than ever before.

At a time when My Lai captures the headlines, it seems appropriate to be reminded that such tragedies are not national policy. They are not common. But are we reminded? No, the news media contend stories of humanitarian

service do not make news, do not sell newspapers.

But there is another kind of military man, a more common kind that rarely receives publicity. Such a man is Dr. Augustus A. White III, now assistant professor of orthopedic surgery at the School of Medicine of Yale University.

Dr. White served in Vietnam during 1966 and 1967 as an officer in the Army's Medical Corps. While there, he became interested in a 900-patient leper colony operated by Catholic nuns some distance from his duty station near Danang. Although the leper colony was located in an area in constant danger of attack by the Vietcong, Dr. White went to the leprosarium twice a week for the entire year to minister to the patients. He even volunteered for medical evacuation duty in the course of which he rescued wounded soldiers by helicopter from an isolated mountainside in hostile territory. For his distinguished services, he was awarded the Bronze Star Medal.

What Captain White did for the lepers of Vietnam is, of course, exceptional, requiring training and skill that few possess. Yet the spirit that he showed—the spirit of compassion, the willingness to go beyond the call of duty to help the afflicted—is not uncommon among our young men in Vietnam.

The medics of American Armed Forces have brought the lifesaving blessings of modern medicine to the most remote hamlets of Vietnam. American servicemen have been building schools and hospitals and orphanages. They have taught and they have healed.

Some of this activity is performed in the line of duty. Much of it, however, is done by men on their own time in addition to performance of their military duties. Much of it is the spontaneous overflow of a generosity that responds instinctively to the needs of others. It reflects a deep belief that men are their brothers' keepers. And brotherhood, as these young men understand it, knows no bounds of race or creed or nationality or geography.

Strangely, newsmen report very little of these types of civil action carried on by our servicemen in Vietnam. Perhaps such activity is too common to be newsworthy. So all we hear about is My Lai.

Why be so concerned about criticism of the military? Why worry about the image of our fighting men being portrayed in America today? We should be concerned, of course, whenever injustice is done to any group within our society; and the distorted picture of the military presented by the media these days is unjust to those who wear the uniform. There is another good, pragmatic reason for concern about attacks on the military.

President Nixon has declared for his administration the goal of an all-volunteer force and zero-draft by 1973. I support that goal. But if we are to reach it, we must make service in the Armed Forces more attractive than it is today. We must raise the pay of our servicemen significantly and improve housing provided for them. We must drop outmoded customs that make life in the military uncomfortable and undesirable.

But as important a factor in helping to increase enlistments as increased pay and improved living conditions, is making military services a respected, honored profession. All those planned improvements in military life will not attract a single additional man if he sees the military ridiculed, denigrated, even hated. And without a substantial rise in enlistment rates, we cannot hope to achieve an all-volunteer force and zero draft.

Sociologist Charles C. Moskos, Jr., points out that antimilitarism has become the anti-Semitism of the intellectuals. We must not tolerate that kind of hatred from anyone. It is time to treat the military man fairly, to pay homage to those whose blood and suffering have given us the very freedom that some abuse.

### CONGRESS OF FREEDOM

The SPEAKER. Under a previous order of the House, the gentleman from Louisiana (Mr. RARICK) is recognized for 10 minutes.

Mr. RARICK. Mr. Speaker, on November 19 through 21, the Congress of Freedom held its Continental Congress of American Patriots meeting in Biloxi, Miss.

During the convention, some 900 American patriots who had been nominated for recognition by friends and neighbors received the annual Liberty Award, presented by the Congress of Freedom. At that time I was presented their Man of the Year Award. The Congress of Freedom is an organization dedicated to the preservation of constitutional principles upon which our Government was formed and acknowledges the pro-American efforts of those many unheralded citizens who are fighting to preserve our freedoms through sermons, speeches, letters to the editors, distribution of patriotic material, editorials, poems, songs, cartoons, or by whatever media will reach their fellow countrymen.

Many of these dedicated hard-working Americans are the unsung heroes or heroines who serve their country day by day without expectation of reward or recognition. I feel they deserve recognition by the Members of Congress.

The list of recipients of the Liberty Award by the Congress of Freedom in 1970 follows, by States:

#### RECIPIENTS OF LIBERTY AWARD

##### ALABAMA

Dr. James R. Garber, Mrs. Mildred McClellan, Alabama Independent, Mrs. Guy H. Orr, Merrit Newby, Dr. Gilbert Douglas, Birmingham; Mary Ann Adkinson, Gunterville; Mrs. Henry A. Strobel, Mrs. Spears Randall, of Marion Junction; Horace Shepard, Beth Wilson, Mobile; Mrs. John Patrick Kelly, Jr., Montevallo.

Mrs. Sara Sansom, Mrs. Scho Sellers, Governor-elect George C. Wallace, Montgomery; Mr. and Mrs. John Faulk, Jr., Max Fletcher (Kraft Cheese Rep.), Mrs. Ralph Pugh, and Mrs. J. H. Staggars, all of Selma; D. E. Boughans, Silas; Dan Cooper, Thorsby; Mr. and Mrs. Russell Carter, Wetumpka.

##### ARIZONA

Dr. C. W. Burpo, Mrs. Charles Golickson, Mesa; Mary Larkin, Mrs. E. J. Richards, Emily Richards, Mrs. Mabel E. Pinyan, Allen

A. Stuart, Phoenix; Harry T. Everingham, The Fact Finder, Scottsdale; Mrs. Margaret Kruckman, Sun City.

##### ARKANSAS

Mrs. Nye Adams, Bentonville; Ralph H. Wilson, Jr., El Dorado; Mr. and Mrs. Fred Beatty, Harrison; Mr. and Mrs. H. L. Thompson, Holly Grove; Lt. Col. Gordon "Jack" Mohr, Hot Springs; Baptist Challenge, Little Rock; Huey G. Huhn, Rogers; Dr. James D. Bales, Dr. George S. Benson and Dr. Perry Mason, Searcy; R. C. Rome, West Fork.

##### CALIFORNIA

Mrs. Lenore K. Rock, Sam Campbell, Anaheim; Chet Schwarzkopf, Atascadero; B. C. Parks, Bakersfield; Mrs. Margaret Scott, Belmont; Mrs. F. W. Beard, Berkeley; Lewis E. Blaize, Beverly Hills; Edward Rowe, Mr. and Mrs. Walter Knott, Buena Park; Mrs. Wanda Carlson, Mrs. Gloria Scott, Camarillo; Valley Times and Cartoonist Warren King, Central Valley.

Rev. Ray Batema, Claremont; J. G. Foster, Jr., Coronado; George Spriesterbach, Covina; Mr. and Mrs. E. R. Taylor, Diablo; Mrs. Fran Taber, El Monte; West Wuichet, Escondido; Jack Odum, Ft. Bragg; Mabel M. Harry, Muriel L. Jefferys, Mrs. Marshall A. Smith, Jr., Dillon A. Wilkins, Fresno; Jim Townsend, Dale Furgerson, Mrs. Eleanor Howe, of Fullerton.

Mrs. Eunice Davy Dean, Grand Central Aircraft Co., Stephen A. Harris, Rev. W. S. McBirnie, C. C. Moseley and Rev. Richard Wurmbrand, all of Glendale; Ruth M. Gade and Vick Knight, Hollywood; Dr. Max Rafferty, La Canada; S. Jean Theobald, Lafayette; Hal Vincent, MIA's Wives and Families, Leguna Hills; Constructive Action, Inc., Dr. Robert Burnham Watts, La Jolla.

Hubert H. Heath, Lakeport; Mrs. Virginia Evers, Miss Denise Evers, Sgt. Bill Cook, Patrolman Bill Daw, La Mesa; Mrs. Donzella Cross Boyle, Lancaster; Ralph W. McInnis, Livermore; Americans United Council, Dr. Fred Schwarz, Prof. Charles E. Wolff, Long Beach.

Jim Bishop, Coast Federal Savings, Dr. H. Douglas Dean, Raymond P. Gauer, Dr. Howard Kershner, Christian Economics, Christian Freedom Foundation, Mrs. Florence Fowler Lyons, Miss Rose Schonhard, Lois R. Merritt, G. A. Sheppard, Liberty Amendment Committee and founder Willis Stone, all of Los Angeles.

Don Carpenter, Montrose, Miss Myrl Vall, Newport Beach; Mrs. E. R. Taylor, Oakland; Robert L. Faucett, Nelson M. Ross, Jr., Orange; The Network of Patriotic Letter Writers, Pasadena; Through To Victory, Ridgecrest.

Leslie A. Shaw, Riverside; Mrs. Ruby M. Alderson, Mrs. Hazel B. Dorman, Education Information, Inc., E. Rayner English, Neils Grant, Sacramento; Jane Alexander, San Anselmo; Committee for Lasting Peace, Lt. Gen. Victor H. Krulak, Mr. and Mrs. Jess Poland, San Diego Union, Committee for Lasting Peace, Dan Johnson, Jim Cawdrey, San Diego.

Mrs. Idris W. Howard, Elizabeth Lippitt, San Francisco; Richard E. Woodin, San Gabriel; Dr. John W. Gilbaugh, H. E. Marks (Newscore), San Jose; Raymond C. Wilson, San Juan Bautista; Mrs. Rose L. Martin, Lawrence Walk, Santa Monica; Mrs. Irma Freear, Sherman Oaks; Publius & Associates, Temple City.

G. Edward Griffin, Thousand Oaks; Clarence S. Williams, Tustin; Rhea L. Hanson, Ukiah; William R. Martin, Mrs. Gerri McCormick, Walnut Creek; Constructive Action, Inc., Whittier; James R. Taylor, Committee of Christian Laymen, Woodland Hills.

##### COLORADO

Thelma Blackburn, Brighton; Dr. Earl W. Laningham, Jr., Cedaredge; Mrs. J. B. Porter, R. Robin Pennington, Colorado Springs; Mrs. Helen M. Harris, Denver; Kenneth Goff, Soldiers of the Cross, Englewood; Col. Arch

E. Roberts, Fort Collins; Capt. E. R. Guild, Fighting Homefolks of Fighting Men, Glenwood Springs.

##### CONNECTICUT

Mr. Claude Paolini, Bristol; Miss Viven Kellems, East Haddam; John E. Howe, Simsbury; Alfred W. Dobras, Stratford; Father Francis E. Fenton, Trumbull; James Jay Fradkin, Wilton.

##### WASHINGTON, D.C.

Acacia Mutual Life Insurance Co., Holmes Alexander, Sen. James B. Allen, American Conservative Union, American Education Lobby, Ancient and Accepted Scottish Rite of Free Masonry, Rep. Charles E. Bennett, Bill Buckingham, Ed Butler, Rep. James M. Collins, Rep. Wm. M. Colmer, Richard B. Cotten, Conservative Viewpoint, John Nelson Cummings, Sen. James O. Eastland, Brig. Gen. Bonner Fellers, Taxpayers Committee to End Foreign Aid.

Rep. Ed Foreman, Rep. H. R. Gross, Sen. Edward J. Gurney, the Hon. J. Edgar Hoover, Human Events, Rep. Richard H. Ichord, Liberty Lobby, National Putnam Letters Committee, National Right to Work Committee, National Society D. A. R., Otto Otepka, Rep. Otto Passman, Rep. Bob Price, Rep. John Rarick, Martha Roundtree, Rep. L. Mendel Rivers, Rep. John G. Schmitz, Paul Scott, Chas. B. Shuman, Sen. John Stennis, Walter Tabaka, Sen. Strom Thurmond, Rep. Joe D. Waggoner.

##### FLORIDA

Southern Conservative Newspaper Service, Bradenton; Dr. A. B. McReynolds, Brandon; Dr. Fernando Penaboz, Coral Gables; Ed Bodin, DeBarry; Mr. and Mrs. T. R. Smithana, Mrs. Helen Habig, Deerfield Beach; Mrs. R. Knauss, Delray Beach; Gordon Arnold, Ft. Lauderdale; American Legion, Jacksonville.

Walter Farrar, Hollande; Mr. and Mrs. Lyle Brothers, LeHigh Acres; Concerned Presbyterians, Inc., Jack Kofoed, Miami; Mr. and Mrs. J. Milton Lent, Naples; Defenders of the American Constitution, Ormond Beach; Mr. and Mrs. Don Bell, Palm Beach; Mrs. Earl Van Horn, Panama City; David S. Hicks, Pensacola; John B. Hayes, Quincy.

Bob Francis, On the Firing Line, St. Petersburg; Dr. James M. Parsons, Dr. William Douglas, Let Freedom Ring, Sarasota; Sumter L. Lowry, Florida Coalition of Patriotic Societies, Inc., Tampa; Herman Talley, Valrico; Mrs. E. D. Baisden, Malcolm Johnson, Mrs. C. T. Schwalb, Vero Beach; Mrs. A. C. Beck, Mrs. Mary M. Davison, Mrs. Edwina G. Garfield, West Palm Beach.

##### GEORGIA

Mrs. Olivia Awtry, Coca Cola Co., Mrs. Evilo Doster, Mrs. Ray W. Lynl, Governor Lester Maddox, Mrs. Henry Ollila, Militant Truth, Sherman Patterson, Mrs. H. D. Winship, James D. Worthington, Atlanta; Miss Rachel Smith, Carrollton; Marvin C. Moble, Decatur; George R. Hunt, Kathleen; Malcolm E. Ivey, Macon; Rev. Michael A. Guido, The Guido Evangelistic Ass'n, Inc., Metter; Discussion, Millen; Mrs. Mildred G. Seller, Savannah; V. E. Brown, Mrs. L. Terrell Moore, Sparta.

##### IDAHO

Mr. and Mrs. Ezra T. Hawkes, Mrs. Bernice Howell, Mrs. Sylvia McKeeth, Mrs. Gale McVay, Mrs. Shirley Ware, Boise; Ralph Smeed, Caxton Printers, Caldwell; Mrs. Edith Craig, Mrs. Bette Mathes, Coeur D'Alene; Mrs. Ann Wallace, Eldon Wirt, Idaho Falls; Mrs. Carl Elmerson, Kimberly; Mrs. Jean Johnson, Meridian; Mrs. Marie Rinard, Mountain Home; Lewis Lepper, Nampa; Mrs. John Capral, Priest River; Mrs. Alice Jackson, Mr. and Mrs. Paul Victor, Twin Falls.

##### ILLINOIS

Mrs. Phyllis Schlafly, Alton; Judy Cruse, Shirley Peterson, Fox Valley Spectator, Batavia Herald, First National Bank of Batavia, Mrs. Ethel Swanson, Wisconsin Dept. VFW,

Batavia; Walter Ohlson, Berwyn; Association of American Physicians and Surgeons, S. L. DeLove, William Derus, Slobodan M. Draskovich, J. Kesner Kahn, Cartoonist Shoemaker, Chicago Tribune, all of Chicago.

Edward V. Johnson, Galva; Mrs. Sophie E. Taber, Kansas; Mrs. H. B. Brooksbank, Metamora; Dr. Nicholas Nyaradi, Peoria; Rev. Paul D. Lindstrom, James M. Stewart, Prospect Heights; Paul Harvey, River Forest; Dr. Revilo P. Oliver, Urbana; Major Edgar C. Bundy, News and Views, Wheaton.

## INDIANA

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(Author of "God Can Save America").

MEMO TO THE GOLD SPECULATORS:  
ONLY CONGRESS CAN INCREASE  
THE PRICE OF GOLD, AND CONGRESS WON'T

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, in March, 1968, the private market price of gold was cut free by the two-tier gold agreement. In December 1969, the U.S. Treasury and South Africa concluded a deal—sanctified by the IMF—that effectively placed a floor under the free market price of gold and prevents it from falling substantially below the official level of \$35 per ounce. The price of gold is now, therefore, subject to upward movements without limitation, but prevented from declining drastically. Despite this one-way swing potential that tends to en-

courage speculation, the free market price has failed to rise more than a few dollars above the official value.

But, according to a November 11, 1970, Wall Street Journal article, by Richard F. Janssen, the gold bugs still have not given up hope entirely. A high official of the European Economic Community, unnamed in the article, warned that attainment of the administration's announced goal of reducing unemployment to 4 percent by mid-1972 would threaten U.S. balance-of-payments deficits large enough to force devaluation of the dollar. This spokesman for the Common Market countries apparently indicated that a marginal change in exchange rates would not be sufficient to offset the massive deficits that would result from excess domestic spending and "overseas adventures." Instead, he suggested that only a sharp devaluation of the dollar, as by doubling the official gold price, would be sufficient.

Mr. Janssen's article follows:

**NIXON PLAN TO STIMULATE ECONOMY REVIVES EUROPEAN DISCUSSION OF DOLLAR DEVALUATION**

(By Richard F. Janssen)

WASHINGTON.—The Nixon Administration's speedy schedule for reviewing the economy is raising anew among European authorities the question of devaluing the dollar.

The Administration's goal of restoring so-called "full employment"—paring the jobless rate to 4% from October's 5.6%—by mid-1972 "would mean accepting a big rate of inflation and a big balance-of-payments deficit," a high official of the European Economic Community, or Common Market, warned.

He told a group of reporters that personally he would have "no objection" if all this leads to a sharp devaluation of the dollar, referring to other Europeans' suggestions that the U.S. double the official \$35-an-ounce price of gold to which the dollar's international value is pegged.

But a lesser devaluation, say, by raising the gold price by 20%, wouldn't work, this key Common Market authority indicated, because other nations would offset it by devaluing their own currencies accordingly. Such a limited devaluation, he said, would be acceptable only if the U.S. balance-of-payments deficit, or net dollar outflow, is due to U.S. goods being priced out of competitive markets.

The Europeans, he added, reject the idea that such a pricing situation is the cause of the U.S.'s payments deficit, which ran at a \$5.2 billion annual rate in the first half of this year. He said the Europeans counter that their price increases have been at least as large as those in the U.S. in recent years, and that the present excessive dollar outflow is due largely to the Vietnam war. The sooner the U.S. ends its "overseas adventures," he said, the better it will be for both the American and European economies.

**GOLD STOCK IS CITED**

Dollar devaluations, in effect, would stretch the \$11.49 billion Treasury gold stock that other countries generally are entitled to tap in return for excess dollars. A succession of Administrations has strongly opposed devaluation, of course, on the ground that it would be breaking faith with countries that have refrained from draining gold while giving a windfall to major gold producers, particularly South Africa and the Soviet Union.

