HOUSE OF REPRESENTATIVES—*Friday, December 18, 1970*

The House met at 12 o'clock noon.

Msgr. Joseph C. Walen, director, Catholic Social Services, Roman Catholic diocese, Grand Rapids, Mich., offered the following prayer:

Let us pray.

Almighty and Eternal God, source of all wisdom, bless the deliberations this day of the Members of the House of Representatives of the United States.

As we approach the commemoration of the feast of the coming of Your Son, Jesus Christ, inspire all of us, citizens and our elected representatives alike, to imitate Your Son in His complete dedication to the love of You and to all mankind, a dedication unto death.

We pray that the Prince of Peace will bring to our world and to our day peace on earth.

We pray in gratitude to You for the blessings You have sent to each of us during this year.

We pray in petition that You will bless us throughout the coming year.

And we pray that You will bless particularly our retiring Speaker.

This we ask through Christ, our Lord, the Prince of Peace.

CALL OF THE HOUSE

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

The SPEAKER. Does the gentleman from Iowa make the point of order before the Chair receives a message from the Senate?

Mr. GROSS. Mr. Speaker, I do insist upon the point of order at this time.

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. 425]

Abbitt	Derwinski	Leggett
Adair	Diggs	Long, La.
Addabbo	Dingell	Lukens
Anderson, Tenn.	Donohue	McClure
	Dowdy	McCulloch
Ashbrook	Downing	McFall
Ashley	Edwards, Calif.	McKneally
Aspinall	Edwards, La.	Martin
Ayres	Fallon	Mathias
Biaggi	Farbstein	May
Blackburn	Friedel	Meeds
Bolling	Gallagher	Meskill
Brock	Giaimo	Michel
Brooks	Gilbert	Mize
Brown, Calif.	Gray	Montgomery
Brown, Mich.	Green, Oreg.	Morton
Broyhill, Va.	Griffiths	Moss
Burke, Fla.	Grover	Murphy, Ill.
Burton, Utah	Hagan	O'Hara
Button	Halpern	O'Konski
Carey	Hébert	O'Neal, Ga.
Celler	Heckler, Mass.	Ottinger
Chisholm	Hunt	Pike
Clancy	Jacobs	Pollock
Clark	Jarman	Powell
Clay	Kee	Price, Tex.
Collins, Ill.	King	Purcell
Cowger	Kleppe	Quillen
Cramer	Kluczynski	Rarick
Daddario	Kuykendall	Reid, N.Y.
Davis, Ga.	Landrum	Reifel
Delaney	Langen	Rivers
Roberts	Taft	Wilson, Bob
Roe	Teague, Tex.	Wilson, Charles H.
Roudebush	Thompson, Ga.	
Ruppe	Thompson, N.J.	Winn
Scheuer	Tunney	Wold
Shipley	Ullman	Wolff
Sikes	Waldie	Wydler
Snyder	Watson	Young
Stephens	Weicker	Zwach

The SPEAKER. On this rollcall 312 Members have answered to their names, a quorum.

Without objection, further proceedings under the call will be dispensed with.

Mr. GROSS. Mr. Speaker, I object to dispensing with further proceedings under the call.

MOTION OFFERED BY MR. ALBERT

Mr. ALBERT. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The question is on the motion of the gentleman from Oklahoma.

Mr. HALL. Mr. Speaker, I move to table that motion.

The SPEAKER. The motion to dispense with further preceedings under the call is not debatable and is not amendable. The Chair rules that the motion of the gentleman from Missouri is not in order. The question is on the motion of the gentleman from Oklahoma.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 307, nays 10, not voting 116, as follows:

[Roll No. 426]

YEAS—307

Abernethy	Burke, Mass.	Davis, Wis.
Adams	Burleson, Tex.	de la Garza
Albert	Burlison, Mo.	Dellenback
Alexander	Burton, Calif.	Denney
Anderson, Calif.	Burton, Utah	Dent
	Bush	Devine
Anderson, Ill.	Byrne, Pa.	Dickinson
Andrews, N. Dak.	Byrnes, Wis.	Dingell
	Cabell	Dorn
Annunzio	Caffery	Dulski
Arends	Camp	Duncan
Ashley	Carney	Dwyer
Baring	Carter	Eckhardt
Barrett	Casey	Edmondson
Beall, Md.	Cederberg	Edwards, Ala.
Belcher	Chamberlain	Eilberg
Bell, Calif.	Chappell	Erlenborn
Bennett	Clausen, Don H.	Esch
Berry		Eshleman
Betts	Clawson, Del	Evans, Colo.
Bevill	Cleveland	Fascell
Biester	Cohelan	Feighan
Bingham	Collier	Findley
Blanton	Collins, Tex.	Fish
Boggs	Colmer	Fisher
Boland	Conable	Flood
Bow	Conte	Flowers
Brademas	Conyers	Flynt
Brasco	Corbett	Foley
Bray	Corman	Ford, Gerald R.
Brinkley	Coughlin	Ford, William D.
Broomfield	Crane	
Brotzman	Culver	Foreman
Brown, Ohio	Cunningham	Forsythe
Broyhill, N.C.	Daniel, Va.	Fountain
Fraser	McDonald, Mich.	Rooney, Pa.
Frelinghuysen	McEwen	Rosenthal
Frey	McFall	Rostenkowski
Fulton, Pa.	McMillan	Roth
Fulton, Tenn.	Macdonald, Mass.	Rousselot
Fuqua		Roybal
Galifianakis	MacGregor	Ruth
Garmatz	Madden	Ryan
Gaydos	Mahon	St Germain
Gettys	Mailliard	Sandman
Gibbons	Mann	Satterfield
Goldwater	Marsh	Saylor
Gonzalez	Martin	Schadeberg
Goodling	Mathias	Scherle
Green, Pa.	Matsunaga	Scheuer
Griffin	Mayne	Schneebeli
Gubser	Melcher	Schwengel
Gude	Mikva	Sebelius
Haley	Miller, Calif.	Shriver
Hamilton	Miller, Ohio	Sisk
Hammer-schmidt	Mills	Skubitz
	Minish	Slack
Hanna	Mink	Smith, Calif.
Hansen, Idaho	Minshall	Smith, Iowa
Harrington	Mizell	Smith, N.Y.
Harsha	Mollohan	Springer
Harvey	Moorhead	Stafford
Hastings	Morgan	Staggers
Hathaway	Morse	Steed
Hawkins	Mosher	Steele
Hays	Murphy, Ill.	Steiger, Ariz.
Hechler, W. Va.	Murphy, N.Y.	Steiger, Wis.
Helstoski	Myers	Stokes
Henderson	Natcher	Stratton
Hicks	Nedzi	Stubblefield
Hogan	Nichols	Stuckey
Holifield	Nix	Sullivan
Horton	Obey	Symington
Hosmer	O'Hara	Talcott
Howard	Olsen	Taylor
Hull	O'Neill, Mass.	Teague, Tex.
Hungate	Ottinger	Thompson, Ga.
Hutchinson	Passman	Thomson, Wis.
Ichord	Pepper	Tiernan
Jacobs	Perkins	Udall
Jarman	Pettis	Van Deerlin
Johnson, Calif.	Philbin	Vander Jagt
Johnson, Pa.	Pickle	Vanik
Jonas	Pirnie	Vigorito
Jones, Ala.	Poage	Waggonner
Jones, N.C.	Podell	Wampler
Jones, Tenn.	Poff	Ware
Karth	Pollock	Watts
Kastenmeier	Preyer, N.C.	Whalen
Kazen	Price, Ill.	Whalley
Keith	Pryor, Ark.	White
Koch	Pucinski	Whitehurst
Kyl	Railsback	Whitten
Kyros	Randall	Widnall
Latta	Reid, Ill.	Wiggins
Leggett	Rhodes	Williams
Lennon	Riegle	Wright
Lloyd	Roberts	Wylie
Long, Md.	Robison	Wyman
Lowenstein	Rodino	Yates
Lujan	Roe	Yatron
McCarthy	Rogers, Colo.	Zablocki
McClory	Rogers, Fla.	Zion
McCloskey	Rooney, N.Y.	Zwach
McDade		

NAYS—10

Andrews, Ala.	Hall	Scott
Buchanan	Landgrebe	Wyatt
Dennis	Patten	
Gross	Schmitz	

NOT VOTING—116

Abbitt	Chisholm	Friedel
Adair	Clancy	Gallagher
Addabbo	Clark	Giaimo
Anderson, Tenn.	Clay	Gilbert
	Collins, Ill.	Gray
Ashbrook	Cowger	Green, Oreg.
Aspinall	Cramer	Griffiths
Ayres	Daddario	Grover
Biaggi	Daniels, N.J.	Hagan
Blackburn	Davis, Ga.	Halpern
Blatnik	Delaney	Hanley
Bolling	Derwinski	Hansen, Wash.
Brock	Diggs	Hébert
Brooks	Donohue	Heckler, Mass.
Brown, Calif.	Dowdy	Hunt
Brown, Mich.	Downing	Kee
Broyhill, Va.	Edwards, Calif.	King
Burke, Fla.	Edwards, La.	Kleppe
Button	Evins, Tenn	Kluczynski
Carey	Fallon	Kuykendall
Celler	Farbstein	Landrum

Langen	Pelly	Stephens
Long, La.	Pike	Taft
Lukens	Powell	Teague, Calif.
McClure	Price, Tex.	Thompson, N.J.
McCulloch	Purcell	Tunney
McKneally	Quie	Ullman
May	Quillen	Waldie
Meeds	Rarick	Watson
Meskill	Rees	Weicker
Michel	Reid, N.Y.	Wilson, Bob
Mize	Reifel	Wilson, Charles H.
Monagan	Reuss	Winn
Montgomery	Rivers	Wold
Morton	Roudebush	Wolff
Moss	Ruppe	Wydler
Nelsen	Shipley	Young
O'Konski	Sikes	
O'Neal, Ga.	Snyder	
Patman	Stanton	

So the further proceedings under the call were dispensed with.

The result of the vote was announced as above recorded.

The doors were opened.

MESSAGE FROM THE SENATE

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

H.R. 15911. An act to amend title 38 of the United States Code to increase the rates, income limitations, and aid and attendance allowances relating to payment of pension and parents' dependency and indemnity compensation; to exclude certain payments in determining annual income with respect to such pension and compensation; to make the Mexican border period a period of war for the purposes of such title; and for other purposes;

H.R. 19401. An act to extend for one additional year the authorization for programs under the Vocational Rehabilitation Act;

H.R. 19402. An act to authorize the Secretary of Agriculture to receive gifts for the benefit of the National Agricultural Library; and

H. Con. Res. 791. Concurrent resolution authorizing the Clerk of the House to make changes in the enrollment of H.R. 17867.

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

H.R. 14169. An act to amend section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, in order to remove certain restrictions against domestic wine under title I of such act;

H.R. 18582. An act to amend the Food Stamp Act of 1964, as amended; and

H.R. 19172. An act to provide Federal financial assistance to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents of such poisoning, to establish a Federal demonstration and research program to study the extent of the lead-based paint poisoning problem and the methods available for lead-based paint removal, and to prohibit future use of lead-based paint in Federal or federally assisted construction or rehabilitation.

The message also announced that the Senate insists upon its amendmends to amendments of the House to the bill (S. 1181) entitled "An act to provide for potato and tomato promotion programs," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ELLENDER, Mr HOLLAND, Mr. EASTLAND, Mr. AIKEN, and Mr. YOUNG of North Dakota to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1626) entitled "An act to regulate the practice of psychology in the District of Columbia," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SPONG, Mr. EAGLETON, and Mr. PROUTY to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 18582) entitled "An act to amend the Food Stamp Act of 1964, as amended," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ELLENDER, Mr. HOLLAND, Mr. TALMADGE, Mr. MCGOVERN, Mr. AIKEN, Mr. MILLER, and Mr. CURTIS to be the conferees on the part of the Senate.

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

S. 1. An act to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 380) entitled "An act to repeal section 7 of the act of August 9, 1946 (60 Stat. 968)."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17825) entitled "An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes."

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

S. 4439. An act for the relief of Carlo Bianchi & Co., Inc.

THE JOURNAL

The SPEAKER. The Clerk will proceed with the reading of the Journal.

Mr. HALL. Mr. Speaker, I demand that the Journal be read in full.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

CALL OF THE HOUSE

Mr. GROSS (during the reading). Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. DORN). The Chair will count.

PARLIAMENTARY INQUIRY

Mr. STRATTON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from New York will state his parliamentary inquiry.

Mr. STRATTON. Mr. Speaker, is it in order for a Member to be recognized during the reading of the Journal which is a highly privileged document which we all want to hear in full?

The SPEAKER pro tempore. The Chair will inform the distinguished gentleman from New York that a point of order that a quorum is not present is always in order.

A quorum is not present.

Mr. PEPPER. 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. 427]

Abbitt	Foreman	Murphy, N.Y.
Adair	Fraser	O'Konski
Addabbo	Frelinghuysen	Olsen
Alexander	Friedel	O'Neal, Ga.
Ashbrook	Gallagher	Ottinger
Aspinall	Gilbert	Patman
Ayres	Goldwater	Pike
Biaggi	Green, Oreg.	Podell
Blackburn	Griffiths	Pollock
Bolling	Grover	Powell
Brock	Hagan	Price, Tex.
Brooks	Hansen, Wash.	Purcell
Brown, Calif.	Hawkins	Quillen
Brown, Mich.	Hébert	Rees
Burke, Fla.	Heckler, Mass.	Reid, N.Y.
Bush	Holifield	Reifel
Button	Howard	Reuss
Cabell	Hunt	Rivers
Carey	Karth	Rostenkowski
Casey	Kee	Roudebush
Celler	Keith	Ruppe
Chisholm	King	Scheuer
Clancy	Kleppe	Shipley
Clark	Kluczynski	Sikes
Clay	Kuykendall	Sisk
Collins, Ill.	Landrum	Snyder
Colmer	Langen	Steed
Conyers	Long, La.	Stephens
Cowger	Lukens	Symington
Cramer	McClure	Taft
Daddario	McCulloch	Thompson, N.J.
Daniels, N.J.	McKneally	Tunney
Delaney	MacGregor	Ullman
Derwinski	Mailliard	Waldie
Diggs	Mathias	Watson
Donohue	May	Weicker
Dowdy	Meeds	Wilson, Bob
Downing	Meskill	Wilson, Charles H.
Edwards, Calif.	Michel	Winn
Edwards, La.	Mize	Wold
Fallon	Montgomery	Wolff
Farbstein	Morton	Wydler
Ford, William D.	Mosher	Young
	Moss	

The SPEAKER pro tempore (Mr. ALBERT). On this rollcall 303 Members have answered to their names, a quorum.

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

THE JOURNAL

The Clerk proceeded to read the Journal of the proceedings of yesterday.

Mr. EDMONDSON (during the reading). Mr. Speaker, I ask unanmous consent that further reading of the Journal be dispensed with.

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

Mr. GROSS. Mr. Speaker, I object.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

CALL OF THE HOUSE

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

The SPEAKER pro tempore. The Chair will count.

Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 428]

Abbitt	Foley	O'Neal, Ga.
Adair	Foreman	Ottinger
Addabbo	Fraser	Patman
Alexander	Friedel	Pepper
Anderson, Ill.	Gallagher	Pike
Ashbrook	Giaimo	Podell
Ashley	Gibbons	Powell
Ayres	Gilbert	Price, Tex.
Berry	Goldwater	Pryor, Ark.
Biaggi	Green, Oreg.	Purcell
Blackburn	Griffiths	Quillen
Blanton	Grover	Reifel
Bolling	Hagan	Reuss
Brock	Halpern	Rivers
Brooks	Hansen, Wash.	Rogers, Colo.
Brown, Calif.	Hébert	Rosenthal
Brown, Mich.	Heckler, Mass.	Rostenkowski
Burke, Fla.	Hunt	Roudebush
Burton, Utah	Jarman	Ruppe
Bush	Kee	Sandman
Button	Kleppe	Scheuer
Celler	Kluczynski	Shipley
Chisholm	Kuykendall	Sikes
Clancy	Landrum	Snyder
Clark	Langen	Steed
Clay	Leggett	Stephens
Collins, Ill.	Long, La.	Taft
Conyers	Lowenstein	Thompson, N.J.
Cowger	Lukens	Tunney
Cramer	McClure	Ullman
Daddario	McCulloch	Vigorito
Daniels, N.J.	McKneally	Waldie
Delaney	Mathias	Watson
Derwinski	May	Weicker
Diggs	Meskill	Wilson, Bob
Donohue	Mills	Wilson, Charles H.
Dowdy	Mize	Winn
Downing	Montgomery	Wold
Edwards, Calif.	Moorhead	Wolff
Edwards, La.	Morton	Wydler
Fallon	Moss	Young
Farbstein	O'Konski	
Fascell	Olsen	

The SPEAKER. On this rollcall 306 Members have answered to their names, a quorum.

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

THE JOURNAL

The SPEAKER. The Clerk will read.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

CALL OF THE HOUSE

Mr. HALEY. 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. 429]

Abbitt	Ashbrook	Berry
Adair	Ashley	Biaggi
Addabbo	Aspinall	Blackburn
Alexander	Ayres	Blanton
Bolling	Hagan	Powell
Brock	Halpern	Price, Tex.
Brooks	Hébert	Purcell
Brotzman	Heckler, Mass.	Quillen
Brown, Calif.	Hosmer	Reifel
Brown, Mich.	Hunt	Reuss
Burke, Fla.	Ichord	Rivers
Burton, Utah	Jarman	Rogers, Colo.
Button	Kee	Rooney, N.Y.
Cabell	Kleppe	Rostenkowski
Celler	Kluczynski	Roudebush
Chisholm	Kuykendall	Ruppe
Clancy	Landrum	St Germain
Clark	Langen	Sandman
Clay	Long, La.	Schneebeli
Collins, Ill.	Lujan	Shipley
Conyers	Lukens	Sikes
Cowger	McClure	Snyder
Cramer	McCulloch	Springer
Daddario	McKneally	Staggers
Delaney	McMillan	Steiger, Ariz.
Dent	MacGregor	Stephens
Derwinski	Mathias	Stokes
Diggs	May	Taft
Donohue	Meeds	Teague, Tex.
Dowdy	Meskill	Thompson, N.J.
Downing	Michel	Tunney
Edwards, Calif.	Mize	Ullman
Edwards, La.	Montgomery	Waldie
Eilberg	Morton	Watson
Esch	Mosher	Weicker
Evins, Tenn.	Moss	Whalen
Fallon	Murphy, Ill.	Wilson, Bob
Farbstein	Nelsen	Wilson, Charles H.
Foley	O'Konski	Winn
Fraser	Olsen	Wold
Friedel	O'Neal, Ga.	Wolff
Fuqua	Ottinger	Wydler
Gilbert	Patman	Young
Green, Oreg.	Philbin	
Griffiths	Pike	
Grover	Podell	

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

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

THE JOURNAL

The SPEAKER. The Clerk will read the Journal.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

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

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

Mr. GROSS. Mr. Speaker, reserving the right to object, would it be the plan to call up this bill (H.R. 19446) this week?

Mr. ALBERT. The distinguished chairman of the Committee on Education and Labor is here. Would the gentleman yield to him for the purpose of answering the question.

Mr. GROSS. Yes; of course.

Mr. PERKINS. I have already communicated with the distinguished gentleman from Iowa that it would not be my purpose to call this bill up this week. I know that it is very controversial, and there is so much other legislation here that we should get to immediately.

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

There was no objection.

The Journal of the proceedings of yesterday was approved.

UNIFORM RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES ACT OF 1969

Mr. EDMONDSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1) to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment as follows:

Page 4, of the House engrossed amendment, strike out lines 10 to 17, inclusive, and insert:

"EFFECT UPON PROPERTY ACQUISITION"

Page 4, line 18, of the House engrossed amendment, strike out "(b)" and insert "SEC. 102. (a)".

Page 4, line 21, of the House engrossed amendment, strike out "(c)" and insert "(b)".

On Page 4, line 24, of the House engrossed amendment, strike out "on" and insert "immediately prior to".

Page 12, lines 1 and 2, of the House engrossed amendment, strike out ", to the extent that can reasonably be accomplished,".

Page 12, line 10, of the House engrossed amendment, after "employment" insert ", except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived".

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

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, would the gentleman explain the Senate amendments so that we can have a full understanding of what is taking place?

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

Mr. DON H. CLAUSEN. I am happy to yield to the gentleman from Oklahoma.

Mr. EDMONDSON. The substance of the amendments added to the House bill by the Senate can be stated in about 1 minute.

In the first place, the Senate strikes out language which they thought operated to limit judicial review. They make it quite clear as to any eminent domain or condemnation case that there would be full judicial review afforded. I believe it is agreeable to both sides, insofar as the committee is concerned, to accept this amendment.

They also strike from the House-passed bill the word "on" and substitute "immediately prior to" for clarifying purposes.

They also strike out the phrase "to the extent that can reasonably be accomplished." By that amendment, I believe, they make even more certain the requirement that there be relocation housing available before people are displaced from their homes by a Federal land-taking action.

The final amendment is that they add:

Except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived.

That is to provide for an emergency situation of very critical nature, a defense requirement that was very critical or something of that sort.

I believe the overall effect of the Senate amendments is to make a better bill. I believe the Senate has in that sense clarified a point or two which needed clarification, and I believe the House should concur in the Senate amendments.

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

Mr. DON H. CLAUSEN. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman yielding. I want to compliment the managers on the part of the House for bringing up this bill in this manner. In view of their content, strengthening, germaness, and lack of additional cost, it simply expedites our business.