Should the U.S. seek to rapidly stimulate its economy when it already has a large payments deficit, it would mean more dollars piling up in European central banks, the Common Market official reasoned. He added that under these conditions "it would be very difficult for European monetary authori-

ties to explain to the public that we are accumulating dollars without limit."

He noted that lately Western European central banks have been willingly rebuilding their reserves of dollars, which Federal Reserve Board figures show rose to 9.55 billion at the end of July from \$5.86 billion at last year-end. But in the longer run, the official said, European authorities don't want to accept an increase of more than \$1 billion to \$1.5 billion annually in the dollar portion of their reserves, which also include gold and resources of the 116-country International Monetary Fund.

If European official dollar holdings reach such a "high level that it will not be possible to accumulate more," he said, either the Europeans would have to revalue their currencies upward or the U.S. would have to lower the dollar's value. He isn't recommending any parity changes, the official made clear, urging instead that the U.S. settle for a slower economic recovery and readily sop up surplus dollars by paying out gold.

While the possibility of devaluation was briefly explored early in the Nixon Administration, officials ruled it out when they failed to find evidence that they could purchase major diplomatic gains—perhaps even a Soviet-engineered settlement in Vietnam—by this device. A U.S. devaluation would be "very disruptive," one official says, complaining that talk about it is "dangerous" in that it could spur some countries to demand gold now in hopes of a quick profit.

So, although some U.S. officials might welcome the Common Market official's comments as reinforcing their own case for only moderate growth, the remarks also could add to the growing tensions about adverse impacts on the U.S. of the Common Market's expansion and unification plans.

The present six Common Market members—France, Germany, Italy, Belgium, the Netherlands and Luxembourg—are negotiating for entry of the United Kingdom, Ireland, Norway and Denmark, and are considering plans for a common currency and common economic policy.

**POLITICAL DECISION NEEDED**

The Common Market official said he doesn't think that full unity of the 10 can be reached within the 10-year goal, but that complete rigidity of exchange rates among members can be attained in six or eight years. If the member governments make the political decision to proceed with pending proposals, he said, their central banks will be "invited" to start experimentally reducing the margin of fluctuation from their present 0.75% either way of parity to either 0.60% or 0.50% in January.

"In theory," the Common Market official said, the central banks "can do what they want," but added that "practically, they do nothing without a decision of the Council of Ministers," the Common Market's major policy making body. A "formal" reduction in margins among Common Market member currencies could come later, he said, reporting that "no technical difficulties" are in prospect. Initially, he explained, the central bank heads could consult each morning by telephone and set a uniform support level for each currency.

**DEVIATION FROM DOLLAR**

Once there isn't any more fluctuation among member exchange rates, this official reiterated, the block of European currencies might be allowed to deviate from the dollar beyond the 1% range either way currently permitted by the IMF. In the meantime, he added, Europe also could seek to cushion itself more from American financial-policy influences by bringing the Eurodollar market under regulation by its central banks.

This could be done, he suggested, by the central banks imposing control jointly "over the net external position of commercial banks" that deal in Eurodollars, or American

dollars on deposit in banks abroad. "If there is political will," he said, the Common Market could "regulate without destroying" the Eurodollar market, while proceeding in the next five years with integration of European capital markets. There's a general belief in Europe, he added, that the dollar is "a strong currency in a weak phase."

This article illustrates that gold speculators will seize upon any pretext to beat the drum for their own financial aggrandizement. In addition, a recent statement by Charles R. Stahl of the Economic News Agency suggests that Swiss commercial banks have been purchasing South African gold for their own account, and are holding it in an effort to push the free market price of gold higher:

Charles R. Stahl, President of Economic News Agency, Inc. of Princeton, New Jersey, today accused "The South African Minister of Finance, Dr. Nicolaas Diedericks, of participating with the members of the Swiss gold pool in a scheme designed to increase the price of gold in the free market. I estimate the current position of the big 3 Swiss banks gold pool to be not less than \$750 million worth of gold." Stahl added, "This jibes with South Africa's 1970 sale of \$400 million worth of gold to the International Monetary Fund and the sale of the balance of this year's production of gold to the Swiss pool.

"The agreement between the IMF and South Africa allows South Africa to sell gold at \$35 minus ¼ of 1% to the IMF whenever the price in the free market is \$35 per ounce or less and also after South Africa has sold all of its new production in the free market but its Balance of Payments remains in deficit. The latter sales are permitted regardless of the price of gold in the free market and in October, South Africa invoked this clause to sell \$17½ million worth of gold to the IMF (in addition to quarterly sales of \$35 million worth of gold which are exempt) It is expected that Dr. Diedericks will again invoke this clause before the end of this year to sell \$150 million worth of gold to the IMF in order to cover South Africa's Balance of Payments deficit for the second half of 1970." Stahl claims that "This whole scheme is a subterfuge in violation of South Africa's agreement with the IMF because the Swiss pool retained that gold purchased ostensibly from South Africa for distribution in the free market, and once assured that South Africa will not sell gold through any other source, began to bid up the price of gold on the London market. When the Swiss Banking Commission discovered the pool's scheme, it recommended a change in the current Swiss law to prohibit the use of gold as cash reserves to make it difficult for the pool to keep large stocks of gold. However, this proposal must be approved by the Swiss Parliament. Under the present law, gold is treated by the banks in the same manner as cash. Since banks are obliged to maintain certain minimum cash reserves, the carrying of gold as part of their reserves is, for all practical purposes, interest free. This interest-free carrying of large gold positions permitted the Swiss pool to take off South Africa's hands the 1970 gold production minus South African sales to the IMF.

"It is regrettable that the Swiss billion dealers and their South African patrons have chosen to circumvent South Africa's agreement with the IMF which was confirmed in a letter from Dr. Nicolaas Diedericks, Minister of Finance of South Africa, dated December 23, 1969 addressed to P. P. Schweitzer, Managing Director of the IMF. Dr. Diedericks specifically pledged that his country will sell its current production of newly mined gold in an orderly manner in

the free market to the full extent of its Balance of Payments needs. Sales to the Swiss pool which withheld the gold from the free market are in gross violation of the letter as well as the intent of the agreement between South Africa and the IMF. This scheme to push the price of gold higher might have been even more successful if it had not been for the Soviet Union who offered gold for sale to the free market when the price crossed the \$39 mark. At the present time, the Swiss are negotiating in Moscow for possible purchases of Soviet gold to prevent pressures from that source on the free market gold price."

The U.S. Treasury, over my protest, negotiated the December 1969 gold agreement with South Africa. I predicted then that it would result in speculative withholding designed to drive up the price of gold and thus embarrass the United States. This is precisely what is happening.

What, if anything, is the U.S. Treasury doing about this attempt to unsettle the world monetary system?

So, as the price of unofficial gold edges upward toward \$39 an ounce, we have a replay of the same old scenario—shenanigans by the South Africans, and the Russians, gold-bugging by the Swiss banks, and "Why does not the United States double the price of gold?" suggestions by various highly placed and conveniently anonymous Europeans.

The only reason for gold speculation today is the hope that the United States will oblige the speculators by doubling the official price of gold. Nonmonetary use of gold today is around \$1 billion a year. Production, mostly by South Africa, is around \$1.5 billion a year, more if we knew how much the Soviet Union is producing. The increase in industrial use is around \$50 million a year. At this rate, it would take a decade before nonmonetary demand meets the supply. That is a long time to wait for a speculative gain, particularly when it costs almost 10 percent a year—in foregone interest, insurance, and storage—to hold gold. So the speculators are obviously betting on an increase in the U.S. official price of gold.

I would once again remind the gold speculators that only Congress can increase the price of gold, and that Congress is never going to do it. It may be worthwhile here to include my remarks in the House on December 12, 1967, when goldbugs were active once before—CONGRESSIONAL RECORD, volume 113, part 26, pages 35957, 35958.

**NOTE TO FOREIGN GOLD SPECULATORS: ONLY THE U.S. CONGRESS CAN RAISE THE PRICE OF GOLD, AND CONGRESS IS NOT ABOUT TO DO IT**

Mr. REUSS. Mr. Speaker, gold buying is heavy on the London market again. Accompanying it is a well-authenticated rumor that Algeria has turned in \$100 million for U.S. gold.

All this is as serious as it is ridiculous. Here we have the sheiks of the Middle East—some in white burnouses, some in white piping—egged on by President De Gaulle, endangering the free world's monetary system.

The gold raiders have had a relatively easy time of it. The U.S. monetary gold stock—the only stock available for exchange—is now down to something over \$12 billion. Even were our international payments completely in balance, our stock would be vulnerable to huge drafts from

outside the monetary system. We make it easy for the speculators by conveniently providing them with the London gold pool, and by guaranteeing them against loss by putting a floor under the price of gold.

If we go on like this, we invite a monetary panic. Worse, as we lose gold, we lessen the credibility of our commitment to supply gold to those foreign central banks and monetary authorities who have accumulated dollars, at least in part, because of our commitment. Foreign official dollar holdings are now around \$15 billion. As our stock of monetary gold diminishes, our ability to validate this commitment made by three Presidents lessens.

The gold raiders are gambling on their hunch that the President will be induced in the future to raise the official price of gold, in an effort to increase U.S. reserves. I have confidence that the President means what he says when he says that we will not increase the price of gold.

But I have a word for the gold speculators. That word is this—even if he wanted to, the President of the United States cannot increase the price of gold. Under section 5 of the Bretton Woods Agreement Act of 1945, only the Congress can do that. And this Congress is never going to increase the price of gold and thus reward the speculators for their attack on the dollar.

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

Mr. REUSS. I yield to the gentleman from Arkansas.

Mr. MILLS. I would like to join the gentleman from Wisconsin and associate myself with the statement he has just made.

Mr. REUSS. I thank the gentleman.

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

Mr. REUSS. I yield to the gentleman from Louisiana.

Mr. BOGGS. I should like also to associate myself with the gentleman's statement.

Mr. REUSS. I thank the gentleman.

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

Mr. REUSS. I yield to the distinguished majority leader.

Mr. ALBERT. I also wish to commend the gentleman and associate myself with his remarks.

Mr. REUSS. Mr. Speaker, there are a variety of ways open to the free world to make sure that foreign gold speculators in the end will be left holding the bag.

One way is to "pedigree" gold—to keep the present \$43 billion of gold now in the hands of central banks, and to provide that members of the International Monetary Fund will purchase or sell gold only from or to each other, and not from or to the private market. The price of gold on the outside market can then fluctuate up or down, probably down when some of the banks call their margin on present private gold hoarders, and when it is realized that speculators have to fear a decline in the price of gold below \$35 an ounce. The speculators, now goating over the "overhang" of dollars, should ponder the "overhang" of hoarded gold—many billions' worth that could come on the market once the \$35 an ounce support price is abandoned.

Another way is to "dethrone" gold. The United States could announce that all foreign monetary authorities holding dollars—whichever they have at least in part acquired as a result of the U.S. commitment to turn them into gold—have a set period of time in which to demand gold. This announcement should be accompanied by an announcement that the United States no longer agrees to buy gold at \$35 an ounce, and will not make gold available for official dollar holdings to be acquired in the future. In all likelihood, only a small fraction of the roughly \$15 billion in official dollar holdings would be presented for gold—because the future of the

gold price would become extremely dubious, and because most foreign official dollar holdings are necessary either for current transactions or will be held because their holders have confidence in the dollar, and wish to take advantage of the interest rate that is payable on dollar holdings. The present parity values of the dollar would then be supported, under International Monetary Fund rules, not by gold but by exchange operations, just as all other exchange rates are now maintained. If we maintain an economy aimed at full employment without inflation, there is no reason why the current exchange value of the dollar with other currencies cannot readily be maintained. If France, for example, thinks that the dollar should be devalued, let it press its position within the International Monetary Fund. I doubt very much that it would wish dollar devaluation, since this would simply cut down on American tourism into France, and on the sale of French wines and perfumes in this country. If the free world in the future wants to change its system from one of fixed exchange rates to one of flexible exchange rates, that is a question to be argued out in the future.

The point is that only Congress can increase the price of gold. Congress will never do so. And there are many ways open to the free world, particularly now that the foundations for special drawing rights as a supplement or substitute for gold have been laid out in the International Monetary Fund, to take the wind out of the sails of the gold speculators.

The "pedigreed" gold method of defeating the gold speculators was the essence of the two-tier system that was in fact adopted 3 months later in March 1968. It has worked well. It would be working even better if the U.S. Treasury, not content to let well enough alone, had not entered into the South African gold agreement of December 1969.

The exclusive statutory authority of the Congress to alter the official price of gold was clarified in correspondence between myself and Under Secretary of the Treasury Joseph W. Barr in January 1968. It was reconfirmed by the present Secretary, David M. Kennedy, early in 1969. Here is the correspondence between me and the Treasury on the question of authority to change the official price of gold:

JANUARY 2, 1968.

HON. HENRY H. FOWLER,  
Secretary of the Treasury,  
Department of the Treasury,  
Washington, D.C.

DEAR MR. SECRETARY: I wish to ask you a question concerning the legal intricacies of changing the price of gold. My impression is that when one considers the various laws relating to this subject, including the Gold Reserve Act of 1934, the Bretton Woods Agreements Act of 1945, the Articles of Agreement of the International Monetary Fund, and our commitments thereunder, it becomes clear that the power to change the price of gold is placed in the Congress of the United States.

I hope that you can confirm to me that my impression that only Congress can change the price of gold is correct. I would add that it is my determination—one that I believe is widely shared in the Congress—never to authorize an increase in the present price of gold, since to do so would not only break the faith with those who have expressed confidence in the dollar, but would unjustly reward those speculators who might seek to undermine confidence in the dollar.

Sincerely,

HENRY S. REUSS,  
Member of Congress.

THE UNDER SECRETARY  
OF THE TREASURY,

Washington, D.C., January 28, 1968.

HON. HENRY S. REUSS,  
House of Representatives,  
Washington, D.C.

DEAR MR. REUSS: This is in reply to your letter of January 23, 1968, in which you state that when one considers the various laws and international obligations relating to gold, it becomes clear that the power to change the price of gold is placed in the Congress of the United States.

The use and price of gold in the International Monetary System is governed by a complex of provisions of United States laws and international obligations. These include the Gold Reserve Act of 1934, the Bretton Woods Agreements Act of 1945, the Articles of Agreement of this International Monetary Fund, and our commitments thereunder. The basic fact is that the United States has communicated to the Fund a par value of \$35 per fine troy ounce of gold. This par value may not be changed without legislation by the Congress, and it is the par value of the dollar which effectively fixes the price at which the United States may buy and sell gold. While the Gold Reserve Act of 1934 authorized the Secretary of the Treasury to buy and sell gold on terms and conditions he deems advantageous, as a practical matter he cannot do so at a price other than \$35 because of our commitments under the Fund Articles which have been approved by the Congress and which cannot be changed without Congressional action.

I am pleased to note that it is your view, and that of others in the Congress, that we must maintain the price of gold at \$35 per ounce. As you know, this Administration has reiterated time and time again our determination to maintain the soundness of the dollar and to keep gold at its present price. As recently as last week in his State of the Union Message, President Johnson stated: "We have assured the world that America's full gold stock stands behind our commitment to maintain the price of gold at \$35 an ounce. We must back this commitment by legislating now to free our gold reserves."

Sincerely yours,

JOSEPH W. BARR.

JANUARY 28, 1969.

HON. DAVID M. KENNEDY,  
Secretary of the Treasury,  
Department of the Treasury,  
Washington, D.C.

DEAR MR. SECRETARY: I enclose an exchange of correspondence between myself and the Treasury of January 22 and 23, 1968, in which the legal opinion of the Treasury is set forth that the power to change the price of gold is lodged in the Congress alone.

I should appreciate your reviewing the correspondence, and indicating to me whether the Treasury position remains the same. For obvious reasons, I hope that it is.

I look forward to the opportunity to sit down with you when you have a moment to discuss the continuing problem of our international monetary relations.

Sincerely,

HENRY S. REUSS,  
Member of Congress.

THE SECRETARY OF THE TREASURY,  
Washington, February 6, 1969.

DEAR MR. REUSS: I have reviewed the correspondence which you had with the Treasury Department in January, 1968. I am advised by counsel that there has been no change in the law since that time, and that the letter signed by Under Secretary Barr correctly states the legal situation.

I, too, look forward to an opportunity to discuss with you our international monetary relations.

Sincerely yours,

DAVID M. KENNEDY.

Speculators should note that, empowered with the exclusive authority to establish the official dollar price of gold, the Congress is never going to assent to any increase in the value of monetary gold. We are not going to put the U.S. Treasury in the position of being obligated to repurchase from foreign speculators the gold they drained from U.S. reserves prior to March 1968. Nor are we going to deplete the public purse to buy at artificially inflated prices gold from South Africa or other producers that has been accumulating in speculators' hoards. Rather than agree to generate any such windfall for foreign gold producers and hoarders, we will place an embargo on sales of gold from the U.S. official reserve stock; and, either the dollar will be supported at an agreed level, or it will fluctuate in exchange markets against other currencies.

In the past, gold has derived its international monetary value from the fixed price that the United States was willing to pay for it. Since the separation of the official and private gold markets in March 1968, the United States has refused to buy newly produced gold, and will now purchase the metal only from monetary authorities and under specified circumstances. Gold exchanged in private markets finds its own value in essentially the same way that the worth of other metals and agricultural commodities is established.

Rising demand for gold in industrial, commercial, and artistic uses may in the future increase the commodity price of gold above its official value. Even under these circumstances, the Congress will reject any increase in the official dollar price of gold.

The dollar derives its international value from the size and competitive ability of the U.S. economy, and from the domestic and international financial services our institutions are able to provide. Long ago the international value of the dollar ceased to depend in any significant degree upon backing by gold or the size of the U.S. gold stock.

The goldbugs can relinquish any hopes they may have that the U.S. Congress will be cornered by economic circumstances. We will never pay tribute to foreign gold speculators via an increase in the price at which the U.S. Treasury is authorized to purchase gold.

#### THE VIETNAM WAR—ON AND ON

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

Mr. BINGHAM. Mr. Speaker, the renewal of widespread bombing attacks on North Vietnam, even though now terminated, reveals once again the bankruptcy of President Nixon's policy of attempting to end the war by continuing it.

Surely the lesson ought to have been learned by now that we cannot bludgeon the North Vietnamese into submission. Indeed Hanoi's leaders may well welcome the attacks as a boost to the morale of the people of North Vietnam, whose enthusiasm for the war has been reported waning ever since the bombing stopped

2 years ago. It is not at all inconceivable that Hanoi's attacks on American reconnaissance planes were deliberately calculated to provoke retaliatory strikes. If so, we have fallen right into the trap.

It has been widely reported here that the bombings are in fact aimed at impeding a major movement of North Vietnamese toward South Vietnam, Cambodia, and Laos. If this is the case and such a movement is in progress, it only shows that Hanoi is determined not to accept the kind of surrender which Nixon's peace terms imply. What has happened to the confident predictions the administration was trumpeting a little over a month ago that Hanoi was ready to negotiate on the basis of the Nixon proposals?

Possibly the new bombing attacks signify a Nixon swing back to a hardline policy. If so, Vice President Ky, now being given the red carpet treatment in the United States, has been given something to boast about when he gets home.

The American people should demand that such bombing attacks do not recur and that a firm timetable for the swift withdrawal of all American forces from Indochina be laid down. This is the only way to put an end to the killing.

The gentleman from California (Mr. EDWARDS) was quite right when he observed earlier today that the vast number of planes and the huge expense involved in the attacks on North Vietnam stand in sharp and shameful contrast to the little we are doing to help the stricken people of East Pakistan.

A further comment on the parlous state to which we have arrived in this country is contained in the following article by Anthony Lewis:

#### IT TOLLS FOR THESE

(By Anthony Lewis)

LONDON, November 22.—George Orwell could not have improved on Defense Secretary Laird's phrasing in the announcement of renewed American bombing in North Vietnam. There was not even any bombing in it—just "protective reaction strikes." They had been made against "missile and antiaircraft gun sites and related facilities" in response to "attacks on our unarmed reconnaissance planes." It all sounded so clean and just.

But of course bombing is not clean. The Air Force accounts of bombing military targets in North Vietnam between 1965 and 1968 sounded surgically precise. But not very surprisingly, many of the bombs turned out to have hit non-military buildings and killed civilians.

Nor is the ground for retaliation so clear. Those "unarmed" American reconnaissance planes are escorted by others armed with rockets, cannon and bombs. It does not seem altogether astonishing that North Vietnam should object to such overflights.

The American claim, consistently denied by the enemy, is that the Vietnamese agreed to the reconnaissance in 1968 in return for suspension of the bombing. Did they agree to almost daily overflights, of that kind?

There is bound to be skepticism also about Mr. Laird's assurance that the new bombing did not go north of the 19th parallel. An American wants to believe assurances by his own Government. But it was that Government, to take a recent example of deception, that said it would not fly close-support missions in Cambodia and then blandly proceeded to do so.

Retaliation may not, indeed, be the real reason for the renewed bombing raids, or the

only one. Reports from Washington say a prime military aim was to hit at stockpiles of supplies ready to move south.

Why should any of this bother us? Isn't it natural to bomb enemy supplies? What difference does it make if the nature and purpose of an American military action are covered by Orwellian Newspeak?

The capacity of Americans to react to events in Vietnam does seem to be at a point of exhaustion. Even the most concerned have a limit to their emotions and to their hope of affecting events. Our feelings have been numbed by all the lying and killing on both sides in Vietnam.

But the bombing episode has disturbing implications apart from any arousing of moral ardor. It indicates once again that President Nixon's goal in Vietnam is not a political settlement but military victory by another name.

The President has slowly but persistently been withdrawing American troops—a policy for which he will deserve the praise of history no matter what other blots there may be in Vietnam. But he has also warned against defeat or "humiliation." The puzzling question has been how he expected to withdraw and win at the same time.

The sudden, massive air attacks on North Vietnam suggest what Mr. Nixon may have in mind. As U.S. ground combat troops disappear, he may count on big air strikes—all over Indochina and for an indefinite period—to keep the Communists off balance while Saigon's forces carry the burden of the ground war.

But that is a recipe not for peace but for indefinite war. It would require huge American installations and expenditures for uncountable years, as well as the maintenance of South Vietnam as an armed camp.

The only way to peace in Vietnam is by political accommodation. A surprise attack such as the bombings may have real tactical advantages. But it may also focus attention wrongly on short-term goals instead of the necessary long-term objective of American policy: a political settlement that leaves Vietnam to the Vietnamese.

The retaliation, as officially described, was for the downing of an American reconnaissance plane with the apparent loss of two lives. To respond to that with 28½ hours of bombing by large numbers of aircraft was, to put it with restraint, grossly disproportionate.

Americans' tolerance of such acts done in their name is a particularly disturbing result of the Vietnam war. As Stuart Hampshire, the English philosopher, wrote recently in *New York Review of Books*, we have chosen to match the calculated cruelty of the guerrilla in our methods of war and thus have inevitably brutalized ourselves.

#### UMWA: A FINANCIAL INSTITUTION MASQUERADING AS A LABOR UNION?

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous material.)

Mr. HECHLER of West Virginia. Mr. Speaker, the United Mine Workers of America is one of the richest unions in America—its principal assets are the National Bank of Washington of which it owns approximately 75 percent and the Anthracite and Bituminous Pension Funds which are substantially controlled and dominated by the officers of the UMWA and whose moneys are deposited in the National Bank of Washington.

While these assets could and should be

put to work to improve the lives of working and retired coal miners, they are not. Yet the abuses of this financial power are unknown to most of the miners and the public at large because the ownership of the bank and its operation are such a closely kept secret.

A very revealing article by John Rothchild appears in the November 1970 edition of the *Washington Monthly*. It shows the abuses of the union's assets by its officers and the amoral attitude of those outside the union who continue to operate the bank without regard to the needs of the real owners—the miners—and without regard to the corruption within the UMWA whose interest in the bank they seek to hide.

Similarly, I would like to insert in the RECORD the correspondence between Mr. Joseph L. Rauh, Jr., and the Office of the Comptroller of the Currency which indicates that the Government should raise its standards for proxy statements for banks. It appears that the standards for such statements by the Securities and Exchange Commission which regulates other business interests are higher than those set by the Comptroller for national banks. This discrepancy helps those who run the National Bank of Washington continue to deceive the public about the UMWA's ownership of that bank.

Finally, Mr. Speaker, I would like to insert into the RECORD the article "The Coal Black Shame of the UMWA" which traces the abuses the UMWA's officers have made of the union's assets and explains why the UMWA has been characterized as "a financial institution masquerading as a labor union."

The items follow:

#### MORAL OSTRICHISM: BLINDNESS ON A BANK BOARD

(By John Rothchild)

It is tribute to the invulnerability of banks that the National Bank of Washington, the city's oldest and third-largest bank ("with the youngest ideas") has managed to remain so anonymous throughout the recent history of United Mine Workers of America scandals. Not one of the six customers interviewed in a cursory poll taken last month at the bank's main office was aware that three fourths of the shares in their bank are owned by the UMWA, or that the bank has been named, along with the union and the trustees of the union welfare and retirement fund, in a \$72 million lawsuit that charges conspiracy to deprive miners of money that rightfully belongs to them.

No union since the Teamsters has had to defend itself as much as the UMWA during the last three years, and no man since James Hoffa has been as popular a target as W. A. (Tony) Boyle, who is at once the union president, a trustee of the pension fund, and a board member of the bank. The union is struggling through at least four major lawsuits, including one brought by the Labor Department to invalidate Boyle's election in the bitter 1969 union fight. It is bogged down with myriads of irate editorials, court depositions and orders, a major Senate investigation, plus FBI, Justice Department, and Internal Revenue Service probes into its activities. The union has been accused of balloting frauds and bribery in recent elections, extortion in making miners on pension funds continue to pay union dues, nepotism in paying relatives of union officials large sums of money (Boyle's daughter, Antoinette, has collected \$190,000 from the union in the last five years, and, up to now, nobody has

explained what she could possibly be doing in Montana that would justify those fees), and general mismanagement of union money for the enrichment of top executives. A local union official in Tennessee has been charged with the murders of Joseph Yablonski, who challenged Boyle in the last union election, and his wife and daughter.

Meanwhile, the union's bank remains respectably invisible. The bank's impressive board of directors, a long, doughty line of Washington pillars, continues to lend the support of its big names to the union's countinghouse. The board includes Clark Clifford, former Secretary of Defense; NBW president True Davis, former U.S. Ambassador to Switzerland and Assistant Secretary of the Treasury, and unsuccessful candidate for the Senate; Crosby N. Boyd, chairman of the board of the *Washington Star*; Joseph Danzansky, president of Giant Foods; Stephen R. Woodzell, president of Potomac Electric Company; Elwood R. Quesada, former director of the Federal Aviation Agency and now president of L'Enfant Plaza Corporations.

#### UNION AS BIG BUSINESS

The bank that they represent was purchased by John L. Lewis for the mineworkers in the late 1940s, during the time when the union was making its final entente with big coal operators and when Lewis, long-time opponent of capital, was carrying on a curious flirtation with investment. In effect, during those years of union struggle, a war chest had been accumulated, and it was big enough, by 1948, to bankroll financier Cyrus Eaton, to buy up whole coal companies and coal shipping outfits, and to acquire the bank, through which these other purchases and loans were made. When the union bought it, the National Bank of Washington was a small outfit with about \$56 million in assets. In a short time, it grew to over \$200 million, and Lewis engineered its expansion, which included buying up other small banks, like the Hamilton and the Liberty.

It was considered the final irony that Lewis, the scourge of the owners, would end up leading his union into ownership of coal companies and high finance. Maybe he knew that the only future for the miners was for them to collectively become owners. Maybe he couldn't resist mining all those union dues, making them produce something, much as the coal operators fashioned coal to produce money. But whatever the reasons, the millions the union loaned to Cyrus Eaton, the complexity of the new assets, and the size of its bankroll transformed the union into something far different than an association of workmen—it was now a corporation whose strength included, but did not depend on, the small coal miner and his strike. And while the union money ostensibly belonged to the coal miner, its managers would not always remember him.

The bank describes its connection with the union in the same ambivalent tone which our government reserves for freedom-loving dictators. In principle, bank president True Davis praises the virtues of working for a union bank. He is proud to be associated with the hard-earned money gained through the sweat of coal miners. He says that having ties with the union is "a tremendous asset because there are many other unions who have deposits here and they are here because this is known as a union bank—many working-class people here in Washington individually bank here because it is a union bank." But in practice, no public mention is made of the union and no connection with it is advertised. The union is left out of the bank's public picture like a child with a harelip in an old-fashioned family photo album.

Nowhere in the bank's stepped-up publicity campaign do you see or hear any mention of the union, not in the newspaper ads, or the radio spots, or the TV sponsorship of Honor America Day. In the bank's annual re-

port to the shareholders nothing is said about the union, and in the list of the board of directors, only one, Tony Boyle, is identified as being from the union, an identification, in his case, that is hardly avoidable. Edward Carey, general counsel for the miners, is identified only as "attorney at law," and Thomas Ryan, comptroller of the welfare and retirement fund, is cryptically dubbed "welfare executive." As the bank publicizes the future opening of yet another branch (there are already 19 around Washington), it touts its "great cast of bankers," but fails to mention the great union that owns the bank, the one True Davis says is such an asset in attracting the workingman's deposits.

#### SHOULDER SHRUGGING

The men on the board of directors of the bank, in describing the limits of their responsibility, sound like a 1950 civics book. They talk of their world as if it were divided up into inviolate boxes—legislative separated from executive, bank separated from union, decisions separated from consequences. And while they go on working to make the union richer, the directors say the bank has nothing to do with the union. They defend themselves by postulating that the union that owns them exerts no influence, no pressure on the bank's activities, as if morality was defined in pounds per square inch.

When True Davis was asked about the charge that the union's welfare and retirement fund defrauds miners through the use of a non-interest-bearing checking account which is kept in his bank, he said that union affairs "are none of my business." He said that whatever second thoughts he had on becoming president of the bank were dismissed after a conversation with his predecessor, Barnum L. Colton, long-time Lewis associate who became director of the bank soon after the union acquired it. "You wonder yourself what is the relationship (between the union and the bank)," Davis said. "I checked with the former president, Mr. Colton, and he said that he ran the bank effectively and there was no influence of the union on the operation of the bank. They (the union) considered the bank a good investment, and since I've been here that has been the case."

Colton's independence was probably very reassuring, when you consider that the union never influenced him even though it once loaned him \$16.6 million and used him to purchase more shares in the bank. It takes a tough man to remain unilateral when he is receiving bilateral aid.

There are other men, besides Colton, who do not let their connections influence their thinking, who, with exemplary strength, are not coopted or influenced. One is Crosby Boyd, who both sits on the board of the union's bank and is the chairman of the board of the Washington *Star*. Since the *Star* writes about union activities and bank activities, one might suspect a conflict of interest in Boyd's position. But Boyd says that he has no editorial power or influence on his paper's policy. It is remarkable that a top executive would be so powerless, but Boyd lives with it. He said that the editor, Newbold Noyes, makes all the editorial decisions and Noyes is free from any pressure from him. In fact, Boyd just passes on letters of complaint, whether they be from the UMWA, the bank, or some unknown, without his own comments and as a matter of routine.

But before you conclude that the *Star* isn't really vigilant about conflicts of interest, consider the case of Fred Barnes, who works there as a reporter. Barnes covered the union, then took a leave of absence to serve as a press agent for the Yablonski campaign, then returned to the *Star*. After his return, the Yablonskis were murdered, and the paper assigned Barnes to cover the story.

But suddenly he was taken off the UMWA assignment and told not to write further mine stories.

Crosby Boyd explains it this way: "He [the editor, Noyes] found some evidence of writing that was not impartial."

Boyd's definition of partiality, however, must differ strikingly from that of editor Noyes, because the latter says that there were no evidences of partiality or bias in Barnes' stories, and that, quite to the contrary, those stories were excellent. The way editor Noyes tells it, Barnes was taken off the mine story simply because his past connection with the Yablonski faction would make it bad practice for him to continue covering the UMWA.

It may be that Boyd's position on the bank board led him to read Barnes' stories with a jaundiced eye and led him to see partiality in those stories where the editor did not, thus illustrating, through his own evaluation, the dangers of conflicts of interest and how they can alter one's judgment. But since Boyd apparently doesn't believe in conflicts of interest, and minimizes their danger in his own case, perhaps he should try to get Barnes restored to the mine story, now that he has learned that Barnes' writing on the subject was not biased. Or maybe Boyd, an executive, trusts himself in matters of conflict more than he trusts Barnes, a reporter. The *Star* seems to feel that way. It has allowed Boyd to retain his current position on the union's bank board and retain his stock in the bank, while Barnes has not been put back on the mine story because of his past connections with Yablonski.

The case of Tony Boyle's autonomy is even more exemplary than that of Colton, Davis, or Boyd. Tony Boyle, it is explained, is the trustee of the welfare and retirement fund, but he acts independently from Tony Boyle, the president of the union, and these two men are kept in strict isolation from Tony Boyle, who sits on the board of directors of the bank. Such an absolute separation of power is almost supernatural when you consider that, in practice, the welfare and retirement fund has been charged with defrauding the pensioners for the benefit of the union coffers and the bank's net profit.

#### PENSIONS FOR PROFIT

The fund was established in 1950 as part of the National Bituminous Coal Wage Agreement that was the final coming together of union and management in a truce that has remained inviolate ever since. The fund provides pensions for nearly 70,000 miners, plus medical and hospital care for working miners and death benefits to surviving widows. As established, the fund gets its revenue from a fixed levy put on the amount of coal produced, and the coal companies, since 1952, have been paying 40 cents a ton to the fund, which is set up on a pay-as-you-go basis, and takes in and disburses between \$175 and \$200 million a year. The fund was meant to be separate from the assets of the union, managed for its own growth, and run by three trustees, one from the coal operators, one from the union (Boyle took over this job in 1969), and a third, or "neutral," trustee.

Substantial portions of the pension fund's assets were put into a noninterest-bearing checking account in the National Bank of Washington, in balances varying from as much as \$70 million to about \$20 million. After considerable public outcry about the nearly \$70 million kept in the checking account in 1968, the pension trustees reduced the amount to a total \$26 million in 1969.

The pension fund, then, was not gaining the interest on millions of dollars, which could mean up to as much as \$3.5 million in some years, and between \$10 and \$25 million over the life of the fund. What this means is that the National Bank of Washington, where the checking accounts are kept,

gained windfall benefits from having all this free money to invest and the union, which owns nearly 75 per cent of the shares in the bank, benefited from that money in terms of higher dividends.

A pension fund spokesman declares that the fund only reached the \$70-million level during periods when mine strikes were possible and ready cash was needed in case the coal companies' payments to the fund, which are tied to current coal production, were stopped when production stopped because of a strike. He said the present \$26 million in the checking account provided a necessary two-month emergency back-up.

However, a suit brought by a group of miners and pensioners in U.S. District Court in Washington, *Blankenship vs. Boyle*, charges that the checking account was used deliberately to deprive the pensioners of the extra income to the benefit of the bank and its stockholders. (The suit also charges that administrative expenses of the fund, which run about \$6 million a year, are excessive, and that the pension fund's investment portfolio, which included electric power companies, was mismanaged and produced a paper loss during the middle 1960s when everybody else was reaping bonanzas from the stock market).

True Davis says the decision to keep \$26 million in a pension fund checking account is merely a question of business judgment, such as "Do you like striped ties, or do you like checkered ties?" Other bankers don't agree. A New York bank president, after the fund's operation was explained to him, said that there are many ways to keep large amounts of money readily convertible back to cash for emergency use on short notice and still gain interest on the money. "If the fund ever leaves the bank," he said, "tell me so I can get it into my bank."

The possibility of a correlation between yearly profits of the bank and the size of the pension fund checking account was admitted even by the comptroller of the fund, Thomas Ryan, testifying before a Senate subcommittee a few months ago:

"Mr. Ryan: Just as a commonsense businessman, I would assume that the earnings of the National Bank of Washington declined last year because of the loss of deposits that they suffered.

"Senator Pell: And perhaps the welfare fund withdrew some of its funds, dropping it from \$70 million to \$30 million.

"Mr. Ryan: That could possibly be the reason. There is no doubt that the welfare fund did withdraw some of its funds."