I agree with both the gentleman from California and the gentleman from Oklahoma who have conferred with me about this. It takes the rights of the individuals who are not "willing sellers" into greater consideration and assures them of proper relocation before the right of eminent domain is enforced on them. This is important in areas where there have been sudden condemnations for additional land rather than using some of the 34 percent of the land acreage of the United States that the Federal Government already has under its control.

I compliment the committee, and I appreciate the gentleman yielding to me.

Mr. DON H. CLAUSEN. Mr. Speaker, I want to make a final comment that this legislation is the culmination of some 7 years of work on the part of the Committee on Public Works. It has brought about what I think will be one of the most significant pieces of legislation advanced in this Congress. Having served on the original Select Subcommittee on Real Property Acquisition that held hearings prior to the advancement of this bill.

I want it known that we Republican members of the minority support the position taken by the committee unanimously.

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

There was no objection.

The Senate amendments to the House amendment were concurred in.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 18582, FOOD STAMP ACT OF 1964

Mr. DE LA GARZA. Mr. Speaker, by direction of the Committee on Agriculture, I ask unanimous consent to take from the Speaker's table the bill (H.R. 18582) to amend the Food Stamp Act of 1964, as amended, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. POAGE, MCMILLAN, ABERNETHY, ABBITT, BELCHER, TEAGUE of California, and WAMPLER.

CONFERENCE REPORT ON H.R. 380 TO REPEAL SECTION 7 OF THE ACT OF AUGUST 9, 1946 (60 STAT. 968)

Mr. HALEY submitted the following conference report and statement on the bill (H.R. 380) to repeal section 7 of the act of August 9, 1946 (60 Stat. 968):

CONFERENCE REPORT (H. REPT. No. 1785)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 380) to repeal section 7 of the Act of August 9, 1946 (60 Stat. 968), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate to the text and title of the bill, and agree to the same with an amendment as follows: In lieu of the text inserted by the Senate amendments insert the following: That section 7 of the Act of August 9, 1946 (60 Stat. 968), is amended to read as follows:

"SEC. 7.(a) A person who is not an enrolled member of the Yakima Tribes with one-fourth degree or more blood of such tribes shall not be entitled to receive by devise or inheritance any interest in trust or restricted land within the Yakima Reservation or within the area ceded by the Treaty of June 9, 1855 (12 Stat. 1951), if, while the decendent's estate is pending before the Examiner of Inheritance, the Yakima Tribes pay to the Secretary of the Interior, on behalf of such person, the fair market value of such interest as determined by the Secretary of the Interior after appraisal. The interest for which payment is made shall be held by the Secretary in Trust for the Yakima Tribes.

"(b) On request of the Yakima Tribes the Examiner of Inheritance shall keep an estate pending for not less than two years from the date of decedent's death.

"(c) When a person who is prohibited by subsection (a) from acquiring any interest by devise or inheritance is a surviving spouse of the decedent, a life estate in one-half of the interest acquired by the Yakima Tribes shall, on the request of such spouse, be reserved for that spouse and the value of such life estate so reserved shall be reflected in the Secretary's appraisal under subsection (a)."

"SEC. 2. The provisions of section 7 of the Act of August 9, 1946, as amended by this Act, shall apply to all estates pending before the Examiner of Inheritance on the date of this Act, and to all future estates, but shall not apply to any estate heretofore closed."

JAMES A. HALEY,
ED EDMONDSON,
JOHN P. SAYLOR,
Managers on the Part of the House.

HENRY M. JACKSON,
PAUL J. FANNIN,
Managers on the Part of the Senate.

STATEMENT ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes between the two Houses on the amendments of the Senate to the bill, H.R. 380, to repeal section 7 of the Act of August 9, 1946 (60 Stat. 968), submit this statement in explanation of the effect of the language agreed upon and recommended in the accompanying conference report.

A 1946 statute prohibits the inheritance of trust or restricted land on the Yakima Reservation by anyone who is not an enrolled member of the Tribe, with one-fourth degree or more of Yakima blood, subject to a limited exception in the case of a surviving spouse.

H.R. 380 as passed by the House repealed that provision, and allowed the inheritance of land to be controlled by local law, which is the situation that exists on all other Indian reservations.

The Senate amendment leaves the existing law in effect, but adds an exception that permits a non-Yakima heir to inherit if the Tribe fails to pay him for his interest in the land. In other words, the non-Yakima heir is entitled either to the land or its value in money, and the choice rests with the Tribe.

The language agreed upon incorporates the substance of the Senate amendment, but revises the language to:

(1) Delete an open ended appropriation authorization to buy land within the Reservation,

(2) Delete an open ended authority for the Secretary to reopen probate cases after they are closed,

(3) Give the Tribe title to the land for which it pays,

(4) Remove an internal conflict in the language used.

Although the language agreed upon still provides for the Yakima Reservation a rule of inheritance that is different from the rule that applies on all other reservations, the special rule will correct the inequities that previously existed, and should meet the needs of the Indians concerned.

JAMES A. HALEY,
ED EDMONDSON,
JOHN P. SAYLOR,
Managers on the Part of the House.

COMMUNICATION FROM COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the Committee on Public Works, which was read and, together with the accompanying papers, referred to the Committee on Appropriations:

WASHINGTON, D.C.
December 17, 1970.

Hon. JOHN W. MCCORMACK,
The Speaker, U.S. House of Representatives, the Capitol, Washington, D.C.

MY DEAR MR. SPEAKER: Pursuant to the provisions of Section 201 of Public Law 89–298, the Committee on Public Works of the House of Representatives on December 15, 1970, adopted Committee resolutions authorizing the following water resources development projects:

Black River Harbor, Alcona County, Mich.
Calcasieu River, Devils Elbow, La.
Central and southern Florida small boat navigation.
Corpus Christi Beach, Tex.
Delaware Bay-Chesapeake Bay Waterway, Delaware, Maryland, and Virginia.
Dunkirk Harbor, N.Y.
East River, N.Y.
Edgartown Harbor, Mass.
Frenchboro Harbor, Maine.
Geneva-on-the-Lake, Ohio.
Humboldt Harbor, Alaska.
Lee County, Fla.
Ludington Harbor, Mich.
Mobile Harbor, Ala.
New Jersey coastal inlets and beaches; Great Egg Harbor Inlet and Peck Beach; Corson Inlet and Ludlam Beach; townsend Inlet, and Seven Mile Beach.
Ottawa River Harbor, Mich. and Ohio.

Revere and Nantasket Beaches, Mass.
San Leandro Marina, Calif.
South shore of Lake Ontario: Fort Niagara State Park, N.Y.
Waukegan Harbor, Ill.
Fort Chartres and other drainage districts, Ill.
Marion, Kans.
Placer Creek, Wallace, Idaho.
Posten Bayou, Ark.
Reedy River, Greenville, S.C.
Running Water Draw, Plainview, Tex.
San Luis Rey River, Calif.
Scajaquada Creek and Tributaries, N.Y.
Steele Bayou Basin, Miss.
Streams in vicinity of Fairfield, Calif.
University Washington and Spring Brook, Riverside County, Calif.
Wenatchee, Wash.
Western Tennessee tributaries, Tennessee.
Zintel Canyon, vicinity of Kennewick, Wash.

Sincerely yours,

GEORGE H. FALLON,
Chairman.

CONFERENCE REPORT ON H.R. 19877, RIVERS AND HARBORS AND FLOOD CONTROL ACT OF 1970

Mr. BLATNIK. Mr. Speaker, I call up the conference report on the bill (H.R. 19877) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

Mr. HARSHA. Mr. Speaker, reserving the right to object, may I inquire of the distinguished gentleman from Minnesota whether or not the gentleman intends to explain to the House what is contained in this conference report

Mr. BLATNIK. Mr. Speaker, if the gentleman will yield; yes, we have a full explanation as well as a summary explanation of both titles I and II.

Mr. HARSHA. Will there be an opportunity for the minority to express its position on the bill?

Mr. BLATNIK. Yes; there will.

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

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 17, 1970.)

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

Mr. Speaker, the conference report which is before the House at the present time is on H.R. 19877, the Omnibus Rivers and Harbors and Flood Control Act of 1970. The bill as agreed to by the conferees is a sound measure which would continue the vitally important water resources development program of the Corps of Engineers.

The Subcommittees on Rivers and Harbors and Flood Control held 3 weeks of hearings on this bill. Testimony was received from the Corps of Engineers on the technical details of the project, the estimated costs and the economic justifications. The committee also heard testimony on a number of projects on items which it felt should be considered in connection with the bill. On those projects considered controversial, testimony was received from Members of Congress, Federal and State officials, representatives of local organizations, and from interested citizens.

The conferees from the House and the Senate met and with a fine attitude of cooperation worked out the difference in the two versions of the bill. As in most conferences, the views of the House prevailed on some matters, and the views of the Senate on others. I believe that we have brought together a good bill, one that I can endorse to this body.

Included in the Senate version were 30 projects for rivers and harbors and flood control, each of which are estimated to cost less than $10 million. These projects were not included in the House bill because we utilized a procedure authorized in the Flood Control Act of 1965 which makes possible more expeditious authorization of these relatively small water resource development projects. This procedure permits the Committee on Public Works of the House of Representatives and Senate to review such projects and to approve them by committee resolution. This procedure makes possible prompt congressional action on numerous badly needed projects throughout the Nation.

It is our intent that this procedure will be utilized in the future so as to approve these projects in an orderly manner without having to wait upon an Omnibus Rivers and Harbors and Flood Control Act, which generally does not occur more often than once every 2 years.

The Senate conferees accepted the House position on this matter and the conference substitute does not include these projects. I would point out that the Committee on Public Works has approved each of these projects by the resolution procedure which I have described.

There are certain provisions in H.R. 19877 which I would specifically point out to my colleagues as being worthy of special note.

Section 107, which I am pleased to have authored, is the direct outgrowth of the study included in the River and Harbor Act of 1965 and authorizes the Secretary of the Army, acting through the Chief of Engineers to conduct a survey to the Great Lakes and St. Lawrence Seaway to determine the feasibility of extending the navigation season, in accordance with the recommendations of the Chief of Engineers in his report entitled "Great Lakes and St. Lawrence Seaway-Navigation Season Extension." Preliminary investigations conclude that practical measures are available for deicing waterways and lock structures, but that solutions to the icing problem on the Great Lakes and St. Lawrence Seaway are complex, and additional studies are necessary.

The section also authorizes the Secretary of the Army, acting through the Chief of Engineers, in cooperation with interested Federal agencies—primarily the Coast Guard and the Maritime Administration—and non-Federal public and private interests to undertake an action program to demonstrate the practicability of extending the navigation season. This program will complement the survey by serving as a means of testing and developing various methods which may be recommended and also by encouraging the participation in the development and use of these methods and shipping interests.

The program will include, but not be limited to, ship voyages extending beyond the normal navigation season; observation and surveillance of ice conditions and ice forces; environmental and ecological investigations; collection of technical data related to improved vessel design; ice control facilities and aids to navigation; physical model studies; and coordination of the collection and dissemination of information to shippers on weather ice conditions.

Subsection (c) of the section authorizes a study of ways and means to provide reasonable insurance rates for shippers and vessels engaged in waterborne commerce on the Great Lakes and St. Lawrence Seaway beyond the present navigation season. One of the deterrents to winter navigation is higher insurance rates for this season, and the provision of reasonable rates is a necessary part of any program for extending the navigation season.

Section 108 is a most important provision which we hope has nationwide significance—it is the cleaning up of the Cuyahoga River, one of the four dirtiest rivers in the United States—a river so dirty that it actually caught fire on several occasions. The purpose of this section is to establish, on a test-case basis, what can be done in the way of physical and engineering improvements working in conjunction with other Federal and State treatment programs, to improve the total quality of a river—both its appearance and its quality—so that it may assume, through recreational, environmental, wildlife, and water quality values, a functional and viable role in the area it serves.

Section 122 requires that not later than July 1, 1972, the Secretary of the Army, acting through the Chief of Engineers, shall submit to Congress, and, not later than 90 days thereafter, promulgate guidelines to assure that adverse economic, social, and environmental effects relating to any proposed project have been fully considered in developing such projects and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for flood control, navigation and associated purposes, and the cost of eliminating or minimizing such adverse effects and the following: First, air noise and water pollution; second, destruction or disruption of manmade and natural resources, esthetic values, community cohesion, and the availability

of public facilities and services; third, adverse employment effects and tax property value losses; fourth, injurious displacement of people, businesses, and farms; and, filth, disruption of desirable community and regional growth. Such guidelines shall apply to all proposed projects after the issuance of such guidelines including the projects authorized in this act.

Section 123 provides for a program of construction of contained spoil disposal facilities in the Great Lakes in order to eliminate pollution associated with open water disposal of contaminated dredged spoil. The section is similar in import to a proposal submitted earlier this year by the administration. It differs from the administration proposal mainly in the area of cost sharing, by providing for waiver of the required local cooperation where the Administrator of the Environmental Protection Agency finds that the local interests are participation in an approved plan for the construction, modification, expansion, or rehabilitation of waste treatment facilities and are making progress satisfactory to the Administrator.

The section authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct contained spoil disposal facilities subject to conditions of non-Federal cooperation, as soon as practicable. Construction priority of the various facilities would be determined after considering the views and recommendations of the Administrator of the Environmental Protection Agency.

I would also note section 208 involving combined beach erosion hurricane projects; section 109, a statement of congressional intent regarding objectives to be included in federally financed water resource development projects; section 211, establishing a new position of Assistant Secretary of the Army for Civil Works; section 221, requiring written agreements from local interests before initiation of projects; and section 235, authorizing an important water quality study of the Susquehanna River Basin. My colleague on the conference committee, the very able chairman of the Subcommittee on Flood Control, the gentleman from Alabama (Mr. JONES), will discuss these provisions in more detail. The conference substitute includes 11 navigation projects and one beach erosion project in the River and Harbor Act at an estimated Federal cost of $153,354,000 and 20 flood control projects in the Flood Control Act at an estimated cost of $407,-301,200. The total of the projects authorized is $560,655,200. This is the smallest Omnibus Rivers and Harbors and Flood Control Act in the last 20 years.

I would conclude by thanking all the members of the conference on both sides of the aisle for their outstanding efforts on this legislation. I sincerely appreciate the support and counsel of my good friends, the gentleman from Alabama (Mr. JONES); the gentleman from California (Mr. JOHNSON); the gentleman from South Carolina (Mr. DORN); the ranking minority member of the committee; the gentleman from Florida (Mr. CRAMER); the gentleman from Ohio (Mr. HARSHA); and the gentleman from California (Mr. DON H. CLAUSEN).

Mr. Speaker, I now yield such time as he may consume to the distinguished gentleman from Alabama (Mr. JONES).

Mr. JONES of Alabama. Mr. Speaker, H.R. 19877, which we now bring back from conference for approval of this House is another example of excellent cooperation between this body and the Senate. Yesterday, I was able to note this spirit of cooperation in dealing with the Senate conferees on the Disaster Relief Act of 1970, and today I am pleased to report the same attitude prevailed in the River and Harbor and Flood Control Acts of 1970.

The agreed-upon conference substitute authorized a total of 20 flood control projects, and 12 navigation and beach erosion projects. The estimated amount of these projects is $560,655,200. I would point out that this total is $24 million less than the original House bill and considerably less than the Senate version.

H.R. 19877 is a comprehensive measure to authorize the Corps of Engineers to carry forward vital programs for the development and improvement of waterways and harbors as an essential element of the Nation's transportation system, for the protection of lives and property of our citizens against the ravages of floodwaters, for the protection of our valuable coastal resources from erosion, for the generation of low-cost hydroelectric power, for the development of water supplies of suitable quantity and quality to serve our Nation's cities and industries, for the conservation and enhancement of fish and wildlife resources, for providing increased opportunities for our citizenry to enjoy healthful outdoor recreation opportunities, and, in general, for inducing economic development as a means of enhancing the general welfare.

There are certain provisions which I believe to be particularly important. I would call the attention of my colleagues and the appropriate Federal agencies to section 209. This section provides for the consideration and determination of all costs and benefits in the formulation and evaluation of water resource projects. The inclusion of this section in the bill is the reflection of Congress continuing concern that our water resources be managed and developed consonant with contemporary concerns for the environment, for the urban problems, and for our concern for our regions.

We are aware that the Water Resources Council in the report of its special task force has forthrightly addressed the problem of developing principles and standards that would allow for the evaluation of water resource projects in terms of all objectives and has developed more detailed guidance for this purpose. But only within the past few weeks have we become aware of the position of the Office of Management and Budget in opposition to this type of analysis. In their initial review of the special task force report, OMB has, in effect, stated that we should not pursue multiobjective approaches to formulating our water resource plans and that, in fact, we should evaluate potential development plans on a basis even narrower than our present standards provide.

We have repeatedly urged the executive branch to develop new guidelines and procedures that would more appropriately reflect the concerns Congress has expressed with respect to making our water projects responsive to a broad range of current and future national concern. We believe the special task force of the Water Resources Council provides that basis. It is disturbing that the OMB is now taking a position which contravenes existing national goals and seriously endangers the development of water resource plans truly responsive to our national needs. Section 209 expresses the intention of the Congress that we formulate our plans and evaluate benefits and costs in the context of all objectives—national economic development, environment, quality of life, and regional development. We can ill afford to ignore the proper role of water resources development in enhancing our environment and helping to resolve the problems of our urban areas and depressed regions.

Proposals by the Office of Management and Budget that would result in a further increase in interest rate for evaluation of water projects; that would limit the benefits to be considered in the formulation and evaluation of plans; and that would preclude the full consideration of all objectives in developing long-range water resource programs would clearly run counter to a growing national concern that all resource development programs squarely address our Nation's problems. We cannot neglect the pressing problems of our cities, of our obligation to improve our environment and to rid ourselves of pollution. It is less costly to attack these problems now than to pay the high costs of correcting ills after they are created. The statement of the objective for water resources as set forth in section 209 expresses the intent of Congress that the contribution that water resource projects can make to a growing list of priority concerns be considered in the formulation and evaluation of projects. We feel confident that through a broadening of the objectives and criteria by which we plan for the future use of our water resources, we can better utilize funds for water development.

I would further note that the Congress in 1965 granted to the Water Resources Council the responsibility of establishing principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans, and for the formulation and evaluation of Federal water and related land resource projects.

In the event that the Water Resources Council is prevented from carrying out the responsibility granted to it by the Congress, the Congress may find it necessary to reassert its authority in this field.

I would insert in the RECORD at this point a copy of the OMB memorandum which states its position to the Water Resources Council:

EXECUTIVE OFFICES OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

December 2, 1970.

MEMORANDUM

To: Mr. W. Don Maughan, Executive Director, Water Resources Council.

Subject: Proposed principles, standards, procedures for evaluating water resource plans and projects.

This is in response to your letter of October 29, 1970, to Mr. Weinberger on the above subject.

As Mr. Weinberger indicated at our meeting with you and representatives of the members of the Council on October 7, the proposed principles and standads should be carefully scrutinized because of the long range implication of these guidelines on future water resource development. We, therefore, are making an intensive review to assure that this is the best possible planning tool from the Administration's standpoint. As promised, our views will be furnished to the Council within 90 days.

So war, we have noted some changes that we believe should be made in the proposed standards. We believe the following changes are necessary to meet the goal of better decision making in water resource investments

ADDITIONAL NON-FEDERAL PARTICIPATION IN DEVELOPMENT COSTS

Everyone agreed at the October 7 meeting that beneficiaries of water resource projects should be required to participate more in the costs for project development. Except for recommendations regarding cost sharing for water quality control, the WRC task force recommends no change in current policies regarding apportionment of costs to local interests.

We commend the task force for its proposal for water quality control cost sharing and concur in that recommendation. However, other cost-sharing proposals are also needed. Non-Federal interests should be required to pay substantially more of the investment costs in the future. For example, local cost sharing for flood control projects should be consistent with the Federal flood insurance program. More importantly, equity calls for increased local participation in water development projects.

WRC is considering new cost sharing policies for flood control. We strongly urge that this study be concluded soon since it has been identified as a possible 1972 program reform by the President. This study should be approved prior to approval of the proposed principles and standards.

DISCOUNT RATE

In determining the discount rate for government investments in water resources, we believe that the real opportunity cost of capital should be used. We recognize that the rate of movement from the current level of 5⅛ percent will have to be worked out but a significant increase from the current level should be made immediately.

MULTIPLE-OBJECTIVES

The task force report provides for the recommendation of plans to meet objectives of regional development, environmental quality and quality of life even when costs, on a national income basis exceed the benefits. We strongly disagree and believe no plan should be recommended unless the addition to national income exceeds the costs.

BENEFITS FROM INCREASES IN OUTPUT RESULTING FROM EXTERNAL ECONOMIES

The task force recommends that external economies and diseconomies resulting from water development be included in planning reports. It recognizes that present techniques are not well developed for measuring external economies and diseconomies. We do not agree that those economies or diseconomies attributable to influencing the economies of scale of processors or other producers should be included as benefits to a water resource project. Where such economies exist, they not only are almost impossible to measure but are probably offset by reverse phenomena elsewhere. However, external effects caused by a project such as increased costs imposed on parties other than project beneficiaries can be evaluated with sufficient confidence to warrant their inclusion in the national benefit-to-cost estimates.