Beyond the practice of helping the union, one Washington banking expert says that the connection the bank has with the union, the millions of dollars in easy assets, has made the National Bank of Washington complacent. He says it has abdicated its responsibilities as a bank to the community. "This is one reason," he says, "why banking in this city is so damn poor. The National Bank of Washington doesn't do a damn thing for the community." With massive union assets, the bank can continue to turn over fairly happy dividends to its stockholders without having to worry about competing to attract new capital or making the fullest use of its money. The National Bank of Washington has always maintained the image of being the stodgiest, perhaps even the stingiest, bank in the country, or, as it prefers to put it, "the most liquid bank in the world," built on a secure foundation of hard cash and low-yield government bonds. Its loan policies have been constipated. While most banks loan out between 50 to 60 per cent of their total deposits, the National Bank has the incredibly low loan ratio of between 30 and 40 per cent. This means that many millions of dollars that could be put to use in the community are frozen in the bank, and because of its favored relationship with the

union, the bank hasn't had to alter its policy. True Davis says he is changing the loan policy to be more responsive to the community.

Davis is unaware of certain policies that have taken place in his own bank. He says, "I don't believe there has been a loan with an official of the union. I certainly would not approve of one because that would not be consistent with good banking policy." He also stated that to his knowledge no union people had taken out mortgage loans. Yet a check at the Rockville, Maryland, courthouse shows that he is wrong. In 1961, Edward Carey, general counsel for the union, got a \$22,000 mortgage loan from the National Bank of Washington, and in 1965, Willard P. Owens, another union lawyer, got a \$42,000 mortgage loan. Others on the union payroll have also received such loans.

We can't blame Davis too much for things that happened before his time, but he should be interested in finding out how the union uses his bank. When asked about the special executive pension fund that permits a few top union officers to retire at full salary, a fund that was taken from the union treasury and deposited in the bank and now holds about \$1.5 million, Davis said, "I don't even know on that account—they have various accounts, and I'm not aware of how they have been identified."

#### ETHICS OF UNCONCERN

Whether pensioners or union members lose out because of the bank's policy, whether the union officials are getting away with extortion and fraud and enriching themselves at the expense of the coal miners, is of no concern to the powerful men on the bank's board of directors. The three board members whom I was able to interview all said the same thing—that they have nothing to do with the union and are in no way responsible for, or even associated with, its actions. A fourth member, Clark Clifford, was called four times, and once it was explained to one of his law partners the purpose of the interview. Clifford's unconcern was limitless enough that he did not grant the interview.

Stephen Woodzell, PEPCO president, offered that he didn't "see where that (union activities) is of prime importance," and added that "if Al Capone would deposit his money in the bank, you wouldn't turn him down." True Davis explained that "my job is to show the best earnings I can for the shareholders," that "banks should address themselves to profitability," and that "a bank has to be considered a neutral depository. We'd be damned fools if we started asking companies what they did with their money."

But what if Al Capone owned the bank? The directors that were interviewed showed less than minor concern toward the charges made against the union. The board members didn't even see the need for making any personal evaluation about the kind of men they are working for, taking an amoral rather than an immoral stance. True Davis says the union is none of his business, even though the union's business happens to be his bank. The UMWA keeps the bank as its investment and expects to profit from it, and True Davis says he is proud to provide the shareholders (the union) with the profits they desire. He works toward that end with his name, his talents, and his time. Yet he has no interest in evaluating the morality or legality of his employers.

Men like Davis, Clifford, and Crosby Boyd are often held up as community models, reason that kids should stop blowing up banks. They are men who are called upon to evaluate the national or domestic interest, and yet, in their association with the union, they exhibit the apathy and myopia of the uninformed. In public language, they are often called disinterested—able to act on cosmic issues they probably can do nothing about—and yet in one small instance of

injustice that they could effect, they are not disinterested, but uninterested.

We do, it is said, live in a time in which it is difficult to get involved, or to relate, to anything outside ourselves, and the board of directors of the National Bank of Washington are also afflicted with an inability, or unwillingness, to see how their formal actions in the paneled board room affect coal miners and pensioners in Appalachia.

AUGUST 31, 1970.

COMPTROLLER OF THE TREASURY,  
Office of The Treasury Department  
Washington, D.C.

DEAR MR. COMPTROLLER: At a special meeting of the stockholders of the National Bank of Washington on Friday, August 28th, the stockholders approved a pension plan for officers and employees of the Bank with an estimated outlay per year by the Bank for the next ten years of over \$1,100,000. During the course of the stockholders' meeting, Mr. John Wilson announced that your office had approved the proxy statement for the meeting. Since this proxy statement would appear to violate all basic principles utilized by the Securities and Exchange Commission in judging proxies, I was quite naturally surprised to hear that your office had approved this statement, and I am writing for confirmation thereof.

Just to point out two significant omissions from the proxy statement, it did not mention the case of *Blankenship v. Boyle* in the District Court for the District of Columbia where there is a potential liability on the Bank of many millions of dollars. Possibly even worse was the failure to make any reference to the fact that the United States of America has filed a lawsuit in the same court to upset Mr. Boyle's election; this cloud over the title of Mr. Boyle to determine how the UMWA stock should be voted should at least have been made known to the stockholders.

At the stockholders' meeting I picked up a copy of the semiannual report of the Bank as of June 30, 1970. While we well understand the Bank trying to hide its connection with the UMWA in view of that Union's present public image, we nevertheless call to your attention the receptive manner in which this was accomplished. For example, Mr. Edward L. Carey, the General Counsel of the Union, is described in the listing of the Board of Directors as Attorney at Law and Mr. Thomas F. Ryan, Jr., Comptroller of the United Mine Workers Welfare and Retirement Fund, is described as a Welfare Executive. One would hope that this kind of advertising of a bank is subject to stringent regulation by your office and that this deception will soon be stopped.

Thank you very much for your consideration of the matters herein.

Sincerely yours,

JOSEPH L. RAUH, JR.

THE ADMINISTRATOR OF  
NATIONAL BANKS,

Washington, D.C., September 29, 1970.

Re: National Bank of Washington.

JOSEPH L. RAUH, JR., Esq.,  
Rauh & Silard,  
Washington, D.C.

DEAR MR. RAUH: Please refer to your letter dated August 31, 1970, relative to the proxy solicitation materials utilized by the management of the above referenced bank in connection with the special meeting of stockholders held on August 28, 1970. As requested in your letter, this will confirm that this Office reviewed management's preliminary proxy solicitation materials and found them to be in compliance with the requirements of this Office, and the bank was so advised. Of course, if a shareholder of the bank believes that material facts were

omitted from the bank's Proxy Statement, such as to render it false and misleading, the usual judicial remedies are available. Under existing circumstances no further action by this Office is indicated at the present time.

You suggest in your letter that the bank's advertising, to the extent that such is reflected in a copy of the semi-annual report of the bank as of June 30, 1970 which you picked up at the above mentioned stockholders' meeting, is deceptive in that Mr. Edward L. Carey, the General Counsel of the Union, is described in the listing of the Board of Directors as Attorney at Law and Mr. Thomas F. Ryan, Jr., Comptroller of the United Mine Workers Welfare and Retirement Fund, is described as a Welfare Executive. Although your letter does not make clear what person or class of persons may have been deceived by such omissions as referred to in your letter, such inadequate descriptions, if in fact they are inadequate, do not appear to be of sufficient significance to warrant any action on the part of this Office at the present time.

Very truly yours,

THOMAS G. DESHAZO,  
Deputy Comptroller of the Currency.

OCTOBER 1, 1970.

Re: National Bank of Washington.

Mr. THOMAS G. DESHAZO,  
Deputy Comptroller of the Currency, The  
Administrator of National Banks, The  
Department of the Treasury, Wash-  
ington, D.C.

DEAR MR. DESHAZO: Your letter of September 29, 1970 is peculiarly defensive and unsatisfactory.

With respect to your suggestion that "the usual judicial remedies are available" concerning the false and misleading Proxy Statement, this is hardly more than an echo of the bank's position as expressed to me by Mr. Wilson. Furthermore, the poor and oppressed miners who are carrying on the effort to clean up the union and the bank are getting a little tired of always hearing that they should do this or that rather than having the Government do its duty. I note in this connection your *sub silentio* admission that you have lower standards for proxy statements for banks than the Securities and Exchange Commission does for other business interests.

With respect to your second paragraph, the class deceived consists of each and every person who deals with the National Bank of Washington without knowing it is owned lock, stock and barrel by the corrupt UMWA and run by the corrupt Mr. Boyle whose title to run the union and bank is in legal dispute. We understand the bank wanting to hide its connection with the union, but we find it difficult to understand your rubber-stamp approval of that conduct.

Sincerely yours,

JOSEPH L. RAUH, JR.

THE COAL-BLACK SHAME OF THE UMW  
(By Trevor Armbrister)

Shortly after 1 a.m. last December 31, three men approached a solid fieldstone house in the coal-mining hamlet of Clarks-ville, Pa. Working quietly and confidently—they had already cased the residence for days—they cut the telephone lines and entered through a side door. They took off their shoes and crept upstairs to the second floor.

Asleep in the master bedroom lay Joseph A. "Jock" Yablonski, a 59-year-old union official, and his wife, Margaret. In an adjacent bedroom slept their daughter Charlotte. One man aimed a .38 caliber revolver at Charlotte's head and fired twice. Margaret Yablonski screamed. Her husband groped for the box of shotgun shells he kept under the bed. A second gunman cut them down in a hall of bullets.

Throughout his unsuccessful campaign

for president of the United Mine Workers of America, the short, raspy-voiced Yablonski had charged UMW leaders with employing terror tactics, called them corrupt and begged the Labor and Justice departments to investigate. Few listened. And then it was too late.

The grisly murders shocked the nation. Attorney General John Mitchell ordered the FBI into the case, and on January 21 authorities in Cleveland arrested three suspects. A Federal grand jury indicted them, one of their wives and a local union official on charges of interfering with the rights of a union member, obstruction of justice and conspiracy to kill Yablonski. (No evidence has appeared to link UMW leaders to the crime.) The Labor Department filed suit to invalidate the election results. The Justice Department and the Internal Revenue Service examined the union's books for "possible criminal prosecution."

Yablonski's supporters found irony in all this. "Alive, Jock couldn't convince anyone to act," one of them said bitterly. "But his ghost has got everyone hopping."

#### CRUEL PARODY

The UMW embraces 193,000 active and retired miners in some 1300 locals spread across 27 states and four Canadian provinces. For more than 40 years, under John L. Lewis, it was the pride of American labor. The charismatic, shaggy-browed Lewis won high wages for his men, pioneered in establishing the UMW's Welfare and Retirement Fund which was among the first to give workers pensions and free medical care. Later, he encouraged mechanization of the mines, to revive an industry threatened by atomic energy and cheaper oil fuels. Then, in 1960, Lewis appointed as his vice president (and eventual successor) a short, baldish ex-coal miner from Montana named W. A. "Tony" Boyle. It was, he told intimates before his death last year, "the worst mistake I ever made."

An arrogant, hot-tempered man who once threatened to shove a bologna down a Congressman's throat, the 65-year-old Boyle insists he has followed in Lewis's footsteps. Hardly. He lacks his predecessor's vision and links to the rank and file. Since he took office, the union has deteriorated into a cruel parody of its former self. Interviews with UMW spokesmen, miners and government officials and careful scrutiny of union documents, sworn affidavits and Congressional testimony show how its leaders have flouted both Congress and its own constitution:

*They have spurned democratic procedures.* "This union is a private government—like the Mafia," says Washington attorney Joseph L. Rauh, Jr., who served as Yablonski's campaign adviser. "It operates above the law." The Landrum-Griffin Act of 1959 stipulates that rank-and-file union members must have the right to choose their own representatives. But the UMW has simply winked at this law. Today, in 20 of the UMW's 25 districts, Boyle appoints the officers. The 50,000-plus miners of West Virginia, for instance (who account for nearly one third of the UMW's total dues income), have no voice in the election of their district officials.

The UMW's own constitution says that union locals must consist of "ten or more workers working in or around coal mines." But many locals—estimates range as high as 600—are composed entirely of pensioners in areas where the mines have been abandoned. Legally, these "bogus" locals should be disbanded, their members transferred to nearby active locals. But "because we haven't got the heart to revoke their charters," UMW leaders keep them on the rolls. Their rationale is less charitable than it sounds. These bogus locals can always be counted upon to supply large blocs of pro-Boyle votes.

*They have squandered millions from their own treasury.* Boyle has vast sums of money at his disposal. The union itself has assets

of 88 million. It owns 75 percent of the stock of the National Bank of Washington (Boyle has earned more than \$30,000 in bank director's fees since 1964), and exerts strong influence over the \$179 million Welfare and Retirement Fund (Boyle is a trustee of the Fund and its chief executive officer).

In 1969, the union disbursed more than \$1 million to its officers and employees for "expenses" without requiring adequate documentation, a violation of the Landrum-Griffin Act. One official was paid for "mileage and expenses" while he lay in a hospital bed. "Some officials have claimed expenses for hotel and travel for practically every day of the year," a Labor Department report noted. Boyle's daughter Antoinette, a union attorney in Billings, Mont., received \$43,809 in salary and expenses for duties that remain unclear (she declines to comment on them).

In 1960 the union's top officers quietly transferred \$850,000 from the treasury into a special "agency fund" (with current assets of \$1,500,000) to finance their retirement at full salary. The average miner, however—if he is lucky—retires on an annual pension of \$1800. Any welfare and retirement fund with assets as large as the UMW's should make a sizable profit on its investments. This hasn't been the case, primarily because of the Fund's links with the union-owned National Bank of Washington. Until recently the Fund kept \$67 million in a checking account at the bank. The money earned no interest for the miners. The bank, however, benefited enormously from its "free" use of the resource and poured fat dividends (since 1964 nearly \$8 million) into the union's coffers.

In theory, the Fund is independent of the UMW. In practice, miners apply for their pensions through their local unions and, in order to receive them, must pay monthly dues of \$1.25 (25 cents of which goes to the locals and \$1 to UMW headquarters). As a result, the UMW gleans an annual extra million dollars. "This is extortion, pure and simple," says Mike Trbovich, chairman of a reform group called Miners for Democracy.

*They have fostered cozy ties with the employers.* "This union is in bed with the coal operators," says Lou Anatal, a stocky district chairman of Miners for Democracy. "It's been going on for years." Despite union denials, "sweetheart contracts" do exist which permit some companies to pay workers less than union scale. Boyle has not won conspicuous concessions for his men at the bargaining table, either. Not until 1968, for example, did the rank and file win Christmas as a paid holiday. The present contract contains no provision for "sick pay," standard in most union contracts—and this in an industry which ranks as the nation's most hazardous. To finance the Welfare and Retirement Fund, coal companies pay a royalty of 40 cents per ton—a figure which hasn't changed since 1952.

*They have lagged behind in the push for coal-mine health and safety legislation.* Since the early 1930s, 1,500,000 men have been injured in the nation's mines. In 1969 alone, 203 men died in mine accidents. Another 10,000 were seriously injured, and thousands of others impaired, by pneumoconiosis, the dreaded "black lung" disease. Arnold Miller, a local union official from Ohley, W. Va., says, "If we promoted safety, really pushed it, we could cut that death rate in half."

During the winter of 1968-1969, three West Virginia doctors—Isadore Buff, Hawey Wells and Donald Rasmussen—appealed to the UMW for help in pushing health and safety legislation through the state legislature. UMW officials spurned their plea. (Boyle explained later in a speech, "We're not going to destroy the coal industry to satisfy the frantic rantings of self-appointed and ill-informed saviors of coal miners.") That January the doctors joined with a group of

dissident miners to form the Black Lung Association. UMW officials warned the miners to disassociate themselves from it or face possible expulsion from the union. Infuriated by this threat, nearly all of West Virginia's 42,000 active miners staged a wildcat strike. Boyle ordered them back to work. The miners defied him. Finally the legislature passed a bill to compensate victims of black lung. Whereupon the UMW *Journal* ran an article crediting passage of the new law to Boyle's leadership.

#### THE CHALLENGE

By spring 1969, the union's long decline and undemocratic procedures had attracted the attention of powerful critics. Rep. Ken Hechler of West Virginia and Ralph Nader spoke out against Boyle. So did Jock Yablonski.

For nearly 36 years, Yablonski had served the UMW—first as a local union president in Pennsylvania, finally as acting director of the UMW's lobbying arm. No one had been a more effective public defender of the leadership. Privately, however, Yablonski chafed under Boyle's regime. On May 29, 1969, he announced his candidacy for the union's top job.

"I participated in and tolerated the deteriorating performance of this leadership," he said, "but with increasingly troubled conscience. I will no longer be beholden to the past." He posed the first real threat to UMW officials since 1926 and, at that first press conference, he said he might be killed as a result. His supporters thought he was being "melodramatic."

To gain a place on the ballot, Yablonski had to win the nominations of at least 50 locals. Boyle seemed determined to stop him. He increased his loans to UMW districts; his supporters offered miners cash to block Yablonski's nomination. Despite a warning from the Fund's comptroller that a pension hike would jeopardize the Fund's solvency, he rammed through a 33-percent increase in the monthly payments.

On July 18, attorney Rauh wrote the then Labor Secretary George P. Shultz requesting an investigation. He charged that UMW officials, in massive violation of federal law, were trying to revoke the charters of pro-Yablonski locals or, failing in that, to merge them into pro-Boyle units. Locals which had already nominated Yablonski were told that a recount showed they had really favored Boyle. Local union presidents in Illinois were, Rauh alleged, "offered \$150 to \$200 each to coerce their locals into nominating Boyle."

Although the Landrum-Griffin Act clearly states that the Secretary of Labor had the right to investigate, Shultz decided that the Department "should not investigate and publicize the activities of one faction in an election in order to assist the campaign of the other." He would observe "long-standing policy" and wait until the balloting was over.

Despite the obstacles in his path, Yablonski won the nominations of 96 local—nearly twice as many as he needed. His campaign zeal surprised even his own supporters. ("A lot of us were pretty skeptical at first," miner Harry Patrick remembers. "He'd been part and parcel of that gang since the year 1.") As Yablonski hammered away at Boyle and the UMW leadership, violence grew apace. On June 28, after he spoke at a meeting in Springfield, Ill., he was knocked unconscious. Hawey Wells discovered leaves and pine cones in the gas tank of the plane he used to fly to Yablonski rallies. In Moundsville, W. Va., five men attacked Tom Pysell, a vocal Yablonski backer, and left him with three broken ribs.