BENEFITS FROM UTILIZATION OF UNEMPLOYED AND UNDEREMPLOYED RESOURCES

The task force report states that benefits should be counted when a water plan creates an opportunity to use resources that would be unemployed or underemployed in the absence of the plan. The report states that utilization of such resources may come about (a) as a result of implementing a plan, including construction, operation, maintenance, or replacement; (b) as a result of the use of intermediate goods and services resulting from the plan; or (c) as a result of expansion of output by firms who are indirectly affected by the installation of the project or indirectly affected by consumers and firms who use final and intermediate goods.

Use of unemployed or underemployed resources, namely manpower, on a project is now counted as area redevelopment benefits. Counting benefits under (b) and (c) above are conjectural, for example, the employment of unemployed persons in an area because an industrial plant is expected to locate there because of flood protection to be provided by a project. It is difficult to forecast plant locations. In addition, the plant may only relocate from one region to another so that there is no net addition to national income. Also, a plant planned for one location in a region might locate in another area within the region because of the project, in which case, there is no net addition to the region attributable to the project.

In addition to the question of private investments required to produce these benefits, non-Federal public investments, such as streets, water supply and sewers, may also be required before the benefits will occur. Thus, these types of benefits are not only conjectural but must be allocated among the various investments.

Benefits from the use of underemployed or unemployed resources in (b) and (c) above should not be included in the national income account and only included in the regional development account as a side calculation for information as to possibilities and not enter into the benefit-cost analysis of the cost allocation.

BASINWIDE ANALYSIS

The standards will apply to the preparation of framework studies or assessments, regional or river basin studies, and implementation (individual project) studies. Conceptually, basin-wide or regional analysis is the proper way to formulate water resource plans. In particular, one should be careful to eliminate double counting from the same population base. Further, this should assure a multi-agency effort which will facilitate trade-offs among agency objectives. In addition, however, water development should be an integral and necessary part of a regional economic development plan prepared by others than water planners.

INTERNAL EFFICIENCIES (INCREMENTAL ANALYSIS)

The standards need a stronger statement on the use of incremental analysis to determine optimum scale of development. The statement should stress the optimization of each project of a group of projects, and including each separable segment and each purpose of a project, as well as optimizing the scale of physical development.

APPROVAL OF PROPOSED PRINCIPLES, STANDARDS, AND PROCEDURES

We agree that the President should approve the statement of principles. With regard to the approval of the statement of standards, we believe it would be an appropriate task for the Office of Management and Budget. The standards, as well as the principles, will guide the course of future water resources planning and development. The importance of the standards suggests that the review and approval responsibility should be in the Executive Office of the President.

OTHER ISSUES

There are other areas that we are concerned with and now have under deliberation. We will communicate with you on these at a later time. Examples are:

Proposal to apply standards to activities not now covered by water resources standards, primarily land resources.

Proposed procedures for calculating navigation, recreation and agricultural related benefits.

Practicability of the social well-being or quality of life objective as an explicit planning objective.

Implication of publishing a national program for water resource development.

Recommended cost allocation procedures compared to other alternatives.

Validity of projections set forth in the standards to be used in planning.

Criteria for establishing period of analysis for a water resource plan.

We are furnishing this information in order to be more responsive to the Council's request for our views on the proposed principles and standards. This should allow you to focus early on some major areas of disagreement between the Council's task force and OMB. OMB staff, of course, is available to work with you on this matter.

DONALD B. RICE.

Mr. Speaker, section 208 amends existing beach erosion control authority to permit, within the discretion of the Chief of Engineers, application of a cost apportionment procedure that is generally similar to that now applied to hurricane flood protection projects.

At the present time, projects which serve the single purpose of protection of beach erosion are subject to different cost-sharing formulas determined by ownership and use which can vary the Federal contribution from 50 percent in the case of non-Federal publicly owned land, to 70 percent for non-Federal publicly owned land used as a park or conservation area.

The cost-sharing formula for hurricane and tidal flood protection, established by the projects authorized under the 1958 Flood Control Act, contemplates a Federal contribution of up to 70 percent of the project cost. In multiple-purpose beach erosion and hurricane and tidal flood protection projects the costs allocable to each purpose are apportioned on the basis of the formula established for each such project purpose.

The section permits a desirable flexibility in the statutory cost apportionment required for beach erosion benefits and permits a discretionary determination of the proper Federal share of project cost up to 70 percent in all hurricane and tidal flood protection projects having beach enhancement aspects.

I wish to stress that this in no way

affects the present policy for cost sharing on hurricane protection projects which do not include beach erosion. The basic difference would be that hurricane projects without beach erosion control features would permit 70 percent Federal contribution, but, unlike the multiple-purpose projects, would continue to permit any lands finished by local interests to be credited as part of their required contribution.

Section 211 provides for an additional Assistant Secretary of the Army for Civil Works who would have as his principal duty the overall supervision of the Department of the Army's functions relating to programs for the conservation and development of the national water resources including flood control, irrigation, shore protection, and related purposes.

Within the Department of the Army, the responsibility for supervising the civil works program has, for the past several years, been assigned to the General Counsel of the Army who, in this capacity, acts as the special assistant for civil functions to the Secretary. In January 1966, the Secretary of the Army released a report covering the civil works program of the Corps of Engineers, prepared by the Civil Works Study Board which recommended establishment of an office of an Assistant Secretary of the Army with responsibilities primarily for the civil works missions. This recommendation was based upon the conclusion that the importance of the civil works program to the Nation and the Army warranted a higher degree of personal involvement at the Secretarial level.

The need for more effective interdepartmental coordination at the Departmental level has increased during the more than 4 years since the Secretary submitted the Study Board report. The requirement of departmental membership on the Water Resources Council, established by the Water Resources Planning Act, and the problems stemming from the increasing involvement in water resources development of the Department of Transportation, the Department of Housing and Urban Development and the Environmental Protection Agency have contributed to the need for an Assistant Secretary who can devote his primary efforts to the civil works mission.

The civil works program exceeds in magnitude the total programs of several existing Federal departments and is extremely important to the Nation's water resources. From these standpoints, and others, there is full justification for proposing an Assistant Secretary to assist the Secretary of the Army in discharging his broad civil works responsibilities.

Section 221 is a result of our long-held belief that there should be a uniformity of obligation in water resources development projects and the associated items of local cooperation, and that before Federal moneys are invested in a project, the non-Federal interests should be bound to perform the required cooperation.

Under this section the construction of any water resources project by the Secretary of the Army shall not be commenced until the non-Federal interests enter into a written agreement with the Secretary of the Army to furnish the cooperation required under the project authorization or other law. The requirement for such an agreement also applies where local interests commence work on a Federal project for which they will be reimbursed. It does not apply, however, to those cases where the United States is merely contributing part of the cost of a non-Federal project in recognition of the Federal purposes it will serve, such as flood control.

The non-Federal interests entering into these agreements must be legally constituted public bodies with full authority and capability to perform the terms of the agreement and to pay damages, if necessary, in the event of failure to perform. The agreements will be enforceable in the appropriate district courts of the United States.

The section also provides that after commencement of construction of a project, the Chief of Engineers may undertake performance of those items of cooperation necessary to the functioning of the project, such as operation and maintenance or completion of a partially completed project, if he has first notified the non-Federal interest of its failure to perform the agreement and has given such interest a reasonable time to perform. The purposes of this provision are to protect the Federal investment and to prevent property damage and loss of life which might result from a partially completed or improperly operated or maintained project.

The section also requires that a continuing inventory, be kept of agreements and the status of their performance, and that an annual report be made to the Congress.

This section will provide a necessary uniformity of obligation among non-Federal interests and insure that Federal investments in water resources projects will be economically and judiciously made.

Section 235 authorizes and directs the Secretary of the Army, acting through the Chief of Engineers, as part of the comprehensive study of the water and related resources of the Susquehanna River Basin, to investigate and study, in cooperation with the Administrator of the Environmental Protection Agency and other interested Federal and State agencies, the availability, quality, and use of waters within the basin with a view toward developing a comprehensive plan for the development, conservation, and use of such waters. The studies and investigations authorized by this section will include the development of plans, for recommendation to the Congress, concerning the construction, operation, and maintenance of water conveyance systems; regional waste treatment, interceptor, and holding facilities; water treatment facilities and methods for recharging ground water reservoirs.

There was some question raised as to the relationship of this study with the recently passed S. 1079 which established the Susquehanna River Basin Commission as a coordinating Federal-interstate agency for planning, development and use of the water resources of the basin. It was never intended by the inclusion of this study authorization to bypass the new River Basin Commission. There can be no question that we anticipate only the highest degree of cooperation between the Corps of Engineers, the Environmental Protection Agency, and the Susquehanna River Basin Commission.

I would conclude by commending the conferees for their excellent work. My appreciation, as always, is extended to my fellow conferees, the chairman of the Subcommittee on Rivers and Harbors, the gentleman from Minnesota (Mr. BLATNIK), the gentleman from California (Mr. JOHNSON), the gentleman from South Carolina (Mr. DORN), the gentlemen of the minority including the ranking member of the Committee on Public Works, the gentleman from Florida (Mr. CRAMER), the gentleman from Ohio (Mr. HARSHA), and my colleague on the Subcommittee on Flood Control, the gentleman from California (DON CLAUSEN).

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

Mr. BLATNIK. I yield to the distinguished gentleman from Ohio.

Mr. HARSHA. Mr. Speaker, I appreciate the gentleman yielding. However, I would like to inform the Members of the House that I did not sign the conference report. I did not sign it for the following reasons:

This report gives approval to some 16 projects which have not been approved by the Office of Management and Budget. Heretofore it has been the policy of the Committee on Public Works to approve in the final version of the conference report only those projects that have been approved by every Federal agency involved, including the Office of Management and Budget.

Indeed, it was my understanding that projects which had not received Office of Management and Budget approval by the time the conference completed its business, would not be enacted into law at this time. If I did not so believe, I would not have voted to include these projects in the bill reported by the Public Works Committee, and I would not have voted to include these projects on the floor of the House.

Mr. Speaker, as I say, in these 16 projects this was not done. In my opinion by digressing from this position we will make a shambles of the procedure which allows for the orderly, progressive consideration of projects of this kind. Heretofore we have insited that the projects clear not only the State and Federal agencies but also the Office of Management and the Budget.

This has not been done in this case. But, it need not stop there. If we dispose of the review and approval of the Office of Management and Budget, next we may find ourselves disposing of the review and approval of other Federal agencies. After that, we can find ourselves disposing of the approval of the State and local authorities. Field hearings would become meaningless. The expression of the public will could only be made in fora that have no significance.

In short, I can see that this practice could well lead to the approval of proj-

ects contrary to the public will, contrary to the desires of the administration and contrary to the interests of the United States. I believe that this practice should not be condoned, and, therefore, have refused to sign the conference report.

I am afraid this kind of procedure is going to come back and haunt us. I wanted the opportunity to express my concern over this method of legislating.

I will admit and concede that there are some precautions taken in this bill because the construction of the projects cannot be commenced until the President and the Secretary of the Army approves them, but irrespective of that they are authorized. And these 16 projects, or the authorizations in this bill, are for $241 million, and there is an additional $193 million of unauthorized monetary value to these projects, so what we are talking about is not some little matter, it involves something over $434 million as indicated in the following table:

PROJECTS FOR WHICH OFFICE OF MANAGEMENT AND BUDGET APPROVAL HAS NOT BEEN RECEIVED

	Authorization	Total cost
Baltimore Harbor, Md. and Va.	$40,000,000	$99,500,000
Atlantic Intracoastal Waterway bridges, Virginia and North Carolina	11,220,000	
Pamlico River and Morehead City Harbor, N.C.	2,642,000	
Freeport Harbor, Tex.	13,710,000	
Nawiliwili Harbor, Kauai, Hawaii	1,952,000	
Saint Georges Creek, Md., to Harry Lundeberg School of Seamanship at Piney Point, Md.	475,000	
Ouachita and Black Rivers, Ark. and La.	13,500,000	
Arkansas Red River Basin, Tex., Okla., and Kans.		
Mississippi River at Davenport, Iowa	12,263,000	
Sandridge Dam and Reservoir, Ellicott Creek, N.Y.	19,070,000	
Portugues Dam and Reservoir, P.R.	11,110,000	
Cerrillos Dam and Reservoir, P.R.	16,351,000	
Ponce, P.R.	$14,295,000	
Cottonwood Creek, Calif.	40,000,000	$174,000,000
Merced County streams, California	37,260,000	
Kaneohe-Kailua area on the east coast of Oahu, Hawaii	7,249,000	
Total, authorization	241,097,000	
Unauthorized project cost	193,500,000	
Total cost	434,597,000	
Total cost (2 projects)		273,500,000
Authorized cost (2 projects)		80,000,000
Unauthorized cost (2 projects)		193,500,000

Nearly a half billion dollars is, I think, a great deal of money. But perhaps even more important than a half billion dollars is the precedent established by this procedure. Under such precedent, the review procedure requiring Office of Management and Budget review is eroded and indeed dispensed with. Such a practice is highly undesirable, and I think that this is a regrettable way to legislate in this manner, and that is why, Mr. Speaker, I refused to sign the conference report.

Mr. GERALD R. FORD. Mr. Speaker, would the gentleman from Minnesota yield?

Mr. BLATNIK. I will be delighted to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, approximately 2 years ago I introduced legislation that would have prevented the Army Corps of Engineers from dumping in the Great Lakes the dredgings that they acquire from their various operations. Earlier this year the President of the United States also recommended to the Congress that such prohibiting legislation be approved by the House and the Senate.

I was reading the conference report on page 25, and would the gentleman from Minnesota explain what has been done in this legislation that involves this particular problem? Because we do have a serious situation concerning the dumping of soil dredgings, particularly in the Great Lakes from the various operations of the Corps of Engineers and others.

Mr. BLATNIK. Mr. Speaker, the gentleman from Michigan raises not only a very important question, but the gentleman is directing himself to a very vexing problem.

Section 123 of the legislation, as agreed to by both the Senate and the House, has a program for construction of spoil disposal facilities for the Great Lakes in order to eliminate this very serious problem. We did not adopt all of the recommendations made by the administration. I would point that the basic difference was in cost sharing, because at this stage much of this will be of an advanced demonstration program of what to do with these materials. The gentleman knows, the problem can vary from place to place.

Again let me emphasize that the difference was not in concept but merely in cost sharing. The administration asked for a 50–50 sharing between the local units and the Federal Government. We changed that to a requirement for local cooperation of 25 percent. Also in some instances the Corps of Engineers, with proper justification, can waive the local contribution because the local interests are in compliance with an ongoing program of sewage treatment facility construction.

We do make what is, in our judgment, a very significant forward step in coping with this problem in a workable manner, and in as efficient a manner as we can to handle this problem of disposal.

Mr. GERALD R. FORD. Mr. Speaker, if the gentleman will yield further, let me say that I applaud the action taken by the conference, even though it does not go the full length recommended by the administration. This is a forward advance from the conditions of the past, and perhaps after we have had some experience with this law perhaps we can take further steps in the future to prohibit this kind of a problem from existing at all.

Mr. BLATNIK. Mr. Speaker, I appreciate the good words from the distinguished minority leader.

I also want the RECORD to show the gentleman's persistent and continuing interest in advocating that action be taken on this important problem.

If I may now direct my remarks to a valid point made by the gentleman from Ohio, the ranking minority member of the Subcommittee on Flood Control, a very valuable member of that subcommittee. Originally, we felt that we should keep projects out that did not have the usual approval of the Office of Management and Budget. But as time went on we found that there were several very important projects that had been approved at all levels—at the local level right on up to the State level and all agencies of the Federal Government that had some concern with respect to a given project. The projects had advanced at the time of the conference through all stages except for final OMB approval.

We felt it would be unfair insofar as these projects are concerned where many have been under consideration for several years to eliminate them arbitrarily for a possible period of 2 more years until the next omnibus bill. This did not seem appropriate when they are so close to being approved and all indications are that they shall be approved.

However, the gentleman is correct—the Congress ought to protect itself and certainly ought to give an opportunity for the President to protect himself.

So we put specific and precise language in each one of these projects that have not completed the approval stages by the OMB and the Secretary of the Army.

The language is essentially this: That no construction of any work whatsoever shall be initiated in any of these projects until such approval is obtained.

Mr. HARSHA. Mr. Speaker, will the gentleman yeld?

Mr. BLATNIK. I yield to the gentleman.

Mr. HARSHA. The committee probably did not want to eliminate arbitrarily the projects and no Member wants to eliminate arbitrarily the projects. This has been the policy of the committee for years and it has been the policy of the Congress, that we do not authorize these projects until they are cleared by the Bureau of the Budget.

Just to give you an example of what we are getting into here—we have a project here which we have not only made conditional upon the ultimate approval of the President and the Secretary of the Army, but we have directed that studies be made to determine alternatives for those projects. Before that project is to be constructed, those alternatives are to be considered and reported back to the Congress.

Now I am informed that a certain State is in the process, based on this representation in our committee bill, of

acquiring land. Where are the people who have to give up their homes in a case like this and who have to give up their property in a case like this? Where are they left after the State purchases the property? And suppose the administration turns the project down?

This is one of the situations you are going to get into—just one of them—and I still say an instruction of this type is going to come back to haunt us.

Mr. BLATNIK. Mr. Speaker, I have no further response other than to say the gentleman does raise a point and we go up to the 1-yard line before the projects are approved all the way. When you come that close to it, we feel it just would not be doing justice in the case of a badly needed project to delay it for another year or two, especially when they are meritorious or justifiable.

Mr. Speaker, I yield to the gentleman from New York, a member of the committee.

Mr. McEWEN. I thank the gentleman from Minnesota for yielding. I will say to the gentleman that I would like to associate myself with the concern expressed by the gentleman from Ohio. Particularly I would like to emphasize to the gentleman from Minnesota that one of these projects, which the gentleman from Ohio has referred to, we had a very thin benefit-cost ratio, and we conditioned our approval on there being a direction for a study of alternatives and a report back to this Congress before going ahead with it. Notwithstanding this, I am also informed that the State where this project is located may be proceeding with the acquisition of the land before the report back by the corps to our committee and before possibly the review and approval of the Office of Budget and Management. I want to associate myself with the remarks of the gentleman from Ohio and say to the gentleman from Minnesota that I am concerned about this. I understand there are going to be steps taken under this authorization before there has been not only review by all of the executive agencies that should review it, but before we have had a report back from the corps as to what alternatives there are, if any, to this project.

Mr. BLATNIK. I would like to point out that the gentleman from New York has some valid points. But this is the only project that can be pointed out in that connection. There is some question about it, but what the gentleman has expressed does not exist in relation to the other projects. This is a flood control project. I believe it is in the district of the gentleman from New York (Mr. McCarthy).

I yield to the gentleman from New York (Mr. McCarthy).

Mr. McCARTHY. I thank the distinguished gentleman for yielding.

Mr. Speaker, for the record, I would merely like to clarify the situation that in committee we did accede to the request of the distinguished gentleman from New York (Mr. Conable), in whose district the dam will be located, and where the property is being acquired under the Republican administration in New York. I should point out that the impact of this is mainly within the district that I presently represent. The Governor of New York wants it desperately. It is an essential ingredient in a $1.5 billion complex associated with the new University of Buffalo. This project cannot go through if there is going to be flooding throughout that area.

The dam is essential. We have gone along with the minority, which asks for a study of alternatives. So it seems to me that all interests here have tried to be cooperative, and your own Governor is most anxious to see this project proceed.

Mr. BLATNIK. I should like to make one comment. The gentleman from New York (Mr. McCarthy) is correct. I do not know whether it has been made clear to the membership that this land acquisition is being undertaken, as I understand, by the State, or perhaps some local interests. In most local flood protection projects, the local interests are required to furnish lands, easements and rights-of-way. However, this is not required until after the project has been approved. We cannot stop a State or a municipality from acquiring land if they want to do so prior to approval. They are doing so in the hope that the project will be approved. I would note, however, that the acquisition of the lands at this time is a risky proposition on the part of the State since there is no assurance that the project will receive the necessary approvals or that it might not be relocated.

Again, I repeat, our safeguard is in the language of the bill, directing that in relation to each project, if the project does not get approval by the President, the Secretary of the Army, and the OMB, there will be no Federal expenditure on the project.

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

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

Mr. McEWEN. I thank the gentleman for yielding. I would say to my dear friend and colleague from New York that I do not propose here to debate all questions on the Sandridge Dam and Ellicott Creek. But I do think this is a unique situation. It appears in this list, to which the gentleman from Ohio has referred, of projects as to which there has not been a review and approval by the Office of Management and Budget; where there was not a particularly strong benefit-cost ratio; where the study was not made by the corps but by engineers employed by the State in behalf of the corps, and where we have directed a review and report back to this Congress. Yet, I am told that the State may go ahead and acquire land for the project.

I would say also to my colleague from New York that I further understand that on the campus of the University of Buffalo there are flood control protections incorporated now in the site for that campus.

So ever since the action by our committee, I would say to my friend, the gentleman from Minnesota, I have been told that this does not relate just to the campus of the University of Buffalo, but that there is incorporated in it, apart from this project, flood control measures. I just regret to see, Mr. Speaker, a project where there are serious questions which our committee has recognized, there are questions where we direct by the language in this bill that there be further study and report back, that we go ahead and authorize it when there has not been approval by the Office of Management and Budget.

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

Mr. BLATNIK. I yield to the gentleman from New York (Mr. Robison).

Mr. ROBISON. Mr. Speaker, changing the subject matter for a moment, I would like to take this opportunity to thank the acting chairman and other members of the committee who were conferees in this matter for having worked out in satisfactory manner, as I think they have, the jurisdictional problems relating to developing a comprehensive plan for the conservation and protection of the water resources of the Susquehanna River. They have done so in such a fashion that the jurisdiction and responsibilities of the newly created Susquehanna River Basin Commission will be protected and recognized, along with that of the new Environmental Protection Agency, while the Corps of Engineers will still have the needed authority to proceed.

Mr. BLATNIK. I thank the gentleman from New York.

Mr. ROBISON. If the gentleman will yield a moment further, the gentleman knows of my longstanding interest in this regard, and I am grateful to him and the other members of the committee, on which I used to serve, for their actions in saving this section.

Mr. BLATNIK. I would like to make a very frank statement, that if it were not for the assistance of the gentleman from New York and other Members from both the House and Senate we would not have succeeded as well as we did on this. It is a very worthy project, and the gentleman deserves a great deal of credit for assisting in preserving the project.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

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

Mr. DON H. CLAUSEN. Mr. Speaker, the project was held up about 20 minutes, I might say, in order to see that the position of the gentleman from New York was taken into account and to see that it was worked out in a satisfactory manner.

Mr. EDMONDSON. Mr. Speaker, within the past 5 years, this Congress has enacted a number of important items of legislation all of which reflect our national concern that our water and related resources be developed and utilized in the most effective way possible to serve the needs of our present and future generations. These include:

The Appalachian Regional Development Act of 1965;

The Federal Water Project Recreation Act of 1965;

The Water Resources Planning Act of 1965;

The Public Works and Economic Development Act of 1965;

The Water Quality Act of 1965;

Authorization of the Northeastern Water Supply Study in 1965;

The Clean Water Restoration Act of 1966;

The Wild and Scenic Rivers Act of 1968;

The National Flood Insurance Act of 1968;

The Estuary Protection Act of 1968;

The National Environmental Policy Act of 1969; and

The Environmental Quality Improvement Act of 1970.

Impressive as this list may appear, there is yet a need to assure that the Federal agencies required to execute plans for water resources development have clear and explicit guidelines that fully incorporate planning and development concepts that will assure that water resource projects to be considered by this Congress do, in fact, address our critical environmental, economic, and social problems.

Section 209 of this bill is clear expression of our intent that all objectives and all benefits and costs associated with those objectives are considered in the formulation and evaluation of plans.

We strongly urge the development without further delay of specific guidelines and procedures necessary to implement this conservative intent. This Nation must avoid further compounding the serious problems we now face in trying to cure the ills of congestion and pollution in our increasingly urbanized society.

The bill before us not only authorizes a series of specific projects to help in this effort, it also provides in section 209 the broad policy cornerstones needed for a full-scale national effort to meet national needs of growing urgency.

We urge cooperation by the administration in the meeting of those needs.

Mr. FALLON. Mr. Speaker, it is a distinct privilege for me to rise in support of the conference report on H.R. 19877, the omnibus rivers and harbors and flood control bill of 1970. The agreed-upon conference report on the bill authorizes 12 navigation projects and 20 flood control projects in 21 States and Puerto Rico. The Committee on Public Works has made every effort to keep down the total authorization contained in the bill, while at the same time including those projects which are urgently needed for the economic well-being of the Nation. The projects in this bill will provide valuable benefits to the people of this Nation through improvement of navigation, prevention of floods, water supplies for our cities and towns, water quality, and recreation. The total authorization contained in this bill for these 32 projects is $560,655,200. At a time when economy in our Government is so important, I think the members of the Committee on Public Works and the Subcommittee on Rivers and Harbors and Flood Control are deserving of our highest commendation for the success of their efforts to keep the cost of this bill down.

One of the projects approved for authorization in this bill is the Baltimore Harbor and Channels, Maryland, and Virginia. This project is particularly important to the State of Maryland since it concerns the deepening of the existing channels and the approach of Baltimore to meet the existing and prospective needs of navigation. Specifically, it provides for Cape Henry, York Spit, and Rappahannock Shoal Channels, 50 feet deep, and 1,000 feet wide; a main ship channel, 50 feet deep and 800 feet wide; three branch channels, 50, 49, and 40 feet deep and all 600 feet wide. The present depths are not adequate for fully loaded large bulk cargo carriers now in use and today's technology is moving so fast and the economic growth is increasing so rapidly that I am gratified by the inclusion of this project which confirms the need for these additional depths while taking into account the necessary protection of the environment.

Mr. Speaker, I wish to commend the conferees, as well as the members of the full committee and the subcommittees, who, in spite of other pressing business, devoted so much time and effort to the consideration of this bill. I particularly commend the gentleman from Minnesota who chairs the Subcommittee on Rivers and Harbors, and the gentleman from Alabama, who chairs the Subcommittee on Flood Control, for their outstanding efforts with regard to this bill.

Mr. JOHNSON of California. Mr. Speaker, as a conferee representing the House on the Rivers and Harbors and Flood Control Act of 1970, I rise in support of this proposal. I feel that the differences as resolved by the House and the Senate conferees represent a reasonable program of development of very necessary navigation and flood control.

While I recognize that in the past months, we have had considerable discussion concerning public works construction and spending, I do not believe that this should affect the authorizing legislation. As my colleagues are well aware, the Congress must take two independent steps before a project can actually be put under constructive contract—the authorizing and the appropriating procedures.

The legislation we have here before us is, of course, the first step, the authorizing bill. It is a bill which you can say does not cost the Federal Government anything, as actual work cannot begin on this project until the appropriating bill is approved by Congress. It seems only reasonable to me to go ahead with this step so that if a need develops for public works construction to stimulate our economy—and I would emphasize that one out of every three people in the heavy construction industry in my home State of California is unemployed—then we will have the authorizing step behind us.

Each of these projects included in the omnibus bill reported by the House-Senate conference has undergone some preliminary feasibility studies and has withstood the rigorous engineering and economic studies of the appropriate agencies. Each has a favorable benefit-cost ratio which make them worthy of our consideration.

Accordingly, Mr. Speaker, I join with the other managers of the House in urging approval of the conference report on H.R. 19877, the Rivers and Harbors and Flood Control Act of 1970.

Mr. DORN. Mr. Speaker, it was a great honor and a privilege to serve on this conference committee, representing the House. We have brought to you a good conference report, which I wholeheartedly endorse and recommend to the House. Each of the projects authorized in this legislation have been found to be essential to the flood protection and resource development of its area and the Nation. The bill authorizes navigation and flood control projects in 21 States and Puerto Rico. Mr. Speaker, may I take this opportunity once again to pay tribute to the great chairman of Public Works Committee, Mr. GEORGE FALLON. Likewise, I pay special tribute to the distinguished and able gentleman from Minnesota (Mr. BLATNIK). Special recognition should also be given to the gentleman from Alabama (Mr. JONES); the gentleman from Texas (Mr. WRIGHT); the gentleman from Ohio (Mr. HARSHA); and all the conferees and the distinguished members of our Public Works Committee.

I would also like to pay tribute to our colleagues from the Senate, the distinguished gentleman from West Virginia, Chairman JENNINGS RANDOLPH and all the members of his great committee. Also sitting on the conference, was my neighbor from the great State of North Carolina, Senator JORDAN, whom we all love and admire.

Mr. Speaker, this is an excellent piece of legislation and I strongly recommend its passage.

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

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BLATNIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report on H.R. 19877, just agreed to.

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

There was no objection.

CONFERENCE REPORT ON H.R. 19504, FEDERAL-AID HIGHWAY ACT OF 1970

Mr. WRIGHT. Mr. Speaker, I call up the conference report on the bill (H.R. 19504) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 17, 1970.)

Mr. WRIGHT. Mr. Speaker, the conference report we are considering now is on the Federal-Aid Highway Act of 1970. I think it is accurate to conclude that this report contains some of the most significant and far-reaching developments for the future of the highway program since the passage of the original Interstate Highway Act of 1956.

The report now pending comes before this body as a result of very careful and very deliberate and in some instances rather difficult considerations within the conference. For the better part of three weeks the conferees for the House met with the conferees of the other body, and in those intensive conferences I am convinced that we have worked out a conference report which embodies the best features both of the House bill and of the bill enacted by the other body.

The composite legislation embodied in this report does the following things, essentially: It agrees to extend the Interstate System through the year 1976, and this extension thereby increases the total authorization for the interstate program by an amount of $9,775,000,000.

Ir. addition to this, the bill extends the authorization for the regular ABC programs—the primary, secondary, and urban programs—through 1972 and 1973 by an amount of $1.1 billion.

The remaining traditional and necessary programs for forest highways, public lands highways, forest development roads and trails, park roads, parkways, and Indian reservation roads and bridges are extended for various amounts which are shown on page 39 of the conference committee report.

This legislation also creates for the first time—and I believe this is worthy of note—a Federal-aid urban system to take care of the extremely urgent problems of the movement of traffic within the urbanized and congested areas of our country.

Additionally, the conference report incorporates the basic House provision of aid to urban highway public transportation, so that high-speed express lanes may be provided to link the fringe parking areas authorized in the 1968 bill and made a permanent part of the law in this bill, on the perimeters of our downtown urban areas, so that they may be connected with the downtown hearts of those central cities by means of preferential bus lanes, thus encouraging the movement of more people by that form of mass transportation and curtailing the glut and congestion that is so often found in our cities.

The conference report contains other important features, among which is the authorization of a 2-year period for funding the highway safety program partially out of the highway trust fund. This was, quite frankly, a compromise reached between the Senate position and the House position. It was agreed that the portion of the highway safety program already authorized in existing law could be funded to the extent of two-thirds from the highway trust fund, with the other one-third of that cost coming from appropriated funds.

The House position on economic growth center development highways—so as to aid in the dispersal of population and the decentralization of industry out into those areas capable of absorbing them, areas which are not yet glutted beyond endurance by pollution and overcrowding—is preserved and protected within the conference committee report. This in my opinion is one of the most innovative features of the bill. It was a House initiative, sponsored originally by the gentleman from California (Mr. DON H. CLAUSEN).

Also, the National Highway Institute, which was authorized in the House bill, is preserved in the conference report. This was an original idea fostered by the gentleman from Oklahoma (Mr. EDMONDSON). We believe that this is an excellent feature for training those who in the future will handle this ever-increasingly sophisticated program of highway construction.

The bill authorizes completion of the Inter-American Highway through the Darien Gap below the Panama Canal, and its linking up with the Pan American Highway. This is a project in which many of us have long been interested—including the gentleman from California (Mr. DON H. CLAUSEN), the gentleman from New Jersey (Mr. HOWARD), and myself.

Mr. Speaker, for the purpose of establishing a clear legislative record and to place in that record the full intent of the conferees in connection with the section of the conference report, entitled "Emergency Relief," section 109 of that report, I should like to state that where the word "State" appears in the following language: "The repair and reconstruction of bridges which have been permanently closed to all vehicular traffic by the State" it is intended by the conferees that the word "State" shall include any political subdivision of a State, and that, of course, would include any authority authorized by State law, including a bridge commission.

Mr. Speaker, I should like, on behalf of the chairman of the full committee, the gentleman from Maryland (Mr. FALLON), to express appreciation to all the conferees on both sides of the House, and of the Senate, for the fine and painstaking work which has produced this conference report. I believe it is worth our note that the chairman of the full committee, the gentleman from Maryland (Mr. FALLON), labored long and hard in the conference, devoting many hours to its endeavors.

Also, the chairman of our Roads Subcommittee, the gentleman from Illinois (Mr. KLUCZYNSKI), the gentleman from Oklahoma (Mr. EDMONDSON), the ranking minority committee member, the gentleman from Florida (Mr. CRAMER), the gentleman from Ohio (Mr. HARSHA), and the gentleman from New Hampshire (Mr. CLEVELAND) devoted many hours to this conference, and I am persuaded that our joint labors were productive of an excellent bill.

Permit me also to express to the staff, which I am convinced is one of the most professional and most competent staffs anywhere on the Hill, our gratitude for their painstaking and tireless work.

Particularly, I should like to commend and single out the committee engineering consultant, Lloyd Rivard, who at this time is hospitalized. Mr. Rivard, in the opinion of the committee, is one of the finest experts in the field of highways in the entire United States, and his contribution during these hearings has been enormous.

Mr. Speaker, I intend to yield to the gentleman from Ohio (Mr. HARSHA), but if the gentleman has no objection, I would yield first to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the gentleman for yielding.

I would like only to express my satisfaction that the conference report does authorize the interstate program on through fiscal year 1976 rather than through 1978, thus accepting the amendment I offered for its consideration.

Mr. WRIGHT. The gentleman is quite correct. The Senate position was to extend it only through 1976, and this is one of the compromises reached. It does not in any way foreclose the continuation of the Interstate System to its permanent completion.

It is fair to state, I think, that members of the committees on both sides and the conferees from both House and Senate are committed to the ultimate completion of that system. To this end, the House bill had authorized the extension of that program until 1978.

The gentleman is exactly correct; however, we did agree with the Senate position, which the gentleman from New York espoused on the floor, to continue it here until 1976.

Mr. BINGHAM. I thank the gentleman.

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

Mr. WRIGHT. I do indeed. I yield to the distinguished gentleman from Ohio, a very effective ranking member of the committee.

Mr. HARSHA. I thank the gentleman for his kind remarks and for yielding.

I would like to associate myself with the remarks of the distinguished gentleman from Texas insofar as they relate to the commendation of the staff. We have indeed a very dedicated, excellent, expert, and effective staff, without which I am sure we could not come to this floor with the kind of legislation we have here today.

I would also like to join him in commending other members of the conference committee. We spent many weeks, until late hours of the day in each instance, and it was a difficult task. The conferees were very eloquent in their expression of their different positions. We have come back to this body with a bill that is probably one of the most significant pieces of legislation since the inception of the interstate highway program. We have laid the groundwork for the so-called after 75 program, which is the Federal-aid highway program to follow completion of the Interstate System. The committee and the Congress should consider the enactment of legislation for this program in 1972.

While it is true that we cut back authorizations for the Interstate System to fiscal year 1976, the conferees and the

administration are totally committed to the completion of the Interstate System. So I do not think our action represents a material departure from the original House position.

In my judgment, this bill represents substantially the position of the House, with a number of economizing measures. We cut back over $1 billion in authorizations for the next fiscal year and the year thereafter. These are matters which are of deep concern to the administration. We now have this legislation in a form which I am sure the administration will accept and sign into law.

I do commend it to my colleagues. We have come up with the most comprehensive bill that we could possibly have. By and large, the conferees have sustained the position of the House in its original bill.

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

Mr. WRIGHT. I yield to the gentleman from Florida, the ranking minority member of the committee.

Mr. CRAMER. Mr. Speaker, I too join in the remarks which have been made with reference to this conference report. The conference, although it was a long and difficult one, was one in which I think the basic position of the House evidenced over many, many years—since the 1956 interstate defense highway program was started—the basic position of the House was maintained.

Mr. Speaker, I wish to congratulate the conferees and to say that I believe this bill is one that should be supported.

I made my principal remarks on the bill itself. I am glad to say that in conference we were able to maintain the basic House position on most of the fundamental policy positions in contention for many years. I congratulate the gentleman from Ohio and those who served in this very productive conference. This is a very comprehensive highway and safety measure. It means a great deal to this country.

Mr. WRIGHT. I think at this point it should be noted that the distinguished gentleman from Florida for the past 16 years has been an active, energetic, devoted member of this committee and that the contributions which he has made not only to highway legislation, but to all facets of legislation emanating from the Public Works Committee, have been truly monumental.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I am glad to yield to my good friend, the distinguished gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the conference report.

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

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

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

I wonder if it would be possible to get some explanation as to the action taken by the conference in deleting language from that passed by the House on the demonstration projects in title II under the highway safety title?

It is my understanding that the action of the conference in deleting this separate program does not jeopardize those ongoing demonstration projects in alcohol and the others but, rather, puts or adds provisions separate to the action-type programs into the general title of safety authorization contained in the House bill. Am I correct in that analysis?

Mr. WRIGHT. The gentleman is exactly correct in his interpretation. It does not do any violence to those ongoing projects but, rather, funds them as regular parts of our highway activities. As I pointed out earlier, two-thirds of the safety program will now come directly from the trust fund.

Mr. STEIGER of Wisconsin. May I inquire as to what happened to the provision that was contained in the House-passed bill that would have said that not more than one demonstration project could be carried on in any one State? Is that language, therefore, not in the report?

Mr. WRIGHT. Inasmuch as there is no language relating directly to specific demonstration projects anywhere in the bill at this point, of course that limiting language was left out.

Mr. STEIGER of Wisconsin. And, Mr. Speaker, if the gentleman from Texas will yield one more time—and I am most grateful for his being willing to yield, the provision found under "Public Hearings" in the conference report, for which there was no comparable provision in the House——

Mr. WRIGHT. Would the gentleman identify for me the page in the conference report to which reference is made?

Mr. STEIGER of Wisconsin. Page 56. As I understand what was done, due to the fact that there was no comparable House provision, you have then taken what seems to be a more lengthy procedure and in more detail and end up with a sentence—and I am asking this question to try and get some understanding as to what is meant—requiring that the certification of the hearings be accompanied by a report indicating the consideration given to the economic, social, environmental, and other impacts of the plan, highway location, and the design and the various alternatives raised at the hearings or otherwise considered by the certifying officer.

Mr. WRIGHT. As the gentleman will recall, there was some question about this on the floor of the House during our consideration of this bill, in which some Members expressed concern that some of the social and environmental questions involved would not be given adequate consideration, even though public hearings were held. As the gentleman is aware, the existing law requires the holding of hearings and requires that those hearings should take into account certain factors including those named here. If I understand correctly the concern that has been expressed by some Members on both sides of the aisle, they fear that public hearings might be held and yet nobody might not come forward with valid data concerning these particular considerations.

It was the effort of the conferees to embody in the law a requirement that upon completion of the hearings they be accompanied by a report certifying that these matters had been taken into account.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate very much the explanation given by the gentleman from Texas on that. I might say that I think that this one provision at least is certainly a step in the right direction, and I would hope would be handled appropriately by the State agencies and by the Federal Department of Transportation in an effort to give consideration to these other factors.

I thank the gentleman for yielding.

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

Mr. WRIGHT. I yield to the gentleman from South Carolina (Mr. DORN), a member of the committee—and a member who, incidentally, made significant contributions to the highway bill, including in particular the provision to help eliminate dangerous railroad crossings.

Mr. DORN. Mr. Speaker, I appreciate the kind remarks of my distinguished and able friend from Texas (Mr. WRIGHT). I want to join with the distinguished gentleman from Texas in commending the conferees from the House and Senate. They labored tirelessly and have done a superb job in commending our staff. I believe they did a fine job, which is a continuation of the fine work that they have done here on our side of the Capitol. The staff of the Public Works Committee of the Senate are also to be commended for their splendid service. This is a very significant bill, and a great piece of legislation which will go down in history, a bill that is a tribute to this conference, and to both great committees.

Mr. Speaker, this is landmark legislation. It would provide for the completion of the Interstate Highway System, which is the greatest project of its type in world history. It is my high honor to serve on the Roads Subcommittee of the House Public Works Committee, for it was this subcommittee and this full committee which originated this legislation. And again I would like to pay tribute to the progressive leadership of the subcommittee's chairman, the honorable JOHN C. KLUCZYNSKI, the chairman of the full committee, the gentleman from Maryland (Mr. FALLON), and the gentleman from Texas (Mr. WRIGHT).

Mr. Speaker, this bill in its entirely is a highway safety bill. Merely by completing the Interstate System we will be saving lives by providing for safer roads. The fatality rate on completed interstate highways expressed in terms of deaths per hundred million vehicle-miles traveled on the system, is less than half the rate on other heavily traveled highways. It is estimated that for every 5 miles of interstate highway opened to traffic an average of one fatality will be avoided each year. The completion of the entire 42,500-mile system will lead to an annual reduction of about 8,000 fatalities year after year. So it is, Mr. Speaker, that this bill merits our support as a safety bill, aside from its many economic advantages.

Mr. Speaker, one highway safety aspect of this legislation which particularly

pleases me is the section on rail crossings. Our House legislation provided, and the Senate accepted, a section which would authorize a demonstration project for the elimination or protection of certain public ground-level rail-highway crossings in the East from Washington to Boston and also in my hometown of Greenwood, S.C.

Mr. Speaker, I am particularly and especially proud that my hometown of Greenwood has been authorized as a demonstration project. The Greenwood demonstration project will be a model for the Nation. This will be a tribute to the citizens of my hometown of Greenwood, the railroads, the Federal Highway Administration, and the Federal Railroad Administration. The local track-removal committee had made careful studies and had taken the initiative in making this necessary safety project a reality. Accordingly, our Public Works Committee was able to turn to Greenwood as a demonstration project for the entire Nation. Greenwood thus will afford a unique opportunity to demonstrate in a single project, whether or not an approach to the rail-crossing problem will bring about substantial improvement in both traffic flow and safety.

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

Mr. WRIGHT. I am happy to yield to the gentleman from Illinois, chairman of the Public Building Subcommittee.

Mr. GRAY. Mr. Speaker, I thank my distinguished friend for yielding. I just want to join my colleagues in extending commendations to the conferees on this very important piece of legislation, and to say to the committee that the National Safety Council just recently estimated that when the Interstate System has been completed it will save an estimated 8,000 lives per year. I think this points up graphically just how important this legislation is safetywise, and for the economy of our country.

Again I certainly want to commend our conferees for doing a very great job.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman for his kind words. I recall very well that in 1956, during our consideration of the Interstate Highway Act, the gentleman from Illinois made an eloquent appeal for this system, based upon the saving of human lives. I think it might be worth noting that the number of highway fatalities measured per million passenger miles on those completed sections of the Interstate System measure only approximately one-half the rate of facilities that are recorded on the other road and street networks of America.