#### CRY FOUL!

On December 1, eight days before the election, Rauh made one last plea for government intervention. "The failure of the Department of Labor to take strong measures

to insure a fair election," he wrote, "may well bring in its train ugly violence." Shultz repeated his stand. There would be no investigation "at this time." In the December 9 election, Boyle won by 35,000 votes. He had succeeded in his strategy of wooing the 70,000 bituminous-mining pensioners—by suggesting that a Yablonski victory might rob them of their benefits and implying that it would be "healthy" for them to back the incumbents. Boyle received 93 percent of their ballots. Yablonski did well among the working miners. Where he had stationed observers (his supporters had been forced to pose as newsmen just to find out the location of many polling places), he usually won or broke even. In districts where he didn't, Boyle's ratio soared as high as 88 to 1.

Yablonski cried "foul" and refused to concede. He asked the Labor Department to impound the ballots. Yablonski's son Chip submitted an affidavit alleging nearly 100 election-law violations. One local official was seen casting ballots for 30 men. Another local received only 95 ballots. Yet Boyle won by 145 to 5.

The Labor Department refused Yablonski's request. He didn't give up. "We're gonna fight this thing all the way," he rasped. On December 18 he wrote to union headquarters: "Tellers, stand up before it's too late. I too once submitted to the discipline of Tony Boyle. But I shall die an honest man because I finally rejected that discipline." Two weeks later he was dead.

#### A STILLED VOICE SPEAKS

On January 8, Labor Secretary Shultz finally called for "a full-scale investigation." Early in March the Department filed suit to overturn the election results. Meanwhile, the union is under fire on other fronts. The Labor Department has filed suit to compel it to keep adequate financial records. The Justice Department is preparing a suit to insist that the union allow members to elect their own district officers. The Senate Labor Subcommittee is probing into the election and the relationship between the union, the Welfare and Retirement Fund and the bank. Hundreds of miners have filed a suit alleging that Boyle, his vice president and secretary-treasurer have misappropriated \$18 million from the union's treasury.

Dismissing such challenges as "politically motivated," union officials seem intent on business as usual. Not long ago, miners in western Pennsylvania walked off their jobs to protest the government's failure to enforce new health and safety legislation. UMW leaders told them to go back to work and, when they refused, joined forces with coal companies in an effort to compel them to return.

The shots fired in Clarksville last December 31 have stilled a voice but not a movement. Threats and bribes no longer smother dissent. "I can look my children in the eye," says West Virginia miner Tom Pysell, whose outspokenness led to a beating last fall. "That means more to me than money."

Throughout the coal fields today, from the slag heaps of Pennsylvania to the hollows of Kentucky, other miners are echoing Pysell's sentiments. One afternoon last February, hundreds of them converged upon Washington to picket the Justice Department. It was the sort of protest that would have been unthinkable in John L. Lewis' time and, as if in realization of this, some of the men had tears in their eyes. "The UMW is a shame," they shouted. The buttons on their heavy jackets were more explicit: "Stop murder," they said.

#### SENATOR DOLE'S REALISTIC ASSESSMENT OF THE ELECTIONS

(Mr. MIZE asked and was given permission to extend his remarks at this

point in the RECORD and to include a speech by Senator ROBERT DOLE.)

Mr. MIZE. Mr. Speaker, Senator ROBERT DOLE of Kansas had the privilege of addressing the U.S. Savings and Loan League's annual convention in San Francisco on November 9. In his remarks to the convention, Senator DOLE made a realistic appraisal of the outcome of the November 3 general election. This summary should be required reading on my side of the aisle and our Democrat friends should read it, too, to take note of some of the achievements of this administration which they tried to discredit in their campaigns. I am especially pleased that Senator DOLE had some comments for the business community. I hope they are read and carefully evaluated. I request that the remarks of Senator DOLE appear at this point in the RECORD.

The remarks follow:

#### REMARKS OF SENATOR BOB DOLE

Having been on the campaign trail for several months, it is a pleasure to be with you in San Francisco. It seems a bit unusual to be standing here and not asking you to vote for some Republican candidate. But since the 1970 campaign received so much attention, it is appropriate to assess the results today. Last Monday we were all speculating and asking ourselves questions. The election on Tuesday answered some of those, but raised others. What did the elections mean? What trends can be seen? Which party won what?

#### ASSESSING THE ELECTIONS

The most accurate assessment would be that the results were mixed. Republicans can claim success in congressional elections, while Democrats scored gains in State races, especially governorships.

#### SHORT MEMORY

An important factor which hurt many Republican candidates was the "short memory" of thousands of American voters. Two years ago the Vietnam War was number one on the minds of a great majority of Americans, while runaway inflation and excessive Federal spending were secondary issues. With the advent of President Nixon and the de-escalation of the war in Vietnam, voters' priorities changed. Inflation and unemployment moved to the front, while the Vietnam war moved well down the list.

Certainly no one faults President Nixon for extricating us from the tragic war he inherited, but it is not unusual for President Nixon or anyone to receive little credit for a job well done. In my opinion, this was the case insofar as the President's successful role in Vietnam was concerned. Democrats were permitted—with little resistance from our side—to play down the war and to emphasize unemployment and inflation. I do not for a moment suggest war or peace should be partisan, but believe the successful efforts of this administration in South Vietnam should have had more emphasis. Republican leaders should have been on the offensive, pointing up day after day that the problems in our economy—including inflation and unemployment—were fueled by the very expansion of the war that President Nixon inherited and was ending and by the irresponsible spending policies of Democrat administrations in the 60's.

We tended instead to agree with the Democrats and many of the pundits that the war was really not an issue. By not emphasizing this skeleton in the Democrat closet and by not emphasizing the number one priority of the Nixon Administration was "peace instead of war", the successes in Vietnam very probably meant failure at the polls in many instances. As I travelled around the country, it was obvious that President Nixon had

great strength and was generally well accepted, but that peace instead of war, though highly desirable, appeared less important than the bread and butter issues—again because of our failing to put everything in its proper perspective.

The President never believed war and runaway spending were good economic tools. They may produce doubtful short-run economic effects, but Republicans have fortunately never used them. But obviously this was not made sufficiently clear to the voters.

So we have a mixed bag in the election returns. Looking at Capitol Hill—particularly in the Senate—most observers agree President Nixon will be in a better position in the 92nd Congress than the 91st. Tydings, Goodell, Gore, Yarborough and Young will be replaced by Beall, Buckley, Brock, Bentsen, and Taft. These changes are, by and large, pluses for the President. Murphy and Smith will be gone, but on balance, this is a net gain of at least three—with the race in Indiana still in doubt.

There will not be a Republican majority in the Senate, but the results are less than the normal losses of 4 or 5 Senate seats—and 20 to 40 seats in the House.

When Congress recessed on October 14, we, in a sense, passed the buck to the lame duck session which will begin next Monday. It could well be a no-holds barred political rehash of the past, and political preparation for the 1972 campaign. The Democrat leadership will determine the agenda, but it is almost a certainty that we will be in session until Christmas. Since there will, perhaps, be little rhyme or reason during this post-election session, I believe it worthwhile to review briefly important areas of concern and key problems that have been, and will continue to be uppermost in the minds of a great majority of Americans.

#### QUESTIONING THE GOVERNMENT

In retrospect, if there was one concern in America that could be said to have characterized the Nation prior to the election 2 years ago, it was the growing suspicion among the American people that somehow Government was not working properly.

The growth of the Federal budget and the growth of the Federal bureaucracy both reflected the proliferation of problems across America, but neither had a positive effect on these problems. The war in Vietnam was expanding almost daily. The crime rate had reached an all-time high. Violence was an accepted political weapon in the hands of radicals. Our first big-city riots had been rationalized and explained away time and again in the highest councils of government. Skyrocketing domestic spending was undertaken in an effort to buy a great society and domestic tranquility. We were sailing along on a sea of false prosperity, waiting for something or somebody to pull the plug.

It was a frightening time, and its hallmark was a widespread belief that Government had either dropped the reins or was no longer capable of holding them—and in any case was no longer in control.

In 1968, the American voters elected Richard Nixon, and for nearly 2 years he has worked to make Government responsive to the people again, to reorder our national priorities, and to bring them in line with the realities of America's domestic and international responsibilities.

#### VIETNAM WAR

We are no longer increasing troop levels in Vietnam. We are bringing our young men home. The Vietnamese forces, trained and equipped by the United States, are taking over the burden of their own defense. Casualty figures last week were the lowest in more than 5 years. And all this has been accomplished without crippling the credibility of the forces of freedom, either on the battlefield or at the negotiating table—done de-

spite the cries and criticism of many in the Senate.

Now, the success of the Vietnam operation reflects the realities of American politics for by constitutional mandate the President directs the course of America abroad. The President makes foreign policy, and this unfettered initiative and freedom to act quickly and decisively in matters of foreign policy accounts for the success the President has had in Vietnam. It accounts for his ability to turn around a decade-long war and enhance our ability to achieve a satisfactory conclusion of that war, while reducing American deaths to the minimum.

#### DOMESTIC PROGRAMS

But while the power of the oval office in international affairs begins at the water's edge and is virtually exclusive, the President—aside from the prestige of his office and his own political skill—is dependent to a significant extent on congressional grants of power in the domestic arena.

And this political reality accounts for many of the difficulties President Nixon has encountered in his efforts to make Government work, to deal effectively with crime and violence, to give a new and proper order to our national priorities, and to cool the dangerously overheated economy.

But in every case, he has had to move against the will of a Democrat majority in the 91st Congress—and he will again in the 92d.

#### ANTICRIME LEGISLATION

In the face of this handicap, the President has had success. By determination and leadership, he brought this Nation's peril at the hands of the criminal to the attention of every American.

The President, for example, placed some fourteen bills before the Congress—all aimed at strengthening the forces of law and order—the forces of justice in America. Month after month, the bills languished in the Congress. Try as he might, he could not pry them loose.

Now, I would not for a minute be cynical enough to see any cause and effect relationship between last week's elections and the passage of those bills. I would not for a minute suppose that because the American people were getting fed up with the muggings, and the rioting, and the bombing, and so forth, that the Congress decided it had better do something—I would not suggest that at all.

But it should be clearly noted that since President Nixon came into office, there has not been a single big city riot. Since he came into office, there has been substantial progress in reducing the great increase in crime.

#### THE ECONOMY

In the field of the economy—the President has fought since taking office against the spending policies of the Democrat Congress. Sometimes, he has succeeded . . . sometimes he has resorted to the veto. And sometimes, as you know, his veto has been overridden. But the trend is positive. We are now to a point where the economists are arguing about what the indicators indicate—and that is always an encouraging sign—I am told.

But consider the economic perspective for a moment.

Starting in 1964, we tried to outspend our resources. We tried to have guns and butter and a great society all at once. But you know that kind of spending does not bring prosperity, only inflation. In the face of this legacy of expediency, opportunism and irresponsibility, President Nixon implemented a policy of fiscal and monetary restraint. The goal was to cool the economy, put it on a peacetime footing and avoid serious dislocations and abrupt adjustments. That goal is being achieved—though painfully and slowly.

But liberal critics say that inflation continues and unemployment is up. Yet many of these same critics who complain about

the perilous state of the economy helped put it in that condition.

These latter-day economic prophets are the very ones who supported the excessive growth of the defense establishment throughout the sixties. And despite all their talk about reasoned response and cost-effectiveness ratios, the defense establishment grew like topsy. But all of a sudden, the American people wondered if we needed all the hardware we were buying and all the defense contracts which were being let, and all the cost-overruns. The critics stuck their fingers up to test the air and all of a sudden they wanted a reduction in defense spending. All of a sudden our priorities were all wrong.

Well, President Nixon knew that a long time ago, and he began the necessary defense cutbacks. He began the necessary reordering of spending to accommodate domestic priorities. He put the Pentagon into line with national needs instead of private or political opportunity. And this meant a reduction in defense spending which caused a very substantial shift in the structure of our economy. And what was the immediate consequence of that? We have more people in the labor market than can be efficiently absorbed. In other words, as our hypercritical friends so rightly point out, unemployment is up.

Unemployment is going to remain up in some areas for several more months, until the economy finishes righting itself and we complete the transition from a war-time to a peace-time economy. But all the evidence suggests President Nixon is successfully turning the economy around. Last week's figures indicate a considerably smaller increase in unemployment than the Democrats were predicting before the election, and it should be noted that this fractional rise includes unemployment caused by the effect of the General Motors strike on other industries.

Now it is a bit absurd for the critics to fault the President for not turning this economy around overnight—and for an economic reversal of the magnitude required, twenty months is overnight. It cannot be done. Nobody promised it would be done. It would have been the height of irresponsibility to have tried, because—at the very least—we would have had one extended, hair-raising recession. But the President has avoided that. He has avoided severe economic dislocation and upheaval. When this is all over, those who fully appreciate what is involved in this operation, as I know you do, are going to be very grateful to the President for what he has accomplished.

#### ECONOMIC POLITICS

But let me give you a brief look at the politics of this matter, because I want you to fully understand just what the President is doing here—what he is risking and the price he is willing to pay to do the responsible thing.

It is no secret how badly the President wanted a Republican congress. It is no secret that the success of his legislative program—his ability to do the job he was elected to do—will be affected by last week's elections. The President campaigned as hard as he could. He went to the people in behalf of Republican candidates. He used the democratic process. In good faith—as a responsible leader—he could do no more.

But let me tell you what he might have done.

In many cases the outcome of the elections last week was a result of the way people responded to the economic crisis. Democratic candidates effectively used scare tactics that invoked visions of the bread lines in the 30's.

Now nobody, to my knowledge, ever lost an election because of inflation. But people have lost elections because of economic slow-downs. They have lost elections on the basis of recessionary factors in the economy. So the lesson is clear. Keep the economy pumped

up, and you have the economic issue wrapped up.

The President could have had the economic issue wrapped up. I do not have to tell you that there are many tools at a President's disposal for short-term manipulation of the economy. Of course, there is the most obvious way—he could try to institute wage-price controls. But this interferes with the free play of the market and creates a bureaucratic morass, and in the end, it is counter-productive.

The easiest, the most dramatic, and at the same time, the subtlest and the most irresponsible way to pump up the economy is simply to throw a lot of money into it all at once. And there are many, many ways a President can do this, but not this President.

A President would not, for example, within a year's time of an election, veto bills he considered inflationary if he wanted to play games with the economy. But Richard Nixon did veto wild-spending bills. He did so, because he did not believe he could—in good faith and as a responsible leader—use the welfare of American citizens as a political weapon against their interests. That is the kind of President he is. He can be trusted, and he deserves our trust. Take the General Motors strike out of the picture and look at the economy. It is on its way back to sound, solid, healthy growth.

Unfortunately, we are now suffering from a "hangover" period in which rising costs continue to push prices up—this difficult period has been extended beyond Nixon economists' expectations by the strength and longevity of the basic demand pressures which caused inflation in the first place. However, the evidence indicates inflation is being brought under control. The rate of increase in consumer prices, at 6.3 percent in the first quarter of 1970 dropped to 5.8 percent in the second quarter, and 4.2 percent in the third quarter.

But most importantly, the gap between increases in labor compensation and output per man-hour was significantly smaller in the last two quarters of this year than it had been during all of last year.

#### OUTLOOK FOR THE SAVINGS AND LOAN INDUSTRY

For the savings and loan business, the steady increase in homebuilding activity is encouraging. Housing experts are forecasting that next year will bring the highest construction rate in 20 years. The favorable prospects reflect:

The effects of the \$250 million special assistance provided in the emergency housing bill;

The decrease in rates on treasury bills. They have dropped more than one-fourth, from 8 percent to less than 6 percent, thus reducing market competition for savers' funds;

The sizable increase in the savings flow picture for savings and loan associations, in September, scored a net inflow of \$577 million, up from \$511 million in August; and

The improvement in the availability of mortgage funds accounted for \$2.1 billion in mortgage loans in September, up about 25 percent from a year ago, and the largest volume for any September since 1963.

Your associations should also benefit from other provisions in the emergency housing bill:

The secondary market for conventional loans under the Federal Home Loan Bank Board;

The authority for your associations to act as trustee for self-employed retirement funds;

The authority to extend the time in which you must reach 5 percent reserves.

The ceiling on your first mortgage loans was increased from 40 to 45 thousand dollars.

The increase in your ability to lend on multi-family housing and erasing your borrowing authority in the short-term area.

During the last year the Congress and the

executive took other actions that particularly affect your associations.

There was considerable pressure in Congress to increase the rate paid on U.S. savings bonds. The Senate passed a bill increasing the rate to 6 percent. However, this was finally set at 5½ percent to avoid disruptive changes in family savings behavior.

Legislation has passed providing up to \$20,000 insurance for credit union savers. The insurance premium is set at 1/12 of 1% with supervisory authority being exercised by the Federal Home Loan Bank, authority comparable to that it has over savings and loan associations. Congress felt that under proper conditions, credit unions are entitled to the same Federal insurance as other financial institutions.

In response to deposit outflows caused by high market interest rates, the Treasury Department raised its minimum denomination of treasury bills from one thousand to ten thousand dollars.

#### THE ROLE OF BUSINESS

It is important that you take an active interest in the legislative matters affecting your business, for only through articulate advocacy of your positions can you expect to see the legislative process function effectively. But you must do more than be involved in government as it influences economic policy. You, alone with other businessmen, must be prepared to assume more and more of the burdens which government has taken on itself over the years.

This administration, and future Republican administrations, are going to be working to decentralize, to put power and responsibility out where it belongs—with the people. This not only means increased dependence on the private sector, it also requires returning political power and financial resources to state and local government. Passage of the administration's revenue sharing proposal would be a big step in the right direction. Nothing is more essential than the success of this operation, and nothing is more vital than the role of business in achieving its success.

In his book, *The Age of Discontinuity*, Peter Drucker says there is mounting evidence that government is big rather than strong; that it is *fat and flabby* rather than powerful; that it costs a great deal, but does not achieve much. There is mounting evidence also that the citizen believes less and less in government and is increasingly disenchanted with it. Indeed, government is sick—and just at the time when we need a strong, healthy and vigorous government. But this is just exactly the malaise the Nixon administration has been working to cure.

Drucker argues that private institutions such as the university, public corporations and private enterprise, must assume those national responsibilities that government has repeatedly shown itself incapable of handling.

So the need is there, and the time is right. Your time is needed, your talent is needed. Now perhaps more than ever we need the contributions that businessmen can make to the success of this government and this nation.