From that I think it can be well concluded that this program, a product of this Congress, has certainly saved human lives.

Mr. FALLON. Mr. Speaker, I rise in strong support of the conference report on H.R. 19504.

This is one of the most significant pieces of highway legislation in many years.

Among other things it authorizes an extension of the Interstate System construction through 1976 and authorizes the ABC highway program and other related programs for fiscal years 1972 and 1973. It establishes an urban system for metropolitan areas, the first major system addition since the creation of the Interstate System. It provides for exclusive bus lane construction to facilitate urban transit systems by more effectively using the Nation's highways. It funds the highway beautification program for a 3-year period and creates a Commission to report back firm recommendations within 1 year on some of the thorny problems involved in the beautification program. In addition, it funds highway safety activities two-thirds from the trust fund and one-third from the general fund. It provides for a change in the formula of allocation of funds to States from the basic 50–50 formula to 70–30, as of July 1, 1973. This will be the cornerstone for a future new Federal highway program.

These are some of the basic features of this legislation. I am pleased with the fact that the bill also authorizes the funding out of the highway trust fund of some $65 million for the Baltimore-Washington Parkway in the State of Maryland to bring that portion of parkway to the geometric and construction standards of the Interstate System. There is an urgent need to bring the parkway to these standards. The flow of traffic that moves over it daily is probably among the greatest in the entire Washington Metropolitan area. The upgrading of this portion of the parkway will bring it up to the safety standards that we established for such heavily traveled roads. I anticipate that eventually the balance of the parkway will at some future date be developed to interstate standards. I am certain that that day will arrive.

I am also pleased to note that legislation that I introduced to eliminate railway grade crossings along the route of the Metro system between Washington-Boston is in the conference report and is funded properly so that the work can be implemented as expeditiously as possible. I have been concerned with highway safety for many years, not only on the problem of elimination of grade crossing but the overall problem of cutting down the deaths and accidents on our highway system. The approach we take to safety in this legislation is a major step in the direction of solving this problem. The highway safety program for the first time is funded on a two-third basis from the trust fund and one-third from the general fund. With this funding and the cooperation between the various State agencies concerned with safety and the responsible Federal officials in Washington, I would expect that we will finally get moving to resolve the problem.

May I close by commending all my fellow conferees for their diligence and hard work on this report. I also would like to thank the staff and in particular an outstanding staff member, the engineer consultant, Mr. Lloyd Rivard.

Mr. KLUCZYNSKI. Mr. Speaker, as chairman of the Subcommittee on Roads of the Committee on Public Works and as one of the conferees on the conference report the House is now considering, may I say that I wholeheartedly recommend its adoption to this body.

This conference report culminates almost a full year's work by the Roads Subcommittee on what I consider to be the most important single piece of highway legislation since the passage of the 1956 act. This legislation extends the construction of the Interstate System, it funds the program; it establishes an urban system; it beefs up the highway safety program.

It creates a commission to finally resolve the thorny question of highway beautification. Let me comment briefly on the Commission. There are 11 members on it, eight from the Congress, three to be named by the President. This Commission if properly funded will, we believe, give the Congress the recommendations we need to finally come up with a meaningful bill in the field of beautification.

The conference report embodies the best features of the House and Senate bill.

I urge its adoption. May I close by thanking my fellow conferees for their fine work on this bill. May I commend the staff for its work and, in particular, its engineer, Lloyd A. Rivard, the engineer-consultant of the Committee on Public Works.

GENERAL LEAVE TO EXTEND

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the Federal-Aid Highway Act of 1970 conference report.

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

There was no objection.

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

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HARSHA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 319, nays 11, not voting 103, as follows:

[Roll No. 430]

YEAS—319

Abernethy	Bennett	Buchanan
Adams	Berry	Burke, Mass.
Albert	Betts	Burleson, Tex.
Alexander	Bevill	Burlison, Mo.
Anderson, Calif.	Biester	Burton, Calif.
Anderson, Ill.	Blatnik	Bush
Anderson, Tenn.	Boggs	Byrne, Pa.
Andrews, Ala.	Boland	Byrnes, Wis.
Andrews, N. Dak.	Bow	Cabell
Arends	Brademas	Caffery
Ashley	Brasco	Camp
Baring	Bray	Carey
Barrett	Brinkley	Carney
Belcher	Broomfield	Carter
Bell, Calif.	Brotzman	Casey
	Brown, Ohio	Cederberg
	Broyhill, N.C.	Chamberlain
	Broyhill, Va.	Chappell

Clausen, Don H.	Hosmer	Pryor, Ark.
Clawson, Del	Howard	Pucinski
Cleveland	Hull	Quie
Cohelan	Hungate	Railsback
Collier	Hutchinson	Randall
Collins, Tex.	Ichord	Rarick
Colmer	Jacobs	Reid, Ill.
Conable	Jarman	Reuss
Conte	Johnson, Calif.	Rhodes
Corman	Johnson, Pa.	Riegle
Coughlin	Jonas	Roberts
Cramer	Jones, Ala.	Robison
Crane	Jones, N.C.	Rodino
Culver	Jones, Tenn.	Roe
Daniel, Va.	Karth	Rogers, Colo.
Daniels, N.J.	Kazen	Rogers, Fla.
Davis, Ga.	Keith	Rooney, N.Y.
Davis, Wis.	King	Rooney, Pa.
de la Garza	Kyl	Roth
Dellenback	Kyros	Rousselot
Dennis	Landgrebe	Roybal
Devine	Latta	Ruth
Dickinson	Leggett	Satterfield
Dorn	Lennon	Saylor
Dulski	Lloyd	Schadeberg
Duncan	Long, Md.	Scherle
Dwyer	Lowenstein	Schmitz
Eckhardt	Lujan	Schneebeli
Edmondson	McCarthy	Schwengel
Edwards, Ala.	McClory	Scott
Erlenborn	McCloskey	Sebelius
Esch	McDade	Shriver
Eshleman	McDonald, Mich.	Sisk
Evans, Colo.	McEwen	Skubitz
Evins, Tenn.	McFall	Slack
Feighan	McMillan	Smith, Calif.
Fish	Macdonald, Mass.	Smith, Iowa
Fisher	MacGregor	Smith, N.Y.
Flood	Madden	Springer
Flowers	Mahon	Stafford
Flynt	Maillliard	Staggers
Foley	Mann	Stanton
Ford, Gerald R.	Marsh	Steed
Ford, William D.	Martin	Steele
Forsythe	Mathias	Steiger, Ariz.
Fountain	Matsunaga	Steiger, Wis.
Fraser	Mayne	Stokes
Frelinghuysen	Melcher	Stratton
Frey	Michel	Stubblefield
Fulton, Pa.	Miller, Calif.	Stuckey
Fuqua	Miller, Ohio	Sullivan
Galifianakis	Mills	Symington
Gallagher	Minish	Talcott
Garmatz	Mink	Taylor
Gaydos	Minshall	Teague, Calif.
Gettys	Mizell	Teague, Tex.
Giaimo	Mollohan	Thompson, Ga.
Gibbons	Monagan	Thomson, Wis.
Goldwater	Moorhead	Tiernan
Gonzalez	Morgan	Tunney
Goodling	Morse	Udall
Gray	Mosher	Ullman
Green, Oreg.	Murphy, Ill.	Van Deerlin
Green, Pa.	Murphy, N.Y.	Vander Jagt
Griffin	Myers	Vanik
Gross	Natcher	Vigorito
Gubser	Nedzi	Waggonner
Gude	Nelsen	Wampler
Haley	Nichols	Ware
Hall	Nix	Watts
Hamilton	Obey	Whalley
Hammer-schmidt	O'Hara	White
Hanley	Olsen	Whitehurst
Hanna	O'Neill, Mass.	Whitten
Hansen, Idaho	Passman	Widnall
Hansen, Wash.	Patman	Wiggins
Harsha	Patten	Williams
Harvey	Pelly	Wilson, Bob
Hastings	Pepper	Wilson, Charles H.
Hathaway	Perkins	Wold
Hawkins	Pettis	Wright
Hays	Philbin	Wyatt
Hechler, W. Va.	Pickle	Wylie
Helstoski	Pirnie	Wyman
Henderson	Poage	Yates
Hicks	Podell	Yatron
Hogan	Poff	Zablocki
Holifield	Pollock	Zion
Horton	Preyer, N.C.	Zwach
	Price, Ill.	

NAYS—11

Bingham	Koch	Rosenthal
Conyers	Mikva	Ryan
Harrington	Rees	Scheuer
Kastenmeier	Reid, N.Y.	

NOT VOTING—103

Abbitt	Aspinall	Blanton
Adair	Ayres	Bolling
Addabbo	Beall, Md.	Brock
Annunzio	Biaggi	Brooks
Ashbrook	Blackburn	Brown, Calif.
Brown, Mich.	Foreman	O'Neal, Ga.
Burke, Fla.	Friedel	Ottinger
Burton, Utah	Fulton, Tenn.	Pike
Button	Gilbert	Powell
Celler	Griffiths	Price, Tex.
Chisholm	Grover	Purcell
Clancy	Hagan	Quillen
Clark	Halpern	Reifel
Clay	Hébert	Rivers
Collins, Ill.	Heckler, Mass.	Rostenkowski
Corbett	Hunt	Roudebush
Cowger	Kee	Ruppe
Cunningham	Kleppe	St Germain
Daddario	Kluczynski	Sandman
Delaney	Kuykendall	Shipley
Denney	Landrum	Sikes
Dent	Langen	Snyder
Derwinski	Long, La.	Stephens
Diggs	Lukens	Taft
Dingell	McClure	Thompson, N.J.
Donohue	McCulloch	Waldie
Dowdy	McKneally	Watson
Downing	May	Weicker
Edwards, Calif.	Meeds	Whalen
Edwards, La.	Meskill	Winn
Eilberg	Mize	Wolff
Fallon	Montgomery	Wydler
Farbstein	Morton	Young
Fascell	Moss	
Findley	O'Konski	

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Reifel.
Mr. Hébert with Mr. Corbett.
Mr. Celler with Mr. Hunt.
Mr. Thompson of New Jersey with Mr. Ashbrook.
Mr. Biaggi with Mr. Grover.
Mr. Addabbo with Mr. Clancy.
Mr. Dent with Mr. Brown of Michigan.
Mr. Donohue with Mr. Kuykendall.
Mr. Rostenkowski with Mr. Findley.
Mr. Shipley with Mr. Burke of Florida.
Mr. Sikes with Mr. Halpern.
Mr. Fulton of Tennessee with Mr. Morton.
Mr. Fascell with Mr. Blackburn.
Mr. Eilberg with Mrs. Heckler of Massachusetts.
Mr. Edwards of Louisiana with Mr. McClure.
Mr. Long with Mr. O'Konski.
Mr. Wolff with Mr. Price of Texas.
Mr. Young with Mr. Cowger.
Mr. Aspinall with Mr. Mize.
Mr. Brooks with Mr. Meskill.
Mr. Daddario with Mr. Beall of Maryland.
Mr. Delaney with Mrs. May.
Mr. Montgomery with Mr. McCulloch.
Mr. Moss with Mr. Button.
Mr. Kluczynski with Mr. McKneally.
Mr. Blanton with Mr. Langen.
Mr. Dingell with Mr. Ayres.
Mr. Downing with Mr. Lukens.
Mrs. Griffiths with Mr. Kleppe.
Mr. Rivers with Mr. Derwinski.
Mr. Purcell with Mr. Foreman.
Mr. O'Neal of Georgia with Mr. Burton of Utah.
Mr. St Germain with Mr. Adams.
Mr. Stephens with Mr. Denney.
Mr. Landrum with Mr. Cunningham.
Mr. Meeds with Mr. Brock.
Mr. Clark with Mrs. Chisholm.
Mr. Waldie with Mr. Diggs.
Mr. Ottinger with Mr. Clay.
Mr. Brown of California with Mr. Collins of Illinois.
Mr. Edwards of California with Mr. Powell.
Mr. Hagan with Mr. Roudebush.
Mr. Pike with Mr. Wydler.
Mr. Abbitt with Mr. Taft.
Mr. Dowdy with Mr. Watson.
Mr. Fallon with Mr. Ruppe.
Mr. Farbstein with Mr. Snyder.
Mr. Friedel with Mr. Winn.
Mr. Gilbert with Mr. Whalen.
Mr. Kee with Mr. Sandman.
Mr. Quillen with Mr. Weicker.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17255) entitled "An act to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air."

PROVIDING FOR CONSIDERATION OF H.R. 18874, COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1301 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1301

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. 18874) to provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, 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 Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against section 332 of said substitute are hereby waived. Said substitute shall be read for amendment by titles instead of by sections. At the conclusion of such consideration, 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 pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. 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 1301 provides an open rule with 1 hour of debate for consideration of H.R. 18874, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. The resolution also makes it an order to consider the committee substitute as an original bill

for the purpose of amendment and all points of order are waived against section 332 of the substitute because it contains a reappropriation of funds. The substitute shall be read for amendment by titles instead of by sections.

The purpose of H.R. 18874 is to provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism.

The bill establishes a National Institute on Alcohol Abuse and Alcoholism within the National Institute of Mental Health, through which the Secretary of Health, Education, and Welfare shall coordinate all Federal health, rehabilitation, and other social programs related to the prevention of alcoholism. The Secretary of Health, Education, and Welfare shall also administer the programs established by the legislation. Federal assistance is provided to States and local groups or organizations for planning and development of effective programs for alcoholics throughout the country. Also programs are required to be established for Federal civilian employees.

The bill authorizes appropriations totaling $300 million for fiscal years 1971, 1972, and 1973.

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

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

Mr. Speaker, as stated by the distinguished gentleman from Florida (Mr. PEPPER) the resolution, House Resolution 1301, does provide for an open rule with 1 hour of general debate for the consideration of the bill, H.R. 18874, and waives points of order against section 332 of the substitute amendment now printed in the bill.

Mr. Speaker, I think this is a much better bill than the one passed by the other House. Although I realize that probably a number of members of the distinguished Committee on Interstate and Foreign Commerce lent their talents in writing this bill, I would like to commend the distinguished gentleman from Kentucky (Mr. CARTER) for the tremendous amount of time and effort he put into the work involved in making it possible to bring this bill to us today.

Mr. Speaker, in the hope of getting home by Christmas, I will extend my remarks at this point.

The purpose of the bill is to initiate a strong attack on the problem of alcoholism in our society today.

The bill creates in the National Institute of Mental Health a new Institute on Alcohol Abuse and Alcoholism. The Secretary of Health, Education, and Welfare is required to coordinate all Federal health, rehabilitation, and related programs dealing with prevention and treatment of alcoholism under this new Institute.

Federal assistance in the form of grants to States and local organizations are authorized. These are to be aimed at communitywide planning and development of effective prevention and treatment programs. Finally, the bill requires the establishment of programs of alcoholism prevention and treatment for Federal civilian employees—which programs can be used as national models.

The bill authorizes a 3-year program, fiscal 1971–73, and authorizes $300,000,000 over this period, with $180,000,000 used in the program of formula grants to States and $120,000,000 for project grants over the same period. The totals are:

Year	Total	Formula grants	Project grants
1971	70,000,000	40,000,000	30,000,000
1972	100,000,000	60,000,000	40,000,000
1973	130,000,000	80,000,000	50,000,000

The problem of alcoholism and the problems connected with it are well known; it is also growing to the point where it is now the Nation's No. 1 health problem and the fourth largest killer. The Department of Health, Education, and Welfare estimates that there are 18,000,000 alcoholics and problem drinkers in the United States today. A Federal program of assistance is needed.

The creation of the new Institute on Alcohol Abuse and Alcoholism is aimed at undertaking comprehensive research, along with training and education programs on a broad and ever-increasing scale. Also created is an Advisory Council charged with the responsibility of reviewing the research projects of the Institute and suggesting future improvements.

Formula grants, totaling $180,000,000 through fiscal 1973 are authorized to be made to the States for their prevention and treatment programs. No State will receive less than $200,000 each year.

Project grants totaling $120,000,000 over a 3-year period are authorized. The Institute will make grants to agencies, organizations and institutions engaged in developing new programs of prevention and treatment. The States may comment on any such plan or project when it is forwarded to the Institute with an application for a grant, but cannot stop its approval for assistance by the Institute.

Finally, the bill mandates the Civil Service Commission to undertake and develop a program of prevention and treatment of alcoholism among Federal civilian employees.

There are no minority views. The administration is not supporting the bill with any enthusiasm. Although it is much better than the bill which passed the Senate it still contains a number of features opposed by the administration, including the creation of the existing Alcoholism Division, and the formula grants to the States; these the Department of Health, Education, and Welfare believes to be duplicative of existing effort and wasteful.

Mr. Speaker, I urge adoption of the rule.

Mr. PEPPER. 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.

CONFERENCE REPORT ON H.R. 17255, CLEAN AIR AMENDMENTS OF 1970

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 17255) to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 17, 1970.)

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

The SPEAKER pro tempore (Mr. ALBERT). The gentleman from West Virginia is recognized.

Mr. STAGGERS. Mr. Speaker, I am gratified to bring to the House the conference report on the Clean Air Act Amendments of 1970. I am proud to say to the House that the conference report embodies clean air legislation which is stronger than the bills passed by either House.

I say this because the conferees after numerous and arduous working sessions have worked out a bill which promises to give to the American people clean air to breathe within the shortest feasible time.

The conferees have been guided by two principles: to do what is feasible and to do what is reasonable.

The bill passed by the other body incorporated many provisions which had not been included in the bill as passed by the House. The House conferees scrutinized carefully each of these provisions and applied to them the test of reasonableness and feasibleness. On the basis of these two tests, many of these Senate provisions have been revised. The revisions, however, do not weaken those provisions. On the contrary, the revisions strengthen them because they make more likely that we shall achieve the desirable goals which these provisions were designed to achieve.

The conference report and the Statement of Managers are lengthy and complex documents. Let me point out briefly the highlights of the legislation.

First. With regard to automotive emissions, the legislation provides for statutory deadlines by which new automobiles must be substantially pollution free. These deadlines which apply to the 1975 and 1976 models are reasonable and, based on our best judgment, are also feasible. An independent body of experts—the National Academy of Sciences—is going to monitor the feasibility. If on the basis of the Academy's advice, the 1975 deadline cannot be met for carbon monoxide and hydrocarbons, the Administrator of the Environmental Protection Agency is authorized to grant a 1-year extension and to establish interim standards. A similar provision for a 1-year extension is contained in

the legislation for the third important automotive pollutant—oxide of nitrogen. The Administrator, upon the advice of the Academy, may extend the statutory deadline from 1975 to 1976.

If after these extensions the companies are still not in a position to produce substantially pollution-free automobiles, it will be up to the Congress to determine what is to be done about this gravest of all air pollution problems which contributes about one-half of air pollution in the United States.

Second. Another complex issue with regard to automotive emissions involved the question whether the manufacturers should be required to warrant the performance of automobiles with regard to the achievement of emission standards for the useful life of automobiles—defined in the statute as 5 years or 50,000 miles. The legislation provides that the performance warranty will come into effect as soon as the Administrator finds that suitable road tests have been developed to test emissions from automobiles and as soon as adequate facilities are available to apply such road tests.

Third. The enforcement of air pollution regulations is partly the responsibility of the States and partly that of the Federal Government. The legislation provides that the Federal Government shall have primary responsibility for the enforcement of performance standards for new stationary sources and hazardous emissions from stationary sources. The States on the other hand will have primary responsibility for the enforcement of State plans and the emission limitations provided for in those plans with regard to existing stationary sources. There was a provision in the bill as passed by the other body calling for precertification of new stationary sources. This provision was dropped as impractical.

Fourth. A provision which has received a lot of attention deals with citizen suits. The legislation will permit such suits against polluters as well as against the Administrator. However, citizen suits against the Administrator will be limited to those duties which are mandatory under the legislation and the suits will not extend to those areas of enforcement with regard to which the Administrator has discretion.

Fifth. Many Members of Congress have received communications with regard to a provision dealing with the compulsory licensing of patents. The legislation has modified substantially a provision on this subject contained in the bill as passed by the other body. Under the legislation the Attorney General will be authorized to seek compulsory licenses if he determines that the failure to make such licenses available under any patent makes impossible the achievement of air pollution limitations and results in a restraint of trade or a monopoly. In these exceptional cases, the Attorney General would go to court seeking the licenses and requesting the court to establish reasonable terms and conditions for such licenses.

I have touched on the provisions in the legislation which have received the greatest attention and I shall be glad to answer any questions which the Members may have with regard to this important legislation.

I want to say to the Members that this legislation has received the most careful consideration by the committees in the House and in the other body and by the conferees. All of the House Members of the conference committee, JOHN JARMAN of Oklahoma, PAUL ROGERS of Florida, WILLIAM SPRINGER of Illinois, and ANCHER NELSEN of Minnesota, contributed greatly to making this legislation possible. Particular credit must go to PAUL ROGERS of Florida, who proposed some of the important provisions contained in the conference report. Among the Senate conferees, Senator MUSKIE of Maine and Chairman RANDOLPH of West Virginia, were most helpful. Congress and the Nation owes all of these men a great debt. Last but not least, I want to say that this legislation would not have been possible without the outstanding cooperation between the committee staffs of the Senate and House committees, and they too are to be commended for working long hours and suggesting alternative ways in which the many differences between the bills passed by the two Houses might be resolved.

In conclusion, let me say that I consider this one of the most important pieces of legislation that this Congress has an opportunity to enact. It will affect every man, woman, and child in this Nation and hopefully it will contribute substantially to improving our environment which unfortunately we have neglected for far too long.

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

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

Mr. KYL. Mr. Speaker, one of the great problems we have had in mounting a meaningful environment program has been the fragmentation of responsibilities. Is the chairman of the committee satisfied that the enforcement provisions of this act are now sufficiently centralized so that we can also pinpoint the responsibilities of the Federal agencies?

Mr. STAGGERS. Yes. That was one of the great concerns of all the conferees, and I am satisfied on this point.

Mr. KYL. Mr. Speaker, if the gentleman will yield further, I would hope that the distinguished gentleman from West Virginia may now, having done such a great job, use his great influence in this body to achieve a similar centralizing of authority and responsibility at the House of Representatives level where the responsibilities are still unfortunately very fragmented.

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

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

Mr. ROUSSELOT. Mr. Speaker, can the Chairman assure us that in the case of California, which this year enacted additional and stricter laws in the field of air pollution, California will not now be required to come to the Department of Health, Education, and Welfare and obtain a waiver in order that those laws can be implemented?

Mr. STAGGERS. I might answer the gentleman this way: California required a waiver only with regard to new automobiles. With regard to aircraft the Federal Government would preempt the field, however.

Mr. ROUSSELOT. My understanding was that it was only in the case of aircraft. In other words, the Federal Government is now in effect preempting the State of California in the field of aircraft, but it does not apply in the field of automobiles.

Mr. STAGGERS. The State is free with regard to fuels, stationary sources, and used automobiles. California is preempted in the field of aviation. That is right.

Mr. ROUSSELOT. So those laws that were put on the books this year by the State of California and, in fact, which are stricter and more rigid than the national criteria will not, in fact, be preempted by this legislation.

Mr. STAGGERS. The only exception I know of is the exception of aircraft, and the waiver requirement in case of new automobiles.

Mr. ROUSSELOT. I thank the gentleman.

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

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

Mr. CORMAN. May I inquire as to the compositon of fuel. It is my understanding California has a different requirement concerning the composition of fuel than that established under the Federal regulation. Will the State of California continue to be in a position to exercise police power in that field of the composition of fuel?

Mr. STAGGERS. We must distinguish between fuels used in stationary sources and fuels used in motor vehicles. With regard to fuels used in stationary sources, all States are completely free to adopt and enforce more stringent emission standards.

With regard to motor vehicle fuels, all States with the exception of California, are preempted from imposing more stringent fuel standards. But the other States, subject to the approval of the Administrator, may include in their State plans standards for motor vehicle fuels if such standards are necessary to achieve air quality standards.

Mr. CORMAN. I thank the gentleman.

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

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

Mr. HOLIFIELD. I thank the gentleman for yielding. I should like to have an exchange with him on a different subject matter which pertains to the functions of the Joint Committee on Atomic Energy and its statutory responsibilities.

I believe that the conference report is satisfactory, and I believe I can conscientiously support it.

In the Senate report there were two words which referred to "radioactive substances." As I understand it, the conference report is the report which now obtains, so far as consideration is concerned, and that the conference report does not have those two words referring to "radioactive substances"; is that true?

Mr. STAGGERS. In the conference report there was no reference whatsoever to them.

Mr. HOLIFIELD. Under these circumstances I assume the same conference report is being presented in the other body.

Mr. STAGGERS. That is correct.

Mr. HOLIFIELD. I understand that the bill before us would not encompass the radiological aspects of nuclear facilities. I refer now to the nuclear plants of the Government. I also understand that the authorities and responsibilities of the Environmental Protection Agency and the Atomic Energy Commission with respect to such matters as radiation protection standards from nuclear facilities would remain unchanged by virtue of the bill now before us.

Mr. STAGGERS. That is correct, because of the fact that this radiation was not considered in the air pollution.

Mr. HOLIFIELD. The gentleman understands that the functions of the Federal Radiation Council were transferred by the presidential plan over into the Environmental Protection Agency, and they have now taken over these functions. Therefore, we will have to look to the Environmental Protection Agency to perform those particular functions transferred from the Atomic Energy Commission.

I just wanted to be sure that this Clean Air Act did not interfere with those functions of the Federal Radiation Council now transferred by presidential plan into the Environmental Protection Agency or those functions remaining in the Atomic Energy Commission.

Mr. STAGGERS. That is correct, so far as this bill is concerned.

Mr. HOLIFIELD. I thank the gentleman.

I also thank the gentleman and the conferees for protecting the right of California in respect to automobile emissions to have stricter standards than those required in other places in the Nation because of the peculiar atmospheric conditions in California. I appreciate the cooperation of the conferees.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman from West Virginia yield?

Mr. STAGGERS. I am happy to yield to my colleague from West Virginia.

Mr. HECHLER of West Virginia. I want to commend the gentleman from West Virginia for his leadership in bringing out the conference report on this outstanding piece of legislation. As the gentleman knows, in our State we have had long and frustrating experiences in attempting to curb air pollution. In my congressional district in the mid-Ohio Valley, we started 5 years ago to set the official machinery in motion to control air pollution in the Vienna, W. Va., area. Air pollution abatement conferences were held in Vienna, W. Va., in 1967 and 1969.

Several air pollution abatement conferences have been held in West Virginia, and also interstate conferences involving air pollution along the borders of Ohio and West Virginia. Recommendations have resulted from these conferences. Since the new act does away with this conference procedure, do we have to start all over again, or will these conference recommendations still be enforced by the National Air Pollution Control Office?

Mr. STAGGERS. Any of the conferences that have been held and that have made recommendations will not be affected at all.

Mr. HECHLER of West Virginia. I thank the gentleman for this clarification. We certainly should not throw out the results of all the work which has gone forward in these abatement conferences.

It would be useful to ascertain the periodic progress which the automobile manufacturers are making, including funds expended, toward meeting the 1975 and 1976 deadlines prescribed in the act. In the requirement of the act that the Administrator report annually to Congress, will the committee insure that progress reports are also required from the automobile manufacturers?

The public and the Congress are entitled to know precisely how far the companies are progressing, particularly since they fought and lobbied so hard against any provision of this nature. Since they contended they could not meet the deadlines, the companies will be probably eager to prove that they cannot meet the deadlines. The point I am making is that we ought to be sure that we know how much money is being spent and specifically what the companies are doing so that we do not wake up in 1975 and discover they have not met the deadline? What is there in the bill beyond requiring the Administrator to report to Congress every year?

Mr. STAGGERS. Not only that, but we have an additional safeguard. We have directed the Administrator to make arrangements with the National Academy of Sciences to monitor everything and to make progress reports to the Congress beginning July 1, 1971.

Mr. HECHLER of West Virginia. May I pose one further question?

Mr. STAGGERS. Yes.

Mr. HECHLER of West Virginia. The Department of Health, Education, and Welfare has had a number of State implementation plans before it since May of this year, and so far none of them have been approved. The delay since May implies that these State plans do not meet the Federal requirements, and I wonder if this means that the Environmental Protection Agency under the new legislation will be promulgating a Federal implementation plan at an early date?

Mr. STAGGERS. Let me say this: Any plan submitted under existing law may be approved under the new law but the Administrators may require appropriate revisions of the plan to meet the new law.

Mr. HECHLER of West Virginia. I thank the gentleman from West Virginia. I would hope that the committee could plan hearings to find out how this Administrator plans to implement this law, because it is a very complicated piece of legislation.

Mr. STAGGERS. I can assure you of that.

Mr. HECHLER of West Virginia. I also hope at some time in the near future, a year or less from now, if the act can be strengthened the committee will recommend amendments to this act.

Mr. STAGGERS. We hope to get reports every year.

Mr. HECHLER of West Virginia. I commend my colleague from West Virginia and the gentleman from Florida (Mr. ROGERS) and others who brought in this excellent report.

The Administrator has been given wide discretion in dealing with the emissions of highly hazardous substances. I would hope that in this area the Administrator will vigorously enforce the act to the point of setting zero emission levels for these highly hazardous substances, which should be listed and defined. A great deal also must be done to define more explicitly the precise standards involved in the 90-percent reduction of carbon monoxide hydrocarbons and oxides of nitrogen which will be applicable in 1975 and 1976.

Mr. Speaker, our Nation has had a sad and frustrating history of weak-kneed inaction by those who have been charged with protecting the divine right of every citizen to breathe clean air. Not only have the laws been weak and shot through with loopholes, but the underfunded administration of legislation to combat air pollution has been ineffective. We have allowed the excuse of expanding technology and production to over-ride the paramount interest of the average citizen in protecting the environment and the air we breathe.

Now I hope the pendulum will swing dramatically and drastically in the opposite direction. The very survival of human life on earth depends on the ability to breathe. We are getting choked with air pollution. Now that this excellent piece of legislation has been passed, the challenge is clearly how well the act will be administered. At the highest level of Government, leadership is demanded in order to protect clean air. The President of the United States must insist that this act be administered forcefully, fearlessly, and where any benefit of the doubt exists it should be resolved in favor of clean air and against those who pollute the air. We can no longer afford the pussyfooting, artful dogging, delays, end runs, and outright flouting of the intent of the legislation which has characterized the history of air pollution control. I trust that the President and the Environmental Protection Agency will seize this challenge and thus protect the right of every citizen to breathe clean air.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may use to the gentleman from Illinois (Mr. SPRINGER).

Mr. SPRINGER. Mr. Speaker, I thank the gentleman for yielding.

I think I might outline for my colleagues the fundamental points that were involved in this conference.

First of all, I would like to say that this conference went on beginning back before the election in November. We were on this in conference for some 3

months. This gives you some idea of the amount of time consumed in working out differences. There has never been a conference in the 20 years that I have been a member of this committee where there was more consideration given to a bill than there was to this bill.

Second, most of the differences between the two bills on stationary sources of pollution are matters of language and emphasis. They were worked out to keep the basic framework of the House bill. I do not need to go into detail in trying to explain the results that we achieved. It does no violence to what was done here in the original bill.

The big difference between the House and the Senate position on automotive emission standards was this: The absolute deadline of 1975 for a 90-percent reduction imposed by the Senate bill is retained. A 1-year extension is possible, as it was under the Senate bill. The House did insist upon an adequate lead time for the industry to request an extension.

Third, aircraft emissions will be entirely under Federal control. That is preempted to the Federal Government.

Fourth, patents cannot be taken over by compulsory licenses except in the most compelling circumstances and with the agreement of the Attorney General and the U.S. District Court.

Fifth, citizens suits may be instituted against Federal installations and also against violators.

Citizen suits may be instituted against the administrator only for failure to act where he must. In other words wherever he is given discretion in the act, he may may not be sued. He may be sued only for those matters imposed in the bill upon the administrator as a matter of law.

Lastly, Mr. Speaker, I would like to compliment the chairman, my distinguished colleague from Oklahoma (Mr. JARMAN), the distinguished gentleman from Minnesota (Mr. NELSEN), and also the distinguished Senator from Tennessee (Mr. BAKER), the distinguished Senator from Delaware (Mr. BOGGS), the distinguished Senator from Kentucky (Mr. COOPER) and the distinguished Senator from Missouri (Mr. EAGLETON) for the fine contributions that they all made.

May I say that if these members of the conference had not introduced compromises upon which we could have agreed, we never would have been able to finish this conference. I think all of the gentlemen whom I have named have made contributions, in addition to those who have been mentioned by the chairman previously.

Mr. Speaker, in view of the difficulties that we had in this conference, I have never run into anything like it in my entire experience such as we had in this conference. I want to say that I believe we came back with the very best bill that possibly could have been agreed to considering all of the difficulties we had in resolving the differences between the House and the other body.

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

Mr. STAGGERS. I yield to the distinguished gentleman from Alabama.

Mr. NICHOLS. I thank the chairman very much. I appreciate the chairman yielding to me.

I, too, want to compliment the distinguished chairman of the committee upon this very fine report which I certainly feel will be very meaningful in the years ahead.

I would like to ask a question of the chairman, if I may.

I am sure the distinguished chairman would recognize and agree with me, I hope, that many automobile improvements in the efficiency and the safety of motor vehicles have resulted from experience gained in operating motor vehicles under demanding circumstances such as those circumstances encountered in motor racing. I refer to the tracks at Talladega in my own State, to Daytona and Indianapolis, competition.

I would ask the distinguished chairman if I am correct in stating that the terms "vehicle" and "vehicle engine" as used in the act do not include vehicles or vehicle engines manufactured for, modified for or utilized in organized motorized racing events which, of course, are held very infrequently but which utilize all types of vehicles and vehicle engines?

Mr. STAGGERS. In response to the gentleman from Alabama, I would say to the gentleman they would not come under the provisions of this act, because the act deals only with automobiles used on our roads in everyday use. The act would not cover the types of racing vehicles to which the gentleman referred, and present law does not cover them either.

Mr. ROGERS of Florida. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I am happy to yield to the distinguished gentleman from Florida.

Mr. ROGERS of Florida. Mr. Speaker, I simply want to commend all who participated in the conference. It was a long and difficult conference. We have a significant bill.

The fact that the Congress in this legislation has committed itself in the strongest possible terms to bringing about clean air in America is of paramount importance. If when the President signs the bill—and I hope and believe that he will—then the President will commit the administration to the same degree that the Congress is committed to bring about clean air, and we will have clean air in this Nation.

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

Mr. STAGGERS. Yes, I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Since racing cars are apparently exempt from this legislation, would O. Roy Chalk's buses also be exempt?

Mr. STAGGERS. No, they certainly are not because they run on the highways.

Mr. GROSS. I certainly would hope not.

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

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

Mr. PEPPER. Mr. Speaker, as I understand, this grants 5 years for allowing the automobile industry to set instruments in the automobiles which will prevent the emission of foul air. If that is the case, I want to ask the able gentleman whether it is absolutely necessary to allow that long a period of time?

Mr. STAGGERS. I will say to the gentleman from Florida that even under present law emissions from automobiles have been steadily decreasing. The question is how soon can we have substantially pollution-free automobiles. Once we have the technology, and we may not have it at present as the manufacturers contend, it takes at least 24 months, really, before the cars so equipped can start rolling off the assembly line.

The legislation gives them enough leadtime to build the best available technology into the 1975 model cars. The manufacturers have to make their plans in 1972 for the 1975 model cars. We give them 1 year leeway if they cannot achieve the statutory standards in those models. So they really do not have very much leeway.

Mr. PEPPER. So the able gentleman feels that we have done the very best job we could on this?

Mr. STAGGERS. That is correct.

Mr. PEPPER. I thank the gentleman.

Mr. ANDERSON of California. Mr. Speaker, I rise in support of the conference report on H.R. 17255, the Clean Air Act amendments.

Over the years, I have become increasingly convinced that such legislation should have a top congressional priority. Pollution is getting more serious every day. This is evidenced both by people's mounting concern about the perils and the costs of air pollution, and the increasing body of medical evidence that contaminated air endangers the health and well-being of man.

This year, we hurled 140 million tons of pollutants into the air; last year, we dumped 130 million tons into the atmosphere.

Concern about the deterioration of the air manifests itself among the people in the 17th Congressional District of California that I am privileged to represent. The recent campaign and the questionnaires that I have sent out, show that the great majority of the people I have talked to and corresponded with, consider air pollution to be a most critical problem.

That the situation is deplorable is shown by the fact that air pollution costs the United States over $12 billion annually. Dirty air ruins crops and vegetables; causes steel in bridges, rails, and ships to deteriorate; and it causes buildings and clothing to age more rapidly. But the cost in dollars is not the worst of it. Dirty air is shortening our lives and damaging our health.

The menace of prolonged air inversions has increased the rates of death—especially among our elderly citizens. Doctors have been documenting, with increased frequency, that repeated exposure for prolonged periods to unclean air can severely damage a person's health. Medical evidence has associated air pollution with higher rates of serious illness and mortality from asthma, em-

physema, lung cancer, chronic bronchitis, and heart disease.

Mr. Speaker, we know that automobile emissions account for 87.7 percent of the air pollution in the Los Angeles Basin. While the relation of the automobile to air pollution has long been known, little has been done by automobile manufacturers to alleviate the problem. Rather, many of us have contended that they have stalled research which might have helped to clear our skies, except when Government pressure has been brought to bear.

The bill before us now—the Clean Air Act—is designed to correct this situation. It has a provision which requires that automobiles manufactured in 1975 and thereafter, produce at least 90-percent less emissions than the 1970 model.

A number of us attempted to amend H.R. 17255 to include this provision when it was before the House of Representatives in June of this year. We were narrowly defeated; however, Senator MUSKIE was successful in the Senate.

I was extremely pleased when it was announced on October 8 that this provision had been adopted by the conferees. Then, on October 17, the administration made a futile effort to dissuade the conferees. I am grateful that the conferees rejected the auto industry's position as espoused by the administration.

This is not only a great victory for the health of our country and for our environment; it is a great personal victory for those who have worked for so long to clean up our air. The efforts of the House conferees cannot be exaggerated. Chairman STAGGERS, Congressman JARMAN, Congressman PAUL ROGERS, Congressman SPRINGER, and Congressman NELSON deserve our praise and our thanks.

The public is angry and upset, and rightfully so, because it realizes that the black pall hanging over our cities is not only unnatural, it is unhealthy and uncomfortable.

Detroit had best realize that not only is pollution in the air, but that legislation for its correction is in the wind.

Mr. RYAN. Mr. Speaker, the adoption of the conference report on H.R. 17255, the Clean Air Act Amendments of 1970, should signal a massive assault on air pollution—an assault which some of us have long urged, and which is possible now that the public has become aroused to the perils posed by the degradation of our environment.

On June 10, the House passed H.R. 17255. At the time, it was inadequate—a half step where 10 giant steps were required. In order to register our dissatisfaction with that bill, as it passed the House, a number of us introduced legislation, entitled the Air Pollution Abatement Act of 1970, which incorporated the much stronger provisions of the Senate-passed Clean Air Act amendments. This bill is H.R. 19706. Our purpose was to exert pressure on the House conferees by demonstrating that we demanded strong, effective action.

The bill which has emerged from the conference committee makes possible such action. Without analyzing the details of the conference report, I would point out that among its major provisions is that largely banning polluting automobile emissions after 1975, with no more than 1 year's extension to 1976 on that ban. The Congress is starting to drop the rhetoric and demand results. Since I came to this House in 1961, I have been pushing for meaningful antipollution legislation; legislation such as that reported out of the conference committee is indeed welcome after these years of effort.

I do want to discuss in some length title IV of the bill, because this deals with an aspect of our environment which only recently has begun to receive widespread attention—that is, noise pollution. Title IV of the bill is entitled "Noise Pollution and Abatement Act of 1970." It directs the Administrator of the Environmental Protection Agency to establish an Office of Noise Abatement and Control for the purpose of investigating and identifying the sources of noise and its effects on public health and welfare, and to report to the President and Congress within 1 year of enactment the results of the investigation and study. Thirty million dollars is authorized to carry out title IV.

I am particularly concerned about this title because, in the House, I have introduced the Noise Control Act of 1970—H.R. 15473. Subsequent to my initial introduction of it on January 20, 1970, 22 of my colleagues joined me when I reintroduced this bill as H.R. 16520 and H.R. 16708.

My bill would have established an Office of Noise Control within the Office of the Surgeon General of the United States. A chief function of the office would be to act as a clearing house for all information on noise—its causes and effects, its prevention, its control, and its abatement. On request, the office would make this material available to States, local governments, and private groups interested in the problem of noise and its abatement.

In addition, the bill would provide for grants to States, local governments, commissions, and councils for programs of noise control—research into the effects of noise, the investigation of existing causes of excessive noise in our society, and research into new ways of controlling, preventing, and abating noise.

The bill also would provide for research grants to public or nonprofit private agencies, organizations, and institutions. Grants would also be provided for training of professional and technical personnel in methods to effect proper control, prevention, and abatement of noise.

The Noise Control Act of 1970 would also provide for a Noise Control Advisory Council, which would advise the Director of the Office of Noise Control of his responsibilities, and would review all proposed project grants. This Council would be made up of nine individuals interested in the problems of noise and its control, who are skilled in the fields of medicine, psychology, government, law or law enforcement, social work, public health, or education.

Since I introduced the Noise Control Act of 1970, Reorganization Plan No. 3 of 1970, creating the Environmental Protection Agency, went into effect. Therefore, it is appropriate that the Office of Noise Abatement and Control created by title IV of the Clean Air Act amendments be placed in that agency. I do recommend that grants for research, for professional and technical training, and for demontration projects be made as outlined in my original bill.

The problem of noise pollution demands attention. It is an increasing factor in even the simple amenities of urban living; the intrusiveness of noise pervades virtually every urban home. But inconvenience aside, noise pollution poses a peril to human health. Consequently, the inclusion of title IV in the Clean Air Act amendments, as reported out of the conference committee, is particularly welcome.

Mr. VANIK. Mr. Speaker, I want to take this opportunity to commend the conferees on the part of the House for their work on H.R. 17255, the Clean Air Amendments of 1970.

On June 10, 1970, the House of Representatives passed a good clean air bill. But in the last week of July the eastern half of the Nation was "attacked" by a blanket of smog that demonstrated—if we did not fully realize it before—the enormity of the air pollution problem facing the Nation.