#### CONCLUSION

Sixty years ago, Theodore Roosevelt said, "The history of America is now the central future of the history of the world, for the world has set its face hopefully toward our democracy; and, oh my fellow citizens, each one of you carries on your shoulders not only the burden of doing well for the sake of your own country, but the burden of doing well and seeing that this nation does well for the sake of mankind."

The language may seem a bit antiquated now. But today the history of America is still the central feature of the history of the world. The free world, and the oppressed people still look to us and to our example—

still certain that freedom is the wave of the future. I do not think he can let that have spend itself uselessly on the barren beaches of bureaucracy. I think we have a moral obligation to do all we can to insure the success of freedom in the world, and the bulwark of freedom is a strong government, responsive to the will of the people. Business must be in the forefront of the efforts to recreate and sustain such a government.

#### THE HONORABLE MIKE KIRWAN

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

Mr. SIKES. Mr. Speaker, I have noted that a successor to the Honorable Mike Kirwan has been sworn in as a Member of the U.S. Congress. He is the Honorable CHARLES J. CARNEY. He comes to us with an uncommon touch for he automatically will inherit some of the great feeling of warmth and friendship which was reserved for Mike Kirwan in the Congress. We wish Mike's successor well. We shall all be a little more helpful to him than to most newcomers because he is Mike's successor and Mike was greatly beloved by the House.

I recall very well what a sad day it was in the House when we learned that Mike Kirwan was no longer with us. We had known that this was inevitable, because of his long illness. But he had filled such an important niche for so many years that it was hard to give him up. Undoubtedly, Mike Kirwan will go down in history as one of the all-time great Congressmen. He was a leader who fought for America. He, more than any other man, established a pattern for the improvement and development of America's natural resources, and he set the stage and implemented the great work which is taking place all over our Nation today.

There are few of us who served with him who are not personally indebted to Mike Kirwan for assistance somewhere along the line in our own efforts to improve the waterway and other facilities of our own districts. Mike was always willing to listen and willing to help a Member if the cause was right, and his help was invaluable.

I do not think any Member of the House has ever enjoyed a greater number of warm friendships within the House. He was that kind of man. Each of us who were privileged to share his friendship can be thankful that we knew such a man and that we could profit from the examples of leadership and devotion to duty which he demonstrated.

The name and work of Mike Kirwan will long endure. He wrote a page in congressional history that is great and lasting.

#### A MEMORIAL FOR OUR SEABEES

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

Mr. SIKES. Mr. Speaker, the accomplishments and sacrifices of the officers and men of the U.S. Naval Construction Force—the fighting Seabees—constructed the path to victory in World War II and, since then, have contributed

significantly to our national efforts to build for peace.

Born in the dark days following Pearl Harbor, the Seabees have labored in many parts of the world to provide roads, airstrips and shore installations which enabled the armed might of our Nation and its allies to prevail over the force of our enemies; from the beaches of Europe to the reaches of the Far Pacific, a quarter-million Seabees built everything imaginable, under the most extraordinary conditions, using techniques and materials in such unusual ways that their motto "Can Do" became a permanent part of American language. In the Korean action, Seabees engaged in amphibious landings to assist in stemming the rising tide of Communist aggression in that part of the world. Now in Vietnam, the Seabees are active in the construction of military facilities to support our combat units deployed there to halt Communist aggression.

The Seabees are builder-fighters, but in the last 10 years they have also become known as the "Navy Peace Corps." Seabee civic action teams have served in Africa, Latin America, Asia, and Micronesia providing medical help, improving village sanitation, digging water wells, building schools, roads, and bridges, repairing homes and orphanages, and showing the people that Americans understand and care about the people of the world. The Seabees have established a new legend in the American Armed Forces.

The Seabees have served the United States with honor and courage. This service, I feel, is most deserving of tribute and remembrance.

I take pleasure in introducing a joint resolution authorizing the Seabee Memorial Association, Inc., to erect a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy.

#### FACING UP TO FACTS ON DEFENSE SPENDING

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

Mr. SIKES. Mr. Speaker, in the past 2 years we have seen drastic cuts in defense spending. There are some who have assumed it could continue. It would be ruinous if this were to be the case. America must have an adequate defense and defense is costly. More, not fewer dollars are a necessary prospect or both modernization and adequacy will suffer. This is well pointed out by Secretary of Defense Laird in an able address in New York City on November 17.

I submit it for reprinting in the CONGRESSIONAL RECORD:

ADDRESS BY THE HONORABLE MELVIN R. LAIRD, THE SECRETARY OF DEFENSE, BEFORE THE ECONOMIC CLUB OF NEW YORK, WALDORF-ASTORIA HOTEL, NEW YORK, N.Y., TUESDAY, NOVEMBER 17, 1970

Seven years ago, almost to the day, one of my distinguished predecessors in the office which I am now privileged to hold, addressed the Economic Club of New York. On that occasion, November 18, 1963, Secretary Robert S. McNamara delivered a wide-ranging

and thoughtful address on the relative military strength of the United States and the Soviet Union, on the balance of forces in Western Europe, and on threats to peace and security as he viewed them at that time.

On rereading Secretary McNamara's address recently, I found little in it that I could plagiarize for use in my remarks to you this evening, for the fact is the intervening years have brought too many changes.

In 1963, it was possible for the Secretary of Defense to deliver a comprehensive speech containing only one brief, almost parenthetical, remark about Asia.

In 1963, it was possible for the Secretary of Defense to report that the United States possessed across-the-board strategic superiority over the Soviet Union in nuclear weapons systems.

Today, it is not possible to discuss defense problems without mentioning Southeast Asia. And it is no longer possible to report that we possess an across-the-board superiority over the Soviet Union in strategic weapons.

There are other things, too, that have changed since Secretary McNamara stood in the place which I occupy this evening. In the Middle East, at that time, a high level of tension certainly existed, but there had been no major combat for several years. The Soviet Union had not yet established a position as a naval power in the region, nor had it deployed combat military personnel to that region for potential use in operational missions.

In Asia, Communist China had not yet developed a nuclear capability. What seemed to many at the time to be the most dangerous situation in Asia—the conflict in Laos—was widely considered to have been defused by the Geneva Agreements of 1962.

In Latin America, the Soviet Union's bid to establish a missile base in Cuba had ended in a Soviet retreat from the hemisphere—thanks in great part to the strategic superiority which the United States then possessed.

In short, when this audience last heard from a Secretary of Defense, we were not at war. Threats to world peace and to our security seemed relatively remote. Indeed, such threats seemed to be lessening rather than increasing.

This description, unfortunately, is much less applicable to the world situation today. Beginning about 1965, with such developments as the intensification of the war in Vietnam and the launching of an accelerated Soviet long-range missile construction program, the threats to peace and security started to mount.

In the five years since 1965, the Soviet Union has surpassed us in land-based ICBM's. The Soviets have greatly expanded their surface fleet into all oceans of the world. Their ballistic missile submarine fleet now numbers more than 14 POLARIS-type operational submarines and another 15 or more under construction. At present construction rates, the Soviet Union will match or surpass our POLARIS fleet of 41 ships by early 1974.

From 1965 to 1969, while ever increasing amounts of our defense resources were diverted to Southeast Asia, the Soviet Union was able to concentrate virtually all of its defense resources to catching, and in some categories, surpassing the United States.

Let me turn for a moment to some of the budget realities we face in this autumn of 1970.

We are still engaged in war in Southeast Asia. In many respects we live in a more dangerous world today than in 1963. Yet if direct war costs in Southeast Asia are excluded, the defense budget proposed by the President for the current fiscal year is \$8 billion less in real purchasing power than it was seven years ago. Likewise, in relative terms, this budget is lower. At that time defense spending absorbed 8.3 percent of the

Gross National Product. This year, only 7 percent of the Gross National Product goes for defense.

Our request for the current fiscal year was a rock-bottom estimate of the amount needed to maintain adequate forces in being, to continue the declining scale of American operations in Southeast Asia, and to keep open options for the development and deployment of new weapons systems that may be needed in the future. It was a transitional budget intended to hold the line as we took stock of the capabilities of our forces and of the threats to our security. It has been, and is, the intention of the Nixon Administration to spend not one more dollar for defense than is needed—but also not one dollar less.

We in the Department of Defense presently are engaged in the annual task of putting together our budget request for the next fiscal year. We are performing this difficult exercise under the added handicap of not being sure how much Congress will appropriate for the current fiscal year, which began last July 1. This uncertainty does not facilitate wise decision-making or efficient management.

We are now planning for actions beyond FY 1971, which is a year of transition. We are preparing to make some tough, hard decisions for the decade ahead of us. As expected, our waiting time is running out.

For several reasons, I believe that we cannot look forward to any further significant reductions in total defense spending. It appears much more likely that the defense budget must at least remain stable in terms of real purchasing power. I see some strong and convincing evidence for possible defense budget increases in order to meet urgent requirements, many of them too long deferred.

For example, if the trend of the past five years continues in the field of strategic weaponry, we will have no alternative but to develop costly new deterrent systems less exposed to destruction by the powerful weapons which the Soviet Union continues to add to its arsenal. Our best hope for avoiding the necessity for major increases in spending for new strategic weapons lies in the Strategic Arms Limitation Talks. A verifiable agreement which would effectively limit strategic armaments could make it unnecessary for us to proceed to the development and deployment of new deterrent weapons.

Even without the addition of major new weapons systems to our strategic arsenal, however, there will be inevitable upward pressures on the defense budget.

Inflation, and resolving past military and civilian pay inequities have had a massive impact upon defense budgets. The greatest area of defense price changes, by far, involves our own direct payroll, military and civilian. The average basic pay of our military personnel has risen over 65% in the past seven years; for civilians, the increase is over 40%. I don't question the need for pay raises. But their budget impact is startling. In Fiscal Year 1964, payroll and related costs were \$22.1 billion. Because of these pay raises and other statutory increases, the cost for the same number of people today would be \$32.3 billion—an increase of \$10.2 billion without adding a man. And the problem is continuing.

Yet another factor that exerts upward pressure on the defense budget is the urgent need for modernization of weapons and equipment. We paid for Vietnam in considerable part by not replacing many items as obsolescence overtook them. We must now make up for these years of delay.

One more category in the list of defense costs that will rise in the future results from the transitions in our defense structure now underway. The Nixon Doctrine has many ramifications in terms of force levels, deployments, and future levels of military assistance. For the United States there will be a

major shift in the mix of future programs—heavier on technology and modernization, lighter on manpower.

As I have said, the budget that is currently before the Congress for Fiscal Year 1971 is a transitional budget. It does not provide for many of the new initiatives that will clearly be necessary in the period ahead. We have made the cutbacks in many baseline areas of the defense budget, consistent with the President's New Foreign Policy, but we have delayed some of the increases that will clearly be necessary. Among such areas are research and modernization, aid to allies, movement toward an all-volunteer force, and improvements in Guard and Reserve forces.

I do not want to give the impression that the defense budget will take off into the stratosphere. I think that the conduct of the present Administration over the course of the past two years demonstrates its determination to hold a tight rein on defense spending. But we are equally determined to provide adequate strength for national security.

Since President Nixon took office, a remarkable reduction in defense spending and a reversal of national budgetary priorities have taken place. In dollars of the constant FY 1971 purchasing power, this year's defense is some \$17 billion below that of three years ago.

The reductions we have made in the past two years principally result from our policy of partnership in Vietnam under our program of Vietnamization. We have been able to do this because the tempo of the war has declined and because Americans are far less engaged today in Southeast Asia.

By the spring of next year, we will have cut American troop strength in Vietnam to approximately one-half the number that were there when President Nixon took office. We have succeeded in reducing current American casualties back to the level that existed before heavy commitment of American troops to the region. We have reduced the current cost of Vietnam to one-half or less what it was when President Nixon assumed office.

The partnership policy which made possible the budget cuts of the past two years will be followed and more widely developed in the future as a major ingredient of the Nixon formula for ensuring national security. In Vietnam, the reduction of American forces will continue. Our expenditures for Southeast Asia will continue to decline.

This partnership, which has worked well in Vietnam, will be further extended in other places. We shall expect other nations to share with us to a greater degree the responsibility, the burdens, and the costs of defense. As this policy of partnership matures, it will mean fewer of our forces will be stationed outside our borders.

The response of the Congress to the President's request for a supplemental appropriation for military assistance will provide a crucial test for the policy of partnership. Without the encouragement and support which these and subsequent military assistance funds would provide to nations that are willing to share the responsibility for peace and stability, the partnership which the President is seeking to make a reality would be stillborn. If this should happen, our country would find itself with no viable middle course to follow between the extremes of becoming the world's policeman or the world's hermit. Either extreme would offer less security for the American people.

Partnership with other nations that share our desire for peace is one of the means by which we can in the years ahead achieve and maintain a generation of peace.

Partnership and strength are two of the three pillars of President Nixon's foreign policy. The third pillar is the policy of negotiation. Clearly, our defense costs could be cut substantially if the threats which our defense forces guard against receded. By ne-

gotiation, President Nixon has actively sought to bring about an easing of tension and an abatement of threats to peace. We can take pride in the part which our country played to silence the guns in the Middle East and to urge the principal combatants of that region toward the conference table. In Helsinki and Vienna we have been seeking an agreement which would reduce the threat posed by strategic weapons. At Paris, we continue to strive to bring an end to the fighting in Vietnam on fair and honorable terms and to obtain the immediate release and exchange of prisoners of war.

Nothing would be more welcome than an end to fighting and a relaxation of tension among nations. If this result can be achieved by persistence and patience on our part, we shall achieve it.

In the past 18 months, we have made tremendous strides in our transition from a wartime economy to a peacetime economy.

This transition is not without its problems. Certainly, the retrenchment in the Department of Defense has had a pronounced impact on the economy. Economic dislocations are the inescapable result of reduced employment in the Department of Defense and of curtailed defense contracts.

Our movement from war to peace in both the FY 1970 and 1971 Budget and the consequent reductions in employment and procurement by the Defense Department will have resulted in the elimination of more than 2 million jobs, public and private, military and civilian, by June of next year. Further cuts, including additional base closings and personnel reductions, will be necessary early next year if Congress fails to restore a large part of the funds cut from the defense budget by the House of Representatives. I am hopeful that the Senate will respond favorably to our appeal to restore urgently needed defense funds. Among other impacts, restoration of these funds will prevent increased personnel turbulence and severe economic impact on additional communities across the nation.

There can be no doubt that an appreciable part of the increase in unemployment over the course of the past year or more reflects the reductions in the defense budget.

The impact has not been even. It has been felt severely in certain regions and in certain industries and in certain occupations.

I do not wish to minimize the hardship of unemployment for any who find themselves out of work. But it is important to recognize fully the degree to which current unemployment levels result from a move away from war and toward peace.

In a number of ways we are trying to aid those who are displaced from defense employment. For example, with the cooperation of business leadership and labor organizations, we recently launched the program of Jobs for Veterans. I hope that all of you in this audience will participate in this program which seeks to help our veterans to find an appropriate and rewarding niche in the civilian economy. No group is more deserving of special assistance than these men and women who have served in the armed forces.

In summary, we are making progress in moving toward President Nixon's objective of a generation of peace. To succeed in attaining this goal will require an imaginative mix of foreign and military policy, patiently and steadfastly pursued by our Nation's leaders and supported by Congress and the American people.

One indispensable element of our policy must be the maintenance of adequate military strength. That strength cannot be maintained at lower expenditure levels than those to which we have reduced the defense budget. The price, in fact, may increase somewhat—but it will not be a high price to pay for peace and freedom.

### BANKS TAKE ANOTHER TIMID STEP TOWARD LOWER INTEREST RATES

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

Mr. PATMAN. Mr. Speaker, late Friday, Chase Manhattan announced another one-quarter of 1 percent reduction in the prime lending rate. Many major banks across the Nation have followed with similar decreases.

This now reduces the prime rate to 7 percent, but it is still much too high. These one-quarter of 1 percent reductions are timid answers to the economic troubles facing the Nation. A more dramatic drop in interest rates would do much to stimulate the entire economy. It is significant that the big banks always move the prime rate up rapidly but take slow, hesitant, steps on the downward curve.

In September, I urged David Rockefeller to lead the way to a reduction of the prime lending rate to at least 6 percent. Mr. Rockefeller reacted bitterly to this suggestion and ran advertisements nationwide to tell the public why he could not and would not lower the prime rate.

Mr. Rockefeller has now come halfway to meeting my suggestion and I hope he will soon see fit to accept the full 6-percent package.

Chase Manhattan and the other big banks should follow the prime rate reductions with assurances that they will lower the rate charged consumers and small businessmen. Also, the big banks and the Department of Housing and Urban Development should announce immediate decreases in home mortgage rates. It does little good just to have interest rate reductions for the big corporations. Immediate decreases should be instituted for all other customers of the banks.

Mr. Speaker, the big corporations can always afford to pay higher interest rates than the consumer. The interest charges to a corporation are deducted as business expenses and the extra costs are always passed on to the ultimate consumer. The homebuyer and the consumer who must borrow to meet everyday needs cannot pass on these charges.

The announcements of prime rate reductions are misleading and it is unfortunate that the big banks do not give us more information concerning what constitutes a "prime" consumer. How many customers are considered "prime" by Mr. Rockefeller and the Chase-Manhattan National Bank? Is it one or is it 100? Quite obviously, Mr. Rockefeller has it within his power to reduce the number of "prime" customers by a stroke of the pen. If the bank has 100 prime customers today, it can have only 50 tomorrow by the arbitrary decision of Mr. Rockefeller.

The big banks do not tell us of their criteria in determining prime customers. It would be revealing if the banks would announce how many corporations are receiving the benefits of the widely-publicized 7-percent prime lending rate.

### SECRETARY OF HUD SHOULD REDUCE FHA-VA INTEREST RATES

The Secretary of Housing and Urban Development should move immediately to lower the rate charged on FHA and VA home mortgages. Today, the FHA rate stands at 8½ percent with another one-half percent for insurance. Thus the FHA homebuyer pays an effective 9-percent interest—two full percentage points above the prime rate announced by Chase Manhattan.

A reduction in the home mortgage rate is long overdue and I am puzzled about Secretary Romney's delay in announcing lower ceilings for FHA and VA mortgages.

Mr. Speaker, I place in the RECORD a copy of a letter I have sent to Secretary Romney asking once again for a reduction in the FHA-VA interest rates:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, D.C., November 23, 1970.  
HON. GEORGE ROMNEY,  
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. SECRETARY: As I am sure you noticed, the commercial banks have announced another reduction in the prime lending rate. This rate now stands at 7% and is two percentage points below the effective interest rate charged the consumer on FHA home mortgages.