As a result of the demonstration of the severity of the air pollution problem—literally a matter of life and health—the Senate passed a much stronger Clean Air Act of September 22. This bill required a 90-percent reduction of pollutants from automobiles by 1975–76. Automobile pollution is the most serious source of contaminants in our Nation's—and the world's—air. In urban centers, the automobile is estimated to cause between 60 and 85 percent of the pollution in our cities. The House bill failed to set a definite timetable for the reduction of auto emissions. As the conferees on the part of the House themselves note:

> The House bill did not amend the provisions of existing law relating to the establishment of standards for new motor vehicles. The Senate amendment deleted the requirements that such standards be based on a test of technical and economic feasibility, and provided statutory standards for passenger cars and required that such standards be achieved by a date certain.

Although the bill in its final form provides for a possible 1-year extension for meeting these deadlines, the Congress has finally given the American people a clean air bill that has teeth, that has force, that will be meaningful and which will result in noticeably lower levels of air pollution in this decade.

Human health and comfort has been placed in the priority in which it belongs—first place.

There can be no doubt that we possess the technology needed to develop a clean car and a car that can meet the emission standards set by this act.

If anyone doubts that fact, they need only consider the results of the Third Annual Trans-Continental Clean Car Race. This coast to coast race was won by an ordinary 1970 model car that had its exhaust system modified by four part-time night students at Wayne

State University. These students put together an exhaust system that beat the pollution standards that the Federal Government had been proposing for 1980 model cars. If four students can accomplish this, I am sure that the auto industry, with all its massive resources, will be able to do even better—if it really tries.

Again, Mr. Speaker, I want to commend the House conferees for agreeing to accept the stronger Senate-passed provisions in so many cases. Their action, and the action of the Congress in passing this bill will be—next to solving the dread disease of cancer—the single most important thing that the Congress can do to improve the health of the American people.

I also want to thank those 43 other Members of the House who joined with me in introducing in the House the Senate-passed version of the Clean Air Act. Forty-four of us introduced this bill as an indication of the concern in this Chamber for the strongest possible bill. Of those sponsoring the Senate-passed version in the House, I would particularly like to commend our retiring colleague, LEONARD FARBSTEIN of New York, for his hard work in this area. He was one of the leaders in the House on June 10th in the effort to strengthen the bill then before the House. He is one of those who joined me in cosponsoring the Senate bill in October. The list of cosponsors follows:

COSPONSORS

Mr. Addabbo, Mr. Bell, Mr. Brasco, Mr. Brown of California, Mr. Button, Mrs. Chisholm, Mr. Clark, Mr. Clay, and Mr. Conyers.

Mr. Donohue, Mr. Edwards of California, Mr. Eilberg, Mr. Farbstein, Mr. Fascell, Mr. Fraser, Mr. Gaydos, Mr. Gude, Mr. Halpern, Mr. Harrington, and Mr. Hechler of West Virginia.

Mr. Koch, Mr. Lowenstein, Mr. Madden, Mr. McCloskey, Mr. Mikva, Mr. Moorhead, Mr. Olsen, Mr. Ottinger, Mr. Patten, Mr. Pike, Mr. Podell, and Mr. Price of Illinois.

Mr. Reid of New York, Mr. Rees, Mr. Reuss, Mr. Rodino, Mr. Rosenthal, Mr. Ryan, Mr. Scheuer, Mr. Schwengel, Mr. Tunney, Mr. Vanik, Mr. Wolff, and Mr. Yates.

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

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 18874) to provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 18874, with Mr. MOORHEAD 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 West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. SPRINGER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

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

Mr. Chairman, we bring to the House a very important bill that I believe every American recognizes is of supreme importance to this land right now. It came out of the subcommittee unanimously. The full committee had quite a discussion on it, but I do not believe there were any dissenting votes after we completed our discussion on the bill.

Mr. Chairman, I might just cite a few statistics to show how important this measure is:

ALCOHOL STATISTICS

Deaths. Each year there are 72,000 alcohol-related deaths: 26,000 motor vehicle accidents; 11,000 alcoholism stated on death certificates; 35,000 accidental at home or work; 7,300 alcohol-related suicides each year—one-third of 22,000 and 27,000 alcohol-related homicides—one-half of 14,000.

Two million arrests annually for drunk in public—40 percent of all non-traffic-related arrests.

Three-hundred thousand arrests driving while intoxicated.

Of 50,000 people killed on the highways, 28,400 have significant alcohol level in their blood.

Two million disabled yearly in auto accidents of whom 500,000 directly involve alcohol.

Five hundred thousand patients in State mental health programs are alcoholics—one-third of 1,500,000.

Fifty percent male admissions to mental hospitals, ages 45 to 64 for alcoholism.

Mr. Chairman, I think this is enough to make every Member of the Congress realize it is time for us to do something to create a national program to do something about this problem. That is what this bill is designed to do.

Mr. Chairman, this bill would establish a 3-year program at a total authorization of $300 million to deal with the overall problem of alcoholism, the most serious health problem in America today.

There are four major features of this bill. First, the bill establishes, in the National Institute of Mental Health, a new Institute, to be known as the National Institute on Alcohol Abuse and Alcoholism.

Second, the bill establishes a program of formula grants to the States for programs dealing with problems of alcohol abuse and alcoholism. Third, the bill provides for the establishment of a program of project grants for specific projects in the States dealing with this problem. Fourth, the bill provides for establishment of a program by the Civil Service Commission to deal with alcoholism and alcohol abuse among Federal employees. A recent report by the General Accounting Office indicates that the establishment of such a program, at an estimated cost of $15 million a year would save the Federal Government a minimum of $135 million a year, and possibly as much as $280 million a year.

A bill having a similar purpose (S. 3835) passed the Senate earlier this year, and I introduced H.R. 18874, which was identical to the Senate-passed bill. Our Subcommittee on Public Health and Welfare held 3 days of hearings, and a number of executive sessions. The full committee considered the bill in executive session, and a number of questions were raised concerning the breadth of language contained in many areas of the bill, particularly in the congressional findings and declarations. The Health Subcommittee met again, and recommended further revisions in the bill to the full committee, proposing deletion of most of the language which had raised problems.

The bill authorizes $300 million over a 3-year period for formula grants and project grants. $180 million of that $300 million is provided for formula grants to the States, with $40 million for 1971, $60 million for 1972, and $80 million for 1973. Of the $120 million authorized for project grants, $30 million is provided for 1971, $40 million for 1972, and $50 million for 1973.

All the testimony at the hearings was favorable to the bill. The Department of Health, Education, and Welfare favored the overall objectives of the bill, but questioned some features of it. All these points were considered by the committee, and the recommendations of HEW were adopted in the bill, except that they had recommended against establishment of a separate Institute, and were opposed to having a program of formula grants. The committee did not agree with these objections but adopted their other recommendations, as well as the recommendations of the Civil Service Commission with respect to the Federal employees program.

The bill as reported provides for coordination of its programs with the existing construction and staffing program relating to facilities for alcoholics under the Community Health Centers Act. We believe that passage of this bill will do a great deal toward solving what many consider to be the No. 1 health problem in America today—alcoholism.

We urge its adoption by the House.

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

Mr. STAGGERS. I yield to the gentleman.

Mr. KYL. Mr. Chairman, we have a lot of wonderful rhetoric in this report. For instance, on page 4, in stating the need for the legislation, the report says:

> It is apparent that an adequate response to a health problem of this magnitude requires broadly based, dramatic, and creative Federal legislative action. All of the witnesses before the committee agreed that this was the case.

I make the suggestion seriously. There is not any question but that alcohol abuse is the most costly drug abuse that we have in the United States. We talk about drugs and control programs—here

is the biggest one. Yet, we can do two things as legislators—we may write law; and as individuals we can set a personal example.

Now does it not seem to the chairman—and I am asking this rhetorically, of course, but doesn't it seem rather ridiculous that we stand here in the Hall of this great body talking about what we must do to solve these problems of alcohol and so on—and then do nothing to discourage the round of 2,000 or 3,000 cocktail parties, that are going to take place again after we come back into session in January?

I am reminded of the situation we had last year on one occasion when a private group dedicated to stopping juvenile delinquency—dealing specifically with the problems of youth—had the longest and biggest cocktail party before they got to their dinner that I have ever seen in Washington. This kind of example is seen by the public. No amount of legislation we can pass will ever create the kind of desirable result that we want unless, as individuals, we and others like us make some effort to improve the image we project.

Mr. STAGGERS. Let me tell the gentleman that there is no alcohol or drinking in my office or in my rooms that I know about and if the gentleman will do that and all the rest of the Members, we will not have anything to worry about.

Mr. KYL. I was not talking of the gentleman's office, of course, because I know him and I know him to be a moral individual. But the gentleman also must obviously know what I am talking about.

Mr. STAGGERS. I do—yes, sir—I do.

Mr. KYL. I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I thought I might dwell on something that this bill accomplishes. The bill would establish a National Institute on Alcohol Abuse and Alcoholism within the National Institute of Mental Health, through which the Secretary of Health, Education, and Welfare shall coordinate all Federal health, rehabilitation, and other social programs related to the treatment of alcohol abuse.

In the committee there was unanimous support in the hearings for the objectives of the legislation and there was universal agreement that legislation was necessary. The bill was endorsed by the American Medical Association, the North American Association of Alcoholism Programs, the National Council on Alcoholism, the National Association of State Mental Health Program Directors, the American Psychiatric Association, the American Psychological Association, United Automobile Workers of America, and the Licensed Beverage Industries, Inc.

Medical authorities are nearly unanimous in their recognition of alcoholism as a disease.

Dr. Egeberg testified that it was the Nation's most important health problem.

HEW estimates there are possibly 18 million alcoholics and problem drinkers in the United States.

Alcoholism is rated as the fourth major killing illness in America.

An alcoholic has roughly 12 years shorter average life than a nonalcoholic.

Approximately 50 percent of highway fatalities can be attributed to problem drinking. 25,000 of 800,000 collisions involve alcoholics.

The President's Crime Commission in 1965 reported that one out of every three arrests were for public drunkenness, thus causing heavy financial and time loss on behalf of the police and the judiciary.

The National Council on Alcoholism puts the annual cost to employers of an estimated 2,697,000 untreated alcoholic cases as $4,267,033,000 and these are low estimates.

The legislation here proposed has a number of major components which should be discussed. It would establish a comprehensive range of administrative tools in a single visible and broadly based Institute structure within the National Institute of Mental Health and gives a strong mandate for leadership and action to the Federal Government. The legislation provides for a carefully structured program for Federal assistance to States and local groups and organizations to encourage community-based planning for and development of effective treatment and rehabilitation programs throughout the country for alcoholics. It requires the establishment of programs of prevention and the recognition and encouragement of treatment and rehabilitation programs for Federal employees. It provides sufficient funding authorizations to enable a program of necessary magnitude to get underway immediately.

In direct response to a recommendation of the Secretary's Advisory Committee on Alcoholism we have already elevated the former National Center for the Prevention and Control of Alcoholism to division status within the NIMH, immediately under the Institute Director. Specifically we are moving toward doubling the number of staff positions of the new division in fiscal year 1971.

In order to give alcoholism the attention it needs, it must receive separate institute status, at least within the National Institute of Mental Health.

Section 321 provides that public or private general hospitals which receive Federal funds for alcoholism programs are required to admit alcohol abusers and alcoholics on the basis of medical need, and not to discriminate against them solely because of alcoholism.

It establishes a new National Advisory Council on Alcohol Abuse and Alcoholism, to be composed of 15 members with the Secretary of Health, Education, and Welfare as chairman.

The Chief Medical Officer of the Veterans' Administration will be a member and also the medical officer designated by the Secretary of Defense. There will be 12 appointed members, and six will be skilled in medical and scientific study and diagnosis and treatment of this disease.

The appropriations will be $300 million over 3 years. The formula grants the first 3 years will be $40 million, $60 million, and $80 million, and the project grants will be $30 million, $40 million, and $50 million.

Applications from the States can be commented on by a State agency but it may not prevent the applications from being sent to the institute for consideration. As with formula grants, money which is made available through project grants will be used to supplement rather than replace funds which the States or localities would otherwise have devoted to alcohol programs.

Mr. Chairman, I feel this is a very good bill. It has been changed considerably from the form in which it was sent to us, and certainly I favor its passage.

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

Mr. CARTER. I yield to the distinguished gentleman from Iowa.

Mr. SCHERLE. I appreciate the gentleman yielding.

Mr. Chairman, I have had the opportunity to read the bill as it came from the other body and to read the House version, and I consider the House version far superior.

I wonder if the gentleman in the well would explain to the House some of the objectionable portions of the bill as it came from the other body. I think it would be very interesting.

Mr. CARTER. I would be better prepared to explain what is in the bill here, I will say to the distinguished gentleman from Iowa. The bill as it came from the other body had great volumes of rhetoric, many, many words filled with sound but signifying not much other than a propensity for oratory. Does that answer the gentleman's question?

Mr. SCHERLE. That is a marvelous explanation.

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

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

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I commend the gentleman and the chairman and other members of the committee for bringing this important piece of legislation to the committee and to the House today. I associate myself with the remarks of the gentleman who has worked diligently on this legislation.

Mr. Chairman, I want to add, if the gentleman will yield further, that I am happy to see that not only medical and scientific personnel, but also nonprofessionals are included on the advisory committee.

I am also happy that this legislation will give guidance and direction and stimulus to local and State initiatives. In my own district I want to call attention to the fact that the Lake County Committee on Health and Alcoholism is an aggressive and useful agency in my own community, my congressional district. As I see it, and as I interpret this legislation, there may be opportunity for close cooperation and for support measures to further stimulate the activities of that organization.

Mr. CARTER. The distinguished gentlemen from Illinois is correct. Such assistance will be available.

I compliment the gentleman on his remarks.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the distinguished gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, I rise in support of H.R. 18874, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970. Such a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism is long overdue. The grim statistics of the family tragedies, accidents and human wrecks caused by alcoholism are staggering evidence that we have too long neglected this problem which is growing more serious every day. Crime breeds on alcoholism. Fortunately, the treatment seems to be simpler and more direct than mental disease, yet the problem has not been faced up to with the same determination and through the mobilization of the full resources of the community. I hope that this legislation will accomplish that purpose, and also alert the Nation to the danger of allowing this seriously mounting problem to proceed unchecked.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the chairman of the subcommittee that handled this legislation, the gentleman from Oklahoma (Mr. JARMAN).

Mr. JARMAN. Mr. Chairman, I rise in support of this bill.

Our Subcommittee on Public Health and Welfare held 3 days of hearings and numerous executive sessions for the consideration of this bill, and we were unanimous in recommending it to the full committee and to the House.

In testimony before our committee in overall support of the intent of this legislation, Dr. Roger Egeberg, Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs said:

> I am more firmly convinced than ever of the absolute necessity for this nation to address alcoholism for what it is, one of the most prevalent, destructive, costly and tragic forms of illness in the United States.

One indication of the extent of which alcoholism constitutes a health problem is the number of deaths each year arising out of alcohol abuse and alcoholism. For example, according to the National Center for Health Statistics, 11,000 deaths in 1967 could be directly attributed to alcoholism. These figures were obtained from the cause of death recorded on the death certificates, which included the following three categories: "alcoholism," "cirrhosis of the liver with alcoholism," and "alcoholic psychosis."

This figure of 11,000, of course, seriously understates the number of deaths from alcoholism, since it does not include other causes of death in which alcoholism has played a dominant role. A recent study indicates that 58 percent of adults fatally injured off the highway have a history of alcoholism or serious problem-drinking. Add to this the fatalities on the highways, and the accelerated death rate of alcoholics from almost all causes, and it can be seen that alcohol abuse contributes very significantly to our national death rate.

Estimates of lost man-hours from employment arising out of alcoholism represent, of course, only informed best guesses, but $4 billion annually would seem to be a conservative estimate of the cost to our economy of this problem.

It is unfortunately true that alcoholism has also been one of the most ignored overall health problems nationwide.

In 1968, the Congress amended the Community Mental Health Centers Act to provide authority for construction and staffing of facilities for treatment of alcoholics, and the program was expanded somewhat in this year's amendment to that legislation.

Our hearings revealed, however, that substantially more must be done if we are to make any significant progress in handling this problem, and this bill is designed to accomplish that result.

We feel that it is essential to create a new institute in the Public Health Service to deal with this problem, in order to provide greater visibility, and to stimulate more action in the executive branch on this problem. We concluded that the institute should be located in the National Institute of Mental Health, so as to provide for better coordination of Federal programs dealing with the mental health aspects of alcoholism.

The legislation also provides for formula grants to the States to stimulate them to establish programs, as well as a program of project grants for specific programs.

As I mentioned, the subcommittee was unanimous in recommending this legislation to the committee, and we urge its adoption by the House.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS of Florida. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of H.R. 18874, a bill to provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism.

The subcommittee on Public Health of the Interstate and Foreign Commerce Committee held 3 days of hearings with testimony received from a broad range of governmental and public witnesses. During these hearings some rather startling facts concerning the magnitude of the alcohol abuse and alcoholism problem were presented to the subcommittee by various concerned individuals.

The Department of Health, Education, and Welfare has estimated that there are approximately 18 million alcoholics and problem drinkers in the United States today. According to one witness alcoholism is now rated as the fourth major killing illness in America, and that the alcoholic in this country dies 12 years sooner than does the average citizen. According to a former director of the National Highway Safety Bureau, approximately 50 percent of all highway fatalities can be attributed to the drinking problem. The U.S. Department of Transportation cites 25,000 deaths and 800,000 motor vehicle crashes each year as a result of the use of alcohol.

A recent study made by the Nation's business management estimated that industry costs from alcoholism attributed to absenteeism, accidents, sickness, benefit payments, lowered morale, and damaged customer and public relations, may run as high as $7 billion annually.

Federal legislation is urgently needed at this time to zero in on the alcohol abuse problem. The States urgently need assistance from the Government in order to coordinate and expand their somewhat disorganized and invariably insufficiently funded alcohol programs.

H.R. 18874 provides for a comprehensive program for the prevention and treatment of alcohol abuse and alcoholism. Title I of the bill provides for the establishment of a National Institute on Alcohol Abuse and Alcoholism within the National Institute of Mental Health. The Institute will be the focal point of the Government's program of alcohol abuse, where health, education, training, research, planning, and project grant and State formula grant evaluation will be housed. Naturally, due to the close association of mental health with alcohol abuse problems and due to the presence of limited existing alcohol abuse programs within the Institute of Mental Health, it was fitting for the subcommittee to recommend that this legislation be administered in close connection with the existing mental health program.

Presently the entire Federal effort in the area of alcohol abuse is staffed by only 12 full-time professionals with a division budget of $14 million, $6 million of which is for research. Considering the magnitude of the alcohol-related health problem in this Nation, these figures seem significantly low to even begin to meet our needs.

The bill directs the Civil Service Commission to develop policies and services for the prevention and treatment of alcohol abuse and alcoholism among Federal employees. Federal leadership in encouraging States to establish comprehensive alcohol abuse and alcoholism programs can best be served by taking the initiative in establishing such a program within the Federal Government.

Title III of the bill provides for the authorization of $40 million for fiscal 1971, $60 million for fiscal 1972, and $80 million for fiscal 1973 for a total of $180 million over a 3-year period for block-formula grants to be provided to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of programs for the prevention and treatment of alcohol abuse and alcoholism.

Each State must develop a State plan in order to receive a block allotment under this grant program. Within the plan the State must assure the Federal Government that a single agency or interdepartmental agency will have the sole responsibility for the administration of the plan or for the supervising of the administration of the plan.

Each State must assure the Federal Government that all funds made available through the block grant, shall be so used as to supplement and increase to

the extent feasible and practical, the level of existing State, local, and other non-Federal funds available to the State for alcohol programs.

Naturally, the State plan is required to provide reasonable assurances that the money will be used in a manner which would not duplicate facilities and services of existing State programs, but which would rather serve to coordinate and broaden those programs, and to coordinate such new programs with mental health related programs within the States, if such programs are available to that end.

Title III of the bill also provides for $30 million for fiscal 1971, $40 million for fiscal 1972, and $50 million for fiscal 1973 for a total of $120 million for the next 3 years for grants made directly to public and private nonprofit agencies, organizations, and institutions and individuals to conduct demonstration, service, evaluation, training, education, and counseling projects and to provide special projects for programs and services in cooperation or within schools, courts, penal institutions, and other public agencies for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcoholics. The project grant funds authorized under this section would be added to existing funds under the Community Mental Health Centers Act earmarked directly for alcohol abuse and alcoholism programs. The bill requires that each application for a project grant must contain reasonable assurances that the program will be consistent with the overall State program for alcohol abuse and alcoholism, the comprehensive health plan for the State under section 314 of the Public Health Service Act, and the State mental health program. The Secretary would not approve an application unless he was satisfied that the project would not result in duplication of other State programs, would coordinate and cooperate with all other State programs or Federal projects, and that such grants would be used to supplement rather than replace funds which the States or localities would otherwise have devoted to alcohol programs.

The bill also requires that the comprehensive State health plan, required under existing law under the provisions of section 314(d) of the Public Health Service Act as amended, must provide for services for the prevention and treatment of alcohol abuse and alcoholism, commensurate with the extent of the problem. This provision will act as an additional assurance that the States will zero in on the alcohol abuse problem in our Nation and will serve to coordinate alcohol programs with other health programs within a given State.

Lastly, the bill provides for a 15-man national advisory council on alcohol abuse and alcoholism whose purpose is to advise, consult with, and make recommendations to the Secretary on matters relating to his activities and functions in the area of alcohol abuse and alcoholism.

In conclusion, I believe that there is a drastic need for the Federal Government to take a close look at its present alcohol abuse and alcoholism program. If the Government follows this course, it should come to the conclusion that not nearly enough has been done, considering the tremendous magnitude of the alcohol abuse problem. It is time for the Congress to take the initiative in spotlighting this critical problem and in taking the necessary action to cope with its ramifications. I urge the support of my colleagues of H.R. 18874.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Chairman, I rise only to commend the distinguished committee for bringing this bill to the floor.