Since you took office, less than two years ago, you have signed orders raising the FHA-VA interest rate twice. It is now far out of line with other interest rates and it is important that you act quickly and vigorously to lower this rate in line with other reductions in interest charges.

On October 23, along with my colleagues on the House Banking and Currency Committee, Mr. Barrett of Pennsylvania and Mrs. Sullivan of Missouri, I wired you urging an immediate reduction in the FHA-VA interest rates. Today, I re-urge this reduction to at least a level equal to the prime rate being paid by the big corporations.

As you know, Mr. Secretary, your authority to maintain FHA-VA interest rates above the statutory 6% level is temporary. This power expires next October and your present reluctance to lower the FHA-VA rate will undoubtedly be taken into consideration when we look at this temporary authority in the 92nd Congress.

Mr. Secretary, I am puzzled and deeply concerned by your failure to act to help the nation's homebuyers. If there is any reason to keep the FHA-VA interest rate at its present high level—far above commercial lending rates—I hope that you will inform the Banking and Currency Committee immediately. None of us here are aware of an economic rationale for this large discrepancy between home mortgage rates and the lending rates being paid by corporations and other prime customers.

Sincerely,

WRIGHT PATMAN.

### SAVINGS AND LOAN ASSOCIATIONS MUST ACCEPT NEW RESPONSIBILITIES IF THEY ARE TO HAVE NEW POWERS

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

Mr. PATMAN. Mr. Speaker, recently, I addressed the two major savings and loan associations—the National League of Insured Savings Associations and the U.S. Savings & Loan League—and pro-

posed that the thrift institutions take on a larger role in the financial community.

Specifically, I urge that the savings and loan associations be given authority to operate checking accounts for their members and that the associations be given new powers to make consumer loans. In addition, I urge that the savings and loan associations share, along with the commercial banking industry, deposits of public moneys.

In the past, when I have talked about broader power for the industry, the savings and loan associations have generally taken a timid approach. They have not fought hard for these new powers and it remains to be seen whether they will get behind the bill which I will be introducing in the next Congress.

Mr. Speaker, I have proposed these additional powers for the savings and loan associations so that they might be in a position to attract a greater share of savings. We are in desperate need for a revitalization of the housing industry and the savings and loan industry remains the Nation's No. 1 private supplier of capital to this market. In fact, the charters of the savings and loan associations and the tax laws require that the savings and loan associations place at least 80 percent of their funds in housing.

Unfortunately, the commercial banks have never looked with favor on long-term home mortgages and their participation in this area of the economy remains at an extremely low level. The banks have shown no inclination to take over any significant part of this market and any increase in private lending obviously must come from other financial institutions such as the savings and loan associations, the mutual savings banks, the credit unions, and similar organizations. The new powers which I have proposed for the savings and loan industry should also be strongly considered for the mutual savings banks and the credit unions.

In short, Mr. Speaker, what I am proposing is legislation which will stimulate the flow of savings into financial institutions which are willing and able to make housing loans. This is not a cure-all but it is a step in the direction of providing more housing funds.

However, let me say to the savings and loan industry that they cannot accept these new powers without new responsibilities. Any new powers which might be voted the savings and loan associations by the Congress must be accompanied by specific requirements for the savings and loan associations to make a substantial percentage of loans in the low- and moderate-income housing market. I will not support new powers for the savings and loan industry to make loans for the upper income groups. This segment of the population already has ready access to cash and credit and there is no need for the Congress voting additional powers and moneys for the affluent. What is needed is more low- and moderate-income housing.

Also, Mr. Speaker, I think it is important that the savings and loan industry realize that it must set its own house in order before the Congress considers these new powers. The ad hoc sub-

committee headed by the distinguished Congresswoman from Missouri, Mrs. LEONOR SULLIVAN, pointed to some serious abuses in the savings and loan associations in the District of Columbia and it is reasonable to assume that these same problems exist in other areas. In addition, recently, a national television show, "Banks and the Poor," pointed to some very questionable practices by savings and loan associations. The savings and loan leagues and their members cannot be complacent about these revelations.

The pending housing bill, which will be coming before the House soon, contains new powers for the Federal Home Loan Bank Board to control conflicts of interest in the savings and loan industry. I realize that this provision and the proposed regulations of the Federal Home Loan Bank Board have caused some consternation in the savings and loan industry. However, I feel that the provision in the House bill is a necessary one and one which must be supported by people who are truly interested in providing housing for the Nation.

This conflict-of-interest provision was discussed by me before the U.S. Savings & Loan League in San Francisco 10 days ago. I urge the league to support this provision both in the public interest and in the interest of the savings and loan associations themselves.

From the standpoint of providing more housing where it is needed, I think that additional powers for the savings and loan industry are very essential. The new powers that I have proposed would diminish the monopoly of the commercial banking industry over many financial matters and would be of great benefit to the consumer. It might even provide the kind of competition that would break the commercial banking industry out of its lethargy concerning low- and moderate-income housing programs. If so, this would be a great added benefit.

It is unclear at this time just how hard the savings and loan industry will work for these new powers. As it considers its position, I again want to let the savings and loan industry know that the new powers will be accompanied by specific new responsibilities, particularly in the areas of low- and moderate-income housing.

Mr. Speaker, I place in the RECORD a copy of my speech to the U.S. Savings & Loan League in San Francisco on November 12:

REMARKS OF HON. WRIGHT PATMAN, CHAIRMAN, HOUSE BANKING AND CURRENCY COMMITTEE

Thank you for inviting me out here. The annual convention of the United States Savings and Loan League is the Nation's biggest gathering of savings and loan leaders and I am honored to have the opportunity to address you this year. You always put on an impressive show and this year's convention appears to be one of the finest in your long history.

San Francisco is a great city and I know that many of you are taking full advantage of the great entertainment opportunities. But I hope that the grandeur and the beauty of San Francisco does not obscure some really serious problems facing your industry. After you leave this convention, you will be faced with the hard everyday realities of the financial community in which you operate.

The savings and loan industry is at a very

critical point in its history. The 92nd Congress will be organized in less than two months and you can expect financial legislation to be high on the list of priorities in this new Congress.

The entire financial community appears to be sitting around waiting for the President's Commission on Financial Structure and Regulation. This Commission was finally formed last June after months of fanfare and advance billings. From news reports, we learned that the Commission is holding various secret sessions in different areas of the Nation. Most recently, the Commission conducted an official meeting in the offices of the CIT Financial Corporation of New York, CIT—as most of you know—is part of the huge one-bank holding company controlled by the National Bank of North America.

I realize that the savings and loan industry has some outstanding leaders on this Commission and many of you remain hopeful about the final outcome. However, you should face the fact that your representatives on this Commission are far outnumbered by those with a distinct pro-bank bias.

I have been on a number of Presidential Commissions and I have often found myself in a minority role on these bodies. Let me tell you—from hard experience—that it is difficult if not impossible for one or two members of a commission to have much influence in these stacked study groups. The majority will write the report as they see fit and all the minority members can do is submit dissenting views which are most often lost in the welter of publicity.

The 92nd Congress, I am convinced, will move forward with new concepts to provide the financing that has been so lacking for the entire housing market over many decades.

I want to see the savings and loan industry play a major role in this reshaped approach. But this can be done only if the savings and loan industry is able to get out of its present straight jacket.

I don't have to tell you that the American people are deeply concerned about the prolonged slump in the Housing industry.

The people are concerned about the continuing failure of financial institutions to provide the capital required to build housing at a rate which will meet minimal national goals. We have reached a point where something must give; the people will not long tolerate the failures to provide decent housing for all the population.

Politicians and financial leaders must recognize the need for change—the need to find new solutions to our housing shortages before these solutions are forced on us by people frustrated too long by failure after failure to come anywhere close to housing goals.

In the Congress, I intend to continue to push for legislation which will channel new funds into housing. I intend to reurge a National Development Bank which draws on pension funds and foundations to provide money for housing loans to low and moderate income families. It is essential that we have a new source of funds, particularly in the low income housing area.

But I do not offer the National Development Bank as a cure-all to the housing problems. The major answer still must come from the private lending institutions—the savings and loan industry and other lenders who are willing to put their funds into housing at reasonable rates. Faced with a mounting shortage of housing, it makes little sense to continue to hamstring an industry whose sole function is to provide loans for home construction and home mortgages. The restrictions which have been placed on the savings and loan industry must be re-examined.

I do not make this suggestion solely for the benefit of the savings and loan associations. I make this plea primarily on behalf of the homeowner and the potential homebuyer. A Fair Deal for the savings and loan

industry—which puts its funds into housing—will mean a better opportunity for the millions of American families who are seeking a chance to own a home and to raise their families in a decent environment.

To provide this new boost to housing, the savings and loan associations will need a variety of new tools and new laws which will enable them to attract and keep additional funds. All I am asking is that the savings and loan industry be made a full partner in the financial community and given the same opportunity as the commercial banks to attract and hold funds. If we are really serious about pushing more funds into housing, we must stop treating the savings and loan industry as a second class citizen in the financial community.

My staff is now studying the existing statutes and regulations and will draft an omnibus bill to place the savings and loan industry on a more equal footing with its competitors in the financial world. I plan to introduce a far-ranging "Fair Deal" package for the savings and loan industry early in the 92nd Congress. The exact outline and scope of this legislation must await full research but many of the major needs are obvious now.

First of all, I intend to include a provision that will allow all savings and loan associations to offer checking account services. It is a gross absurdity—and a serious inequity—to give the commercial banks a total monopoly over checking accounts.

Many savers would come to the savings and loans if they could obtain basic checking account privileges. Today, these savers leave substantial sums in non-interest bearing demand deposits in commercial banks simply for the convenience of a checking account. This monopoly has been a lucrative privilege for the commercial banks.

At the same time, I want to see legislation and regulations which will broaden the role of savings and loan institutions in the consumer loan field. In my opinion, a savings and loan association should be able to make basic consumer loans to any of its savers. This expansion of savings and loan services would enable millions of consumers to receive loans at reasonable interest rates and to avoid the clutches of the loan sharks. In addition, the ability to make basic consumer loans would make the savings and loans much more attractive for the millions of savers across the country.

There have been some changes in regulations to allow savings and loans to make loans for major appliances directly attached as an integral part of a house. In some areas this gives the savings and loan associations the right to make loans for such things as refrigerators, stoves, and appliances of this nature. However, this power should be broadened to allow any savings and loan association to make loans for the purchase of any household item, including rugs, draperies, furniture, appliances and like products.

Once again, such broadened powers would give the consumer a great opportunity to escape the onerous burden of the small loan company, the loan shark and the other fast buck operators who make it so hard on the homebuyer.

The savings and loan industry must also be given a better deal—a Fair Deal—in the deposit of public monies. This includes the public funds of the Federal Government as well as those of the local and state governments across the land.

Today, the massive tax and loan accounts—which amount to between \$5 billion and \$10 billion at all times—are the sole preserve of the commercial banks. These funds, which actually represent income tax collections, are a great bonanza to the big commercial banks which can always count on a substantial deposit from the U.S. Treasury. There is no reason why the savings and loan associations should not have the

full right to share in these funds controlled by the U.S. Treasury Department.

I also propose that funds deposited by local governments—school districts, county governments, city governments, and others—be given 100% insurance by the Federal Savings and Loan Insurance Corporation. In other words, if a school district deposits \$100,000 in a savings and loan association, the entire sum will be insured by FSLIC. This insurance, in my opinion, will cause thousands of these local governmental units to put at least a portion of their funds in the savings and loans.

As part of this Fair Deal package, the savings and loan industry should be given full access to the discount window of the Federal Reserve System. The savings and loan associations should be given the same access to the discount window as their competitors—the commercial banks—enjoy today.

The banks are able to borrow at 6% from the discount window and there is no logic or economic reason why the savings and loans should not be allowed these same privileges. In recent months, the savings and loan associations have had to pay up to 8% for borrowings from the Federal Home Loan Bank at a time when the commercial banks could borrow from the discount window at 6%. This inequity must be wiped out.

In addition, my friends, we must find a means—a policy—which will protect the savings and loan industry and the homebuilding industry from the sharp ups and downs of the money markets. We must have a monetary policy which operates equally and which does not penalize—in a highly unfair and unequal fashion—the savings and loan and homebuilding industries in times of tight money and high interest rates.

In the long run, the solution to the problems of the savings and loan industry will be a re-shaping of the Federal Reserve System and the monetary mechanisms which control the supply of money and interest rates. It is in the best interests of the savings and loan industry to make a fight for broad reforms of our monetary system so that the housing industry—and your industry—is given a fair chance and the necessary protection from the harsh movements of monetary policy. It is wrong—and highly detrimental to the Nation—to have housing bear the frontline duty of every fight against inflation.

All of you are aware of the discussion that has erupted concerning the conflict of interest provisions contained in the Housing Bill reported by the Banking and Currency Committee. These provisions are contained in Section 911 of the reported Housing and Urban Development Act of 1970 which the House will deal with in the post-election session beginning next week.

I believe you know—and my entire record in public life should clearly indicate—that I have always opposed conflict of interest—whatever form it might take.

Many of these conflict of interest situations violate basic moral principles, but more importantly, I am convinced that conflicts of interest—whether they are found in the business or political world—are almost always detrimental to the public.

At the same time, I recognize that there is a legitimate disagreement among individuals as to what constitutes a true conflict of interest. I think these situations should be judged on two basic criteria—first, does the conflict harm the public interest, and, secondly, does it provide an unfair competitive position?

Section 911 of the proposed 1970 Housing Act would provide the Federal Home Loan Bank Board with clear authority to regulate appraisals and other services—including title and settlement services—to assure that conflict of interest situations do not exist, the purpose of this Section would be to give the Home Loan Bank Board the power to cor-

rect any conflict of interest situation which might be operating to the detriment of the borrower, a depositor or member of a savings and loan association, or to the public at large. The Section is also designed to protect savings and loan associations from unfair competition created by conflict of interest situations. In short, Section 911 is a protection for your industry as well as for the public.

Many have criticized the language of section 911 as too broad and subject to too much interpretation by the Home Loan Bank Board. Frankly, I am not convinced that this is the situation, but, I do agree that the legislative history should be made clear so that there is no confusion concerning Congress' intention in this Section.

Some leaders of the savings and loan industry have also made the point that this language applies only to the savings and loan industry and does not provide similar restrictions on the other segments of the financial community. This is a valid criticism and your leaders are to be commended for calling it to the attention of the Banking and Currency Committee. I think that the existing bill should be amended to apply conflict of interest prohibitions across the board on all types of financial institutions over which the Banking and Currency Committee has jurisdiction. I will support amendments to this effect on the floor.

Frankly, I am convinced that the conflict of interest provisions will be of great benefit to your industry. You are often unfairly criticized and, in some cases, isolated examples have been used to give your entire industry a black eye. The conflict of interest provisions will apply across the board and I think they will do much to limit the criticism that has been aimed at the savings and loan organizations in recent years.

Turning to the broader issues, I am convinced that the economic problems of the nation will get priority attention in the 92nd Congress. In my opinion, the 92nd Congress is going to face these issues in a much more forthright manner than has been true in previous sessions. Last week's election returns were a clear reaction against the economic policies followed by the Nixon Administration.

In Texas and other states where the Democrats scored big victories, I am convinced that the economic issues were the paramount reasons. The Republicans never did face up to the economic concerns of the people. Instead, they fell back on a series of emotional issues in an attempt to hide the true facts from the American people.

When times get hard, Republicans always raise emotional issues and this is why they have been able to control the Congress for only four of the last forty-two years.

The election returns have given the Democratic Congress a great opportunity to move forward with programs that will bring lasting improvement in the economic picture. And I imagine that President Nixon and his advisers are restudying their positions. They may be less anxious to stand in the way of Congressional efforts to stabilize the economy in the new session. They may be a little less anxious to come down on the side of the big banks and big business interests every time a hard decision must be made on an economic problem.

Likewise, the banking community will be reading these election returns carefully. I hope that the big banks will understand that the American people do not approve of runaway interest rates and do not endorse the Administration's permissiveness toward the banking community. In any event, let me assure the big banking interests that the 92nd Congress does plan to do something about high interest rates and high unemployment whether or not this disturbs the special interests.

The American people are sick and tired of

the big banks' boardinghouse reach into all areas of the economy. They are sick and tired of reading about the big banking lobby on Capitol Hill and blatant efforts to spread around money to influence legislation. Some of these efforts have gained the banking fraternity the lasting enmity of many Congressmen.

This is a great country and I think that its political institutions—such as the Congress—share in this greatness. I do not think that the members of Congress or the American people—regardless of their political persuasions—appreciate the tawdry efforts of the big bank lobby to buy legislative favors. Such efforts—whether they are successfully carried out or not—strike at the very heart of a great democratic system. Anyone who really believes in the American system—whether they are Republicans, Democrats, or Independents—must speak out against such attempted corruption. When an industry steps out of bounds in this manner, the Congress—and others with the proper jurisdiction—must act to protect our democratic institutions.

The 92nd Congress has a great opportunity for greatness. It has a great chance to reverse the downward economic trends and to put the economy back on a stable course. The 92nd Congress has an opportunity to move the country forward again and I predict that it will be equal to this tremendous challenge.

At the same time, your industry has your challenge over these next few years. You have a great opportunity to set your house in order, to obtain broader powers and to play a greater role in a revived housing industry. Thank you for inviting me.

#### TIMES ARTICLE CITES GROWING IMPORTANCE OF VOCATIONAL EDUCATION

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

Mr. MEEDS. Mr. Speaker, education's orphan is winning new friends and enjoying better hospitality. Vocational-technical courses are being sought by young people in greater numbers each year, and the media is gradually recognizing the importance of vocational education.

The Sunday, November 22, issue of the New York Times carried a very good article on the growth of vocational-technical education. The William Stevens piece cites the personal satisfaction gained by vocational education students, and it points out that so many of today's jobs require postsecondary training. The article, however, does not mention the rising Federal input. The Vocational Education Act of 1963 and the 1968 amendments play an important role in bridging the gap between man and his work. The article follows:

#### COLLEGE-LEVEL VOCATIONAL SCHOOLS BOOM (By William K. Stevens)

OKMULGEE, OKLA., November 19.—Only 20 per cent of American youths today graduate from college with a four-year degree or better. Bill Risner, a wiry, 24-year-old Vietnam veteran with short brown hair, a shy manner and a Marine Corps bulldog tattooed on his right arm, is one of the other 80 per cent.

As a student at Oklahoma State Tech in Okmulgee, Mr. Risner is one of nearly two million Americans enrolled full-time in voca-

tional or technical training courses above the high school level. That makes him part of an educational movement that has developed tremendously in the last six years. In 1964, there were about 150,000 students like Mr. Risner.

The growth constitutes one indication that vocational-technical schooling, long the stepchild of American education, may be about to come into its own. Mr. Risner's experience illustrates one reason why.

Yesterday morning, he sat at his own workbench in a neat, brightly lighted watchmaking shop where quiet is prized and precision is king. He gently grasped a tiny balance wheel with a pair of tweezers, and with utter concentration installed it in a timepiece.

That done, he relaxed, lit a cigarette and quietly told a visitor that after four years of mixed-up drift in a general high school curriculum and after much indecision about his future that was partly resolved by his four years of service, he had worked in a machine shop for a while but was not really excited about it.

Then he began "fooling around" with watches in his father's jewelry store in Chickasha, near Oklahoma City. It was a short step from there to Oklahoma State Tech.

Mr. Risner's seriousness gave way to a broad grin when the visitor asked if things were working out all right.

"Yes, sir!" he said. "This is my bag. Not too many people can make a watch do what they want it to."

What has Oklahoma State Tech meant to him?

"Boy, I'll tell you the truth," he said. "It's the greatest thing in the world. Everybody talks about finding himself. I guess I found myself here."

Figures supplied by the United States Office of Education and the American Vocational Association suggest that Mr. Risner is in many ways more typical of American youth than is the winner of a baccalaureate degree.

#### TWENTY-THREE PERCENT ARE DROPOUTS

It is estimated that of every 100 youths, 23 drop out of high school before graduation. Another 25, like Mr. Risner, graduate from high school with no job training, but do not go to college.

Between five and ten graduate with enough technical or vocational training to get a job. About 15 enter two-year community colleges, where many take vocational or technical courses, or schools like Oklahoma State Tech.

That leaves 30 of every 100 youths who embark on four-year degree programs. But only 20 eventually graduate.

In all, the Office of Education estimates that as many as 25 million Americans now need some form of vocational and technical training. It says about 10 million are getting it—5 million in high school, 2 million in full-time post-secondary vocational-technical programs, and the rest as short-term and part-time adult students who want to improve or update their skills.

Although the 10 million estimate is double that of 1964, suggesting a boom, the amount and quality of vocational-technical training even now is "pretty damn poor," according to Dr. Lee Harwick, associate Commissioner of Education for adult, vocational and technical training.

#### RISE IN FEDERAL AID

Authoritative sources within the Office of Education expect that during the next year there will develop what one official called "a substantially increased" Federal effort to expand and improve vocational-technical education. President Nixon's nominee for Commissioner of Education, Dr. Sidney P. Marland, Jr., is well known as a particularly strong advocate of the need to place voca-

tional-technical training on an equal footing with academic instruction.

Like many other critics, Dr. Marland believes that "endemic snobbery has tended to classify the manual-manipulative task too simply as nonintellectually noncreative."

The National Advisory Council on Vocational Education, established by Congress in 1968, said in a report last year that Americans in recent years have promoted the idea that "the only good education is an education capped by four years of college."

The report branded this attitude as "snobbish, undemocratic, and a revelation of why schools fail so many students." The attitude, said the report, "infects the Federal Government" which invests \$14 in the nation's universities for every dollar it invests in vocational-technical education.

Dr. Marland and others believe there are signs that this attitude is beginning to change, at least among some students who are starting to resist the "college-at-any-cost" viewpoint and are taking a second look at their own capabilities, and interests, and at how they fit into today's job market.

The Office of Education estimates that 50 per cent of all jobs opening up in the 1970's will require training beyond high school, but less than a four-year degree. This appears to account in part for the dramatic surge in post-secondary vocational-technical enrollment.

In many cases, says Dr. Hardwick, the vocational-technical student in a postsecondary school like Oklahoma State Tech or one of the 1,100 community colleges that dot the land "has been out of high school, faced the real world, and found out he couldn't get a job."

The boom in post-secondary vocational enrollment is virtually nationwide and is taking place in a variety of institutions.

#### HUGE RISE SINCE 1963

In Wisconsin, for instance, the nonresidential Milwaukee area Technical College offers programs on five levels of difficulty, ranging from basic courses for functional illiterates to a two-year associate arts degree program in the most sophisticated technologies. Two-thirds of the school's 11,000 full-time enrollment is at the post-secondary level.

In North Carolina, a state-wide system of nonresidential technical institutes and vocationally oriented community colleges has grown to include 54 institutions since it was established in 1963. Enrollment has risen from 8,000 to 240,000.

In many states, such as California, Florida and Virginia, strong vocational-technical programs have developed in the community college system. Colorado this year reported that the vocational education share of community college enrollment had increased from 18 to 31 per cent in two years.

Dr. Hardwick, among others, considers the program at Oklahoma State Tech, a branch of Oklahoma State University, as an example of vocational-technical training very nearly at its best. With 3,000 students, it is the largest such school in the Southwest. It is atypical of other such schools in one respect. It is a residential institution, drawing students from all over Oklahoma, 31 other states and nine foreign countries.

#### WORKADAY SKILLS

In its essential aspects, however, the school's program is said to be typical of post-secondary vocational-technical education generally. Basically, the curriculum consists of the skills and techniques of workaday America.

Among the sights, sounds and smells at the school are the clang of hammers pounding out dented car fenders; the blinking of lights on computer consoles and the whir of

magnetic computer tapes; the sweet odor of baking bread; the elegance of ornate cakes made by bakery students; the hiss of dry-cleaning machines; the pungent smell of leather in the shoe, boot and saddle shop; the intentness of commercial art students doing a still life; the fresh smell of cured wood in the carpentry shop; the put-putting of lawnmower and motorcycle engines; the deeper throb of massive diesels, and the quiet concentration of budding electronics technicians as they grapple with atomic theory, or of a student machinist as he programs a computer to operate a cybernetic metal-shaping machine.

In all, the school offers training in 47 specialties designed to lead students directly to jobs at the end of, typically, two years.

#### STUDENTS QUESTIONED

Dr. Kenneth Hoyt of the University of Maryland, a specialist in the guidance and counseling of vocational-technical students, last year questioned a sample of 648 Oklahoma State Tech students as to their backgrounds and reasons for attending the school. The answers generally matched those of a large, nationwide sample of 20,000 taken by Dr. Hoyt.

Fifty per cent of the student reported themselves to have been in the top half of their high school classes. Seven per cent said they were high school dropouts. A third were married, more than half younger than 21.

Sixty-one per cent, like Bill Risner, had taken a general course in high school. About a quarter had taken vocational education.

A key finding, to those who suspect that there is a new swing toward vocational-technical training among youth, was that only 28 per cent had been encouraged to attend a school like Oklahoma State Tech. Another is that 52 per cent said they ultimately had decided to take the training because they "dug" the particular field, rather than for monetary reasons.

These findings are consistent with two observations made by some students and teachers at the school.

#### FOLLOW OWN STAR

First, there appears to be greater willingness on the part of the students to follow their own instincts and interests, rather than bow to the strong bias of many teachers, parents and guidance counselors in favor of college education.

Some students, like 22-year-old Don Freedman of Boston, are enrolling in vocational or technical courses after attending a four-year college. Mr. Freedman went to Long Island University for four years, then taught school for a while before discovering that "that really wasn't what I was into."

He is now at Oklahoma State Tech, studying to be a baker and cake decorator so that he can join his father's bakery business in Boston.

Second, some teachers detect a resurgence of pride in workmanship among some young people. Such pride is obvious in youths like 19-year-old Gerald Scott, formerly of Walton, N.Y., who overrode the go-to-college desires of parent and guidance counselor to enroll at Oklahoma State Tech to study what he likes—auto mechanics. As he and his partner, 19-year-old Tom Shupbach of Burlington, Okla., pored over an automatic transmission, their pleasure and engagement were readily apparent.

"I couldn't really be happy doing anything else," said Mr. Shupbach.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PEPPER (at the request of Mr.

SIKES), for today, on account of official business.

Mr. DENNIS (at the request of Mr. GERALD R. FORD), for November 23 through December 3, on account of official business.

Mr. WYATT, for the week of November 23, 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:

(The following Members (at the request of Mr. HAMMERSCHMIDT) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. MICHEL, for 15 minutes, today.

(The following Members (at the request of Mr. KOCH) to revise and extend their remarks and include extraneous material:)

Mr. LEGGETT, for 60 minutes, today.

Mr. RARICK, for 10 minutes, today.

Mr. REUSS, for 30 minutes, today.

Mr. LEGGETT, for 60 minutes, November 24.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PASSMAN and to include extraneous matter.

Mr. MADDEN, and to include extraneous material.

Mr. GAYDOS, immediately following the remarks of Mr. DENT during general debate in the Committee of the Whole today.

Mr. DANIELS of New Jersey to revise and extend his remarks and to include with his remarks in general debate five proposed amendments on H.R. 16785, together with an explanation and analysis of each of those amendments.

Mr. STEIGER of Wisconsin to revise and extend and include extraneous matter with remarks he made during general debate on H.R. 16785.

(The following Members (at the request of Mr. HAMMERSCHMIDT) and to include extraneous matter:)

Mr. WYATT.

Mr. GOLDWATER.

Mr. SCHERLE in 10 instances.

Mr. ARENDS.

Mr. PELLY in two instances.

Mr. TEAGUE of California.

Mr. WYMAN in two instances.

Mr. ESHLEMAN.

Mr. LUJAN.

Mr. MORSE.

Mrs. DWYER in three instances.

Mr. WIDNALL in two instances.

Mr. STEIGER of Arizona.

Mr. GOODLING in two instances.

Mr. SCHMITZ in three instances.

Mr. CONTE.

Mr. ZWACH.

Mr. REID of New York.

Mr. HOSMER in two instances.

(The following Members (at the re-

quest of Mr. KOCH) and to include extraneous matter:)

Mr. REUSS in eight instances.

Mr. GAYDOS in three instances.

Mr. CASEY in two instances.

Mr. PICKLE in five instances.

Mr. RARICK in three instances.

Mr. BINGHAM in three instances.

Mr. SHIPLEY.

Mr. MOSS in two instances.

Mr. WHITE.

Mr. HEBERT.

Mr. BURKE of Massachusetts in two instances.

Mr. CLARK in two instances.

Mr. BARING in two instances.

Mr. JONES of North Carolina.

Mr. HUNGATE in two instances.

Mr. BRADEMAS in six instances.

#### ENROLLED BILL SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 18546. An act to establish improved programs for the benefit of producers and consumers of dairy products, wool, wheat, feed grains, cotton, and other commodities, to extend the Agricultural Trade Development and Assistance Act of 1954, as amended, and for other purposes.

#### SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3630. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission.

#### JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on November 20, 1970 present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 1255. A joint resolution to authorize and request the President to proclaim the period January 10, 1971, through January 16, 1971, as "National Retailing Week."

#### ADJOURNMENT

Mr. KOCH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 3 minutes p.m.) the House adjourned until tomorrow, Tuesday, November 24, 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:

2559. A communication from the President of the United States, proposing supplemental appropriations for the fiscal year 1971 for the legislative and judicial branches and to pay

claims and judgments rendered against the United States (H. Doc. No. 420); to the Committee on Appropriations and ordered to be printed.

2560. A letter from the Deputy Secretary of Defense, transmitting a report that the annual compensation from Federal funds of the President, Center for Naval Analyses, University of Rochester, exceeds \$45,000, pursuant to section 407(b) of Public Law 91-121; to the Committee on Armed Services.

2561. A letter from the Secretary of Health, Education, and Welfare, transmitting the first report of the National Center for Deaf-Blind Youths and Adults, pursuant to section 16(c)(2) of the Vocational Rehabilitation Act; to the Committee on Education and Labor.

2562. A letter from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting the annual report of the Commission for 1969, pursuant to 79 Stat. 1312, 62 Stat. 1246, and 64 Stat. 13; to the Committee on Foreign Affairs.

2563. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to provide relief in patent and trademark cases affected by the emergency situation in the U.S. Postal Service, which began on March 18, 1970; to the Committee on the Judiciary.

#### RECEIVED FROM THE COMPTROLLER GENERAL

2564. A letter from the Comptroller General of the United States, transmitting a report that funds appropriated for roads and trails could be used more effectively by the Forest Service, Department of Agriculture; to the Committee on Government Operations.

2565. A letter from the Comptroller General of the United States, transmitting a report that controls over the medicaid drug program in Ohio need improvement, Social and Rehabilitation Service, Department of Health, Education, and Welfare; to the Committee on Government Operations.

#### 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. EVINS of Tennessee: Select Committee on Small Business. Report on small business and the Robinson-Patman Act (Rept. No. 91-1617). Referred to the Committee of the Whole House on the State of the Union.

Mr. O'NEILL of Massachusetts. Committee on Rules. House Resolution 1266. A resolution providing for the consideration of H.R. 19333, a bill to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges (Rept. No. 91-1618). Referred to the House Calendar.

Mr. COLMER: Committee on Rules. House Resolution 1267. A resolution providing for the consideration of H.R. 19504, a bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes (Rept. No. 91-1619). Referred to the House Calendar.

Mr. ANDERSON of Tennessee. Committee on Rules. House Resolution 1268. A resolution providing for the consideration of H.R. 19599, a bill to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and

promote the training of medical and paramedical personnel in the field of family medicine (Rept. No. 91-1620). 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. BROYHILL of Virginia:

H.R. 19842. A bill to amend the District of Columbia Public Space Utilization Act to provide for the proper disposition of a certain portion of land located along the Potomac River shore; to the Committee on the District of Columbia.

By Mr. GARMATZ (for himself and Mr. MAILLIARD):

H.R. 19843. A bill to amend the Merchant Marine Act, 1936, as amended; to the Committee on Merchant Marine and Fisheries.

By Mr. HATHAWAY:

H.R. 19844. A bill to prohibit trading in Irish potato futures on commodity exchanges; to the Committee on Agriculture.

By Mr. MORGAN:

H.R. 19845. A bill to amend the Foreign Assistance Act of 1961; to the Committee on Foreign Affairs.

By Mr. PURCELL (for himself, Mr. ABBITT, Mr. BELCHER, Mr. FOLEY, Mr. JONES of North Carolina, Mr. KLEPPE, Mr. LOWENSTEIN, Mrs. MAY, Mr. MAYNE, Mr. MELCHER, Mr. MONTGOMERY, Mr. POAGE, Mr. PRICE of Texas, Mr. RARICK, Mr. SEBELIUS, Mr. SISK, Mr. ZWACH, and Mr. WHITEHURST):

H.R. 19846. A bill to amend the act of August 24, 1966, relating to the care of certain animals used for purposes of research, experimentation, exhibition, or held for sale as pets; to the Committee on Agriculture.

By Mr. TEAGUE of California:

H.R. 19847. A bill to amend title 38 of the United States Code to provide improved medical care to veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. TEAGUE of Texas (by request):

H.R. 19848. A bill to amend chapter 17 of title 38 of the United States Code, in order to authorize the Administrator of Veterans' Affairs to pay to a State certain amounts toward the care of veterans with service after January 31, 1955, in a State home; to the Committee on Veterans' Affairs.

By Mr. WINN:

H.R. 19849. A bill to establish a National Environmental Bank, to authorize the issuance of U.S. environmental savings bonds, and to establish an environmental trust fund; to the Committee on Banking and Currency.

By Mr. BLATNIK:

H.R. 19850. A bill to authorize a study and demonstration program for the extension of the navigation season on the Great Lakes and St. Lawrence Seaway; to the Committee on Public Works.

By Mr. BROWN of Michigan (for himself, Mr. WILLIAMS, and Mr. JOHNSON of Pennsylvania):

H.R. 19851. A bill to extend and amend laws relating to housing and urban development, and for other purposes; to the Committee on Banking and Currency.

By Mr. KING:

H.R. 19852. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WALDIE:

H.R. 19853. A bill to amend section 8128 of title 5, United States Code, to provide judicial review of decisions of the Secretary of Labor relating to compensation for work injuries suffered by Federal employees; to the Committee on Education and Labor.

By Mr. ROSENTHAL:

H.J. Res. 1406. Joint resolution to authorize the President to designate one week each year as "National Cystic Fibrosis Week"; to the Committee on the Judiciary.

By Mr. SIKES:

H.J. Res. 1407. Joint resolution to provide for a memorial in honor and commemoration of the Seabees of the U.S. Navy; to the Committee on House Administration.

By Mr. SISK:

H.J. Res. 1408. Joint resolution correcting certain printing and clerical errors in the Legislative Reorganization Act of 1970; to the Committee on Rules.

By Mr. ARENDS:

H. Res. 1269. Resolution to provide for the printing of the prayers offered by the Chaplain as a House document; to the Committee on House Administration.

By Mr. FRIEDEL:

H. Res. 1270. A resolution relating to telephone, telegraph, and radiotelegraph allowances of Members of the House of Representatives and the Resident Commissioner from Puerto Rico; to the Committee on House Administration.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, Mr. BOB WILSON introduced a bill (H.R. 19854) for the relief of Joseph Pacholek; to the Committee on the Judiciary.

#### MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

445. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Fort MacArthur, Calif.; to the Committee on Armed Services.

446. Also, a memorial of the Legislature of the State of California, relative to the southern California regional airport systems study; to the Committee on Banking and Currency.

447. Also, a memorial of the Legislature of the State of California, relative to Garner Valley, Calif.; to the Committee on Interior and Insular Affairs.

#### PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

637. By the SPEAKER: Petition of the Legislature of Rockland County, N.Y., relative to reductions in the allocation of Federal funds to the Operation Headstart program; to the Committee on Education and Labor.

638. Also, petition of the Board of City Commissioners, Fargo, N. Dak., relative to prisoners of war; to the Committee on Foreign Affairs.

639. Also, petition of the Shasta Baptist Association, Redding, Calif., relative to the right of peaceful dissent; to the Committee on the Judiciary.

640. Also, petition of Richard O. Morgan, China Lake, Calif., relative to redress of grievances; to the Committee on Post Office and Civil Service.