I wish to add that those who are saying—many of them young people—that marihuana is no worse than liquor do not realize the facts, as reported by the distinguished gentleman from West Virginia in the conference report, and the terrible toll taken by liquor. We cannot afford to fasten another culprit of possible injury upon the people of our country.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of H.R. 18874, the Alcoholic Abuse, Prevention, and Treatment Act of 1970.

Alcoholism is a major problem in the United States. It now ranks third among the killing sicknesses in the United States. It causes death, destruction, and despair. Social and economic damage caused by alcoholic consumption exceeds the damage caused by the use of all other stimulating and depressing drugs. According to Jerome Jaffee in the Pharmacological Basis of Therapeutics:

> Alcoholism is a more significant problem than all other forms of drug abuse combined.

Alcoholic intoxication is a factor in over 50 percent of automobile accidents in which a death has occurred. Alcohol is involved in 70 percent of single car fatalities and as much as 20 percent of private plane fatalities.

In 1965, approximately 2 million arrests were made for the offense of public drunkenness. This represented one of every three arrests made for all causes in America for that year.

In California, alcoholism is the 10th leading cause of death. Between the ages of 20 and 40, one-third of all deaths result from alcohol. Life expectancy of an alcoholic is 10 to 12 years below the general average.

Fifty percent of the people in our prisons for murder, rape, and burglary committed those crimes after the excessive consumption of alcohol.

The Los Angeles County Commission on Alcoholism has estimated that for fiscal year 1969, the cost of the misuse of alcohol to the Los Angeles County government exceeds $73 million. The largest portion—$35.6 million—of this cost is for law enforcement.

The saving to the taxpayer would be tremendous if we could curb the misuse of alcohol. Again, in Los Angeles County, the District Attorney estimates that 52.5 percent of all misdemeanor and felony crimes result from the misuse of alcohol. If this were eliminated, the savings to the taxpayer would be $6.7 million in the district attorney's office alone.

We know there is a shortage of hospital beds and medical personnel, yet, in 1968–69, there were 2,137 acute or chronic alcoholism patients in Harbor General Hospitals and their average stay in the hospital was 7 days.

The bill before us now, H.R. 18874, is designed to curb the misuse of alcohol. First, it recognizes the need for action in this area by creating the National Institute of Alcohol Abuse and Alcoholism within the National Institute of Mental Health. Second, the bill authorizes the Civil Service Commission to develop and maintain a program for the prevention, treatment, and rehabilitation of alcohol abuse among Federal civilian employees. Third, the bill, H.R. 18874, authorizes grants for States to establish programs and grants for pilot projects under the direction of the Department of Health, Education, and Welfare. In addition, the bill requires hospitals, that are currently receiving Federal funds, to admit alcohol abusers on the basis of medical need.

Mr. Chairman, the sheriff of Los Angeles County believes that the misuse of alcohol is one of the major public health problems of our society. I wholeheartedly agree and I feel that the passage of H.R. 18874 will begin to correct this problem in our society.

Mr. BROOMFIELD. Mr. Chairman, our best estimates indicate that there are as many as 18 million alcoholics in the United States. Alcoholism is now rated as the fourth major killer in America, and the average alcoholic dies 12 years sooner than the normal citizen. One-third of the admissions to State mental hospitals and one-sixth of the admissions to veterans hospitals are alcohol related. Half of all highway fatalities can be attributed to drunken driving. Half of the criminal arrests in urban areas are for public drunkenness. Mr. Chairman, the extent of this problem is shocking and unacceptable.

But these figures show only part of the picture. They do not reveal how many broken families result from alcoholism. Nor do they recognize the enormous cost of this disease to the public. The fact is that alcoholism, more than any other illness, is destroying the fabric of our society. Not only the alcoholic, but his household, his employer, and his Government suffer from his problem. There are no statistics to measure the number of families lost to an alcoholic parent, the number of innocent persons victimized by drunken drivers, the number of crimes committed by these desperately ill people. How much of what we spend for welfare services, job programs, correctional institutions is actually subsidy for the alcoholic? How high a price does business pay for absenteeism and accidents related to alcoholism?

No matter how difficult it is to measure the exact scope of this problem, we must at least recognize that it is much more extensive than commonly understood. It is a problem that demands maximum attention at all levels of government. The bill before us today gives us the tools with which we can attack alcoholism in the United States.

The measure would create a National Institute of Alcohol Abuse and Alcohol-

ism within the National Institute of Mental Health. This body would coordinate all Federal health and rehabilitation programs related to the prevention and treatment of alcohol abuse; $300 million is authorized for assistance to States and local groups to spur community based planning for programs dealing with the abuse of alcohol. Finally, the bill requires the development of specific programs for the treatment and rehabilitation of federally employed alcoholics.

In a much broader sense, this measure recognizes the true nature of alcoholism: that it is a disease, not a sin, and that it must be met not by criminal action, but by medical treatment. Much of our trouble in the past has derived from the atmosphere of moral disapproval surrounding the entire subject; the deplorable custom of treating alcoholics as sinners or criminals has simply obscured the nature of the problem. What this bill achieves is a recognition of alcoholism as an illness—no more immoral than tuberculosis or schizophrenia. Indeed, it is an illness that ranks with cancer and heart disease as one of our country's most important health problems. It is about time, Mr. Chairman, that we took steps to solve the mystery of alcoholism as well as the mysteries of cancer and heart disease.

Mr. McCLORY. Mr. Chairman, I am aware of the terrible cost in terms of lost wages and salaries as well as in terms of broken homes and broken lives which result from the excessive use of alcohol.

According to the December issue of the Department of Labor's magazine—Manpower—alcoholism affects more than 6 million Americans and costs industry as much as $3 billion or more per year. According to the committee report, other indirect losses bring the total bill to as much as $7 billion yearly.

The magazine article reveals that business executives are the worst offenders, and are most in need of a program to control and reduce alcohol abuse.

Mr. Chairman, the pending legislation may not be perfect, but it is a dramatic and constructive start. The bill recognizes the prerogatives of State and local programs in providing solutions to the problem of alcohol abuse. It is my expectation that this Federal effort will be perfected within a short time and that the dangers and losses that result from alcoholism may be reduced and that the welfare of the Nation itself may be served by a comprehensive and intelligent attack against this serious and highly complicated problem which permeates every branch and segment of our society.

Mr. STEELE. Mr. Chairman, I am very pleased with the passage of the Comprehensive Alcoholism Abuse Act of 1970. It is particularly gratifying that Congress, after passing legislation in October to rehabilitate drug addicts, is now turning around to provide similar aid to those who cannot lick the drinking habit. In recent months public attention has been focused primarily on the alarming rise in drug abuse. I think we have to make a maximum effort to combat drug abuse before it becomes a runaway catastrophe. However, we must not lose sight of the fact that in sheer magnitude, the problem of alcoholism is much more widespread than drug addiction.

Nationwide it is estimated that there are 27 million persons who have developed a serious dependence on alcohol. By comparison, latest estimates show that there are 190,000 hard-core drug addicts in the United States. In the State of Connecticut we have 130,000 hard-core alcoholics, while there are between 10,000 and 12,000 drug addicts. In my State over one-half million persons—the family members of the alcoholics—are seriously affected by this problem. Last year alone we admitted 5,100 alcoholics to our State mental hospitals. That is 40 percent of the admissions total for the State. By comparison drug addicts made up 8.5 percent of the total. I could go on and list grim statistics on the problems, heartbreaks, and fatalities that drinkers cause or contribute to in the home, in law enforcement, in industry and on the highways.

One of the first things we have to realize is that alcoholism is a medical problem. For too long we have regarded the heavy drinker as a morally depraved or even despicable person. This, of course, has made the problem of rehabilitation just so much more difficult. The Alcoholism Abuse, Prevention, Treatment, and Rehabilitation Act gives recognition to the fact that the problem drinker needs medical and psychological help. One great advantage of this bill is that it provides for treatment centers close to home.

The State of Connecticut is proud of its innovative programs to help the heavy drinker. It was the first to set up a comprehensive State-supported alcoholism rehabilitation service back in 1949. Over the past 2 years my State has spent over $2 million on providing for alcoholics in outpatient clinics, intensive treatment centers, detoxification centers, halfway houses, and three-quarter-way houses. These programs are expensive, and the related costs for drug addiction treatment have more than doubled the expenditures for these two related problems.

This is a lot for a small State, but it is still not enough. We must provide help to these persons who live in a misery from which they cannot liberate themselves.

This legislation will provide approximately $1.5 million in Federal grants to the Connecticut alcoholism rehabilitation program. Specific projects will be eligible for additional funding. My hope is that some of this money can be used to set up community treatment centers throughout the State. Right now, much of the treatment effort is centered in the big cities. We should have help available to anyone as close to home as possible, regardless of whether he lives in a large or small community.

I hope that conference action on this bill is completed quickly so this legislation can be signed into law before the end of the session. This action is urgent, necessary, and long overdue.

Mr. O'NEILL of Massachusetts. Mr. Chairman, in 1968, the Congress recognized the seriousness of alcoholism and demonstrated an understanding that alcoholism is a disease and not a crime. We did not, unfortunately, act on that understanding and provide the funds and mechanism for research into the causes of that disease, its prevention, cure and rehabilitation of the victims of alcoholism.

This bill today finally takes that step. We authorized $300 million over the next 3 years for the creation of a National Institute on Alocohol Abuse and Alcoholism within the existing National Institute of Mental Health. This institute will administer a program for the prevention and treatment of alcoholism. The States are authorized to set up alcoholism programs and will be reimbursed with formula grants. Educational institutions, governmental agencies and foundations who deal with alcoholism will be funded under project grants.

Recognizing that alcoholism pervades every level of society and every occupation, this bill authorizes the creation of an alcoholism program for Federal employees and attempts to guarantee that their jobs and occupational security will not be jeopardized by participation in such programs.

I think this bill is an excellent piece of legislation and long overdue. The toll in human and economic terms taken by alcoholism in this country is phenomenal. Most of us do not realize the seriousness of the problem nor the extent of alcoholism. The United States has 18 million alcoholics and problem drinkers. That is almost 10 percent of our entire population. One-third of all admissions to mental hospitals are alcohol related, and one must particularly think of the families of these people in order to realize the extent of this destruction and the depth of the tragedy produced by alcoholism.

Alcoholism is the Nation's fourth major killing disease. One should think in comparative terms. It is as much a health problem as cancer and heart disease, about which we are all concerned. One of every six patients in veterans hospitals across the Nation is there for a drinking problem. We are talking about a great number of people, who suffer directly, and an even larger number of people who suffer from having alcoholics in their families, as employees, and employers, as friends and neighbors. It is estimated that more than $5 billion a year is wasted in America industry because of absenteeism, accidents, and damages caused by alcoholics. The extent of this problem is almost overwhelming.

We can make progress in the prevention and treatment of alcoholism and the rehabilitation of alcoholics. I think this is an excellent bill, and I urge my colleagues to support it.

Mr. GUDE. Mr. Chairman, I rise in support of H.R. 18374, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. As you are most critically aware, we are in need of a broad and significant program to provide a comprehensive range of services—from prevention of alcohol abuse to treatment and rehabilitation for those who are in need

of help. Alcohol abuse and alcoholism have been rapidly increasing throughout the country, and we must use all our resources to curtail this problem before it does further damage to the society. As a conscientious body of men and women, we must follow the lead of the Senate in order that it not be said that the House ignored a measure to help the ill; alcoholism is an illness and one that we can no longer turn our back on, as in the past.

With up to nearly 5 percent of our population affected, it is certainly difficult to deny the urgency of the problem, and yet we have allowed it to become one of America's most neglected and costly illness. However, the legislation which we are considering today is the vehicle by which the Congress can face the realities of the situation from the standpoint of the Federal Government, and can offer the necessary leadership to the other levels of government in America and to private organizations in this country.

As a cosponsor of this bill and having testified in committee I am most critically aware of the merits of this legislation and therefore, very eager to see its passage this session. I am merely asking that we face the problem of alcohol abuse in our society realistically, before it destroys the health and stability of our society, which it is well on the road toward doing. If this legislation does nothing else, it clears the air and accepts alcoholism as a valid and ethical public health problem to be treated the same as any other public health problem.

Mr. BROYHILL of Virginia. Mr. Chairman, I rise in support of H.R. 18874, to provide a comprehensive Federal program for prevention and treatment of alcohol abuse and alcoholism.

I doubt if there is a single Member of this House who has not watched with sorrow, anguish, and helplessness, the physical and mental deterioration and the eventual untimely death of a relative or loved one due to excessive use of alcohol. I have.

Not only have alcoholics suffered from public neglect and disdain, but their families, their mothers, their wives, their children, have suffered immeasurably from the embarrassment, the shame, the moral disapproval of their communities, and often desertion, poverty, and personal injury or death, all because of the failure of their community and their Nation to help.

Historic public attitude that the alcoholic is a sinner or a criminal has changed. But our belated recognition that the alcoholic is a sick man and not a sinner is not enough. Alcoholism and alcohol abuse constitute the fourth major killing illness in America today; the alcoholic dies some 12 years younger than the average American; the alcoholic represents one-third of the population of our State mental hospitals, and one-sixth of the Veterans' Administration hospital cases; and drinking drivers are responsible for 50 percent of our highway deaths. The time has come for the Congress to recognize the seriousness of the problem and to take the necessary steps to solve it.

For years Congress has devoted much of its efforts and billions of dollars to improve education, provide better health care, reduce poverty, assist the aged, halt crime, and, most recently to curb drug abuse.

Yet, until this Congress, little effort has been directed toward serious examination of the impact of alcohol abuse and the prevention, treatment, and rehabilitation of those afflicted with alcoholism. This Congress and the Nation itself owes the members of the Senate Committee on Labor and Public Welfare and the House Committee on Interstate and Foreign Commerce a great debt of gratitude for their work to ferret out the facts. The statistics which have been amassed by these committees stagger the imagination and cry out for correction.

No Member of this House is more anxious to reduce Federal spending than I am. But what good will it do for us to have already spent billions of dollars in an effort to improve our Nation's health and social conditions if one-fourth of the people we assist in these other programs become victims of alcoholism? I am convinced that the legislation we have before us, to establish a National Institute on Alcohol Abuse and Alcoholism through which to coordinate Federal health, rehabilitation, and social programs related to alcohol abuse; and the authorization of $300 million over 3 fiscal years in formula grants to the States and project grants to groups, organizations, and individuals to implement community programs for treatment and rehabilitation, will result in savings in both money and lives in years to come far in excess of what we are authorizing today.

It is also important that we establish a separate institute rather than expand existing programs of the National Institute of Mental Health and elevate the present National Center for the Prevention of Alcoholism to Division status within the NIMH. As America's most important health problem, alcoholism demands more concentrated attention than it can be given by only 12 full-time professionals and a proposed Division budget of $14 million, $6 million of which is for research.

Another argument for a separate institute is the fact that any treatment and rehabilitation program for alcoholics and problem drinkers must inspire interest and participation by a broad cross-section of the American public, inducing physicians, scientists, social workers, and persons interested in practical training programs, as well as those skilled in research. I am convinced that public education about alcohol abuse and alcoholism must be an essential part of such a program and can best be accomplished by a separate institute.

The new National Advisory Council on Alcohol Abuse and Alcoholism, to be composed of 15 members, including the Secretary of Health, Education, and Welfare, the chief medical officer of the Veterans' Administration, a medical officer selected by the Secretary of Defense, and 12 appointed members, six skilled in medical, scientific study, diagnosis or treatment of the disease, and a significant number of the rest chosen because of practical experience with alcoholism, including recovered alcoholics, is an essential part of the program, and will lend the prestige needed to attract wide interest and support.

Mr. Chairman, alcoholism and its prevention and treatment is first a local, even person-to-person problem, and this approach is recognized and funded in this legislation. But solution depends also on wide national interest and Federal participation in the necessary research and development. This, too, is provided for in this legislation.

The actions to correct alcohol abuse and alcoholism we have taken as a nation in the past have been too little and too low in priority. We need a new approach to the problem, and this bill sets up the machinery needed to attack the problem.

Mr. Chairman, this legislation provides for a long overdue and desperately needed program, and I urge its enactment.

Mr. CARTER. Mr. Chairman, I have no further requests for time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read by titles 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. 18874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970".

TITLE I—NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

ESTABLISHMENT OF THE INSTITUTE

SEC. 101. (a) There is established in the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism (hereafter in this Act referred to as the "Institute") to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") by this Act and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall, in carrying out the purposes of section 301 of the Public Health Service Act with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

(b) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

REPORTS BY THE SECRETARY

SEC. 102. The Secretary shall—

(1) submit an annual report to Congress which shall include a description of the actions taken, services provided, and funds expended under this Act and part C of the Community Mental Health Centers Act, an evaluation of the effectiveness of such actions, services, and expenditures of funds, and such other information as the Secretary considers appropriate;

(2) submit to Congress on or before the expiration of the one-year period beginning on the date of enactment of this Act a report (A) containing current information on the health consequences of using alcoholic

beverages, and (B) containing such recommendations for legislation and administrative action as he may deem appropriate;

(3) submit such additional reports as may be requested by the President of the United States or by Congress; and

(4) submit to the President of the United States and to Congress such recommendations as will further the prevention, treatment, and control of alcohol abuse and alcoholism.

TITLE II—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR FEDERAL CIVILIAN EMPLOYEES

ALCOHOL ABUSE AND ALCOHOLISM AMONG FEDERAL CIVILIAN EMPLOYEES

SEC. 201. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and with other Federal agencies and departments, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among Federal civilian employees, consistent with the purposes of this Act. Such policies and services shall make optional use of existing government facilities, services, and skills.

(b) The Secretary, acting through the Institute, shall be responsible for fostering similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

(c)(1) No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior alcohol abuse or prior alcoholism.

(2) This subsection shall not apply to employment (A) in the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, or any other department or agency of the Federal Government designated for purposes of national security by the President, or (B) in any position in any department or agency of the Federal Government, not referred to in clause (A), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

(d) This title shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

(e)(1) Section 7352 of title 5 of the United States Code is repealed.

(2) The table of sections of subchapter V of chapter 73 of such title is amended by striking out the item relating to such section 7352.

TITLE III—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A—FORMULA GRANTS

AUTHORIZATION

SEC. 301. There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, $80,000,000 for the fiscal year ending June 30, 1973, for grants to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism. For purposes of this part, the term "State" includes the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in addition to the fifty states.

STATE ALLOTMENT

SEC. 302. (a) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 301 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism; except that no such allotment to any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

(b) Any amount so allotted to a State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such four States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

(c) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this part, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is the least, shall be available for such purpose for such year.

STATE PLANS

SEC. 303. (a) Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter in this section referred to as the "State agency") will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of alcohol abuse and alcoholism, to consult with the State agency in carrying out the plan;

(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of alcohol abuse and alcoholism, including a survey of the health facilities needed to provide services for alcohol abuse and alcoholism and a plan for the development and distribution of such facilities and programs throughout the State;

(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6);

(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

(9) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds; and

(10) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this part.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

PART B—PROJECT GRANTS AND CONTRACTS

GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

SEC. 311. Section 247 of part C of the Community Mental Health Centers Act is amended to read as follows:

"GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

"SEC. 247. (a) The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, may make grants to public and private nonprofit agencies, organizations, and institutions and may enter into contracts with public and private agencies, organizations, and institutions, and individuals—

"(1) to conduct demonstration, service, and evaluation projects,

"(2) to provide education and training,

"(3) to provide programs and services in cooperation with schools, courts, penal institutions, and other public agencies, and

"(4) to provide counseling and education activities on an individual or community basis,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

"(b) Projects for which grants or contracts are made under this section shall, whenever possible, be community based, provide a comprehensive range of services, and be integrated with, and involve the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals.

"(c)(1) In administering the provisions of this section, the Secretary shall require coordination of all applications for programs in a State.

"(2) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under such section 303. The State shall furnish the applicant a copy of any such evaluation.

"(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(A) provide that the activities and services for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

"(B) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

"(C) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(D) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

"(d) To carry out the purposes of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971, $40,000,000 for the fiscal year ending June 30, 1972, and $50,000,000 for the fiscal year ending June 30, 1972."

PART C—ADMISSION TO HOSPITALS

ADMISSION OF ALCOHOL ABUSERS AND ALCOHOLICS TO PRIVATE AND PUBLIC HOSPITALS

SEC. 321. (a) Alcohol abusers and alcoholics shall be admitted to and treated in private and public general hospitals, which receive Federal funds for alcoholic treatment programs, on the basis of medical need and shall not be discriminated against solely because of their alcoholism. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act; except that the Secretary shall not terminate any such Federal assistance until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and has provided an opportunity for correction or a hearing.

(b) Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by section 404 of the Community Mental Health Centers Act.

PART D—GENERAL

COMPREHENSIVE STATE HEALTH PLANS

SEC. 331. Section 314 (d)(2) of the Public Health Service Act is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by striking out the period at the end of subparagraph (K) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (K) the following new subparagraph:

"(L) provide for services for the prevention and treatment of alcohol abuse and alcoholism, commensurate with the extent of the problem."

SPECIALIZED FACILITIES

SEC. 332. Section 243(a) of the Community Mental Health Centers Act is amended (1) by inserting "or leasing" after "construction", and (2) by inserting "facilities for emergency medical services, intermediate care services, or outpatient services, and" immediately before "post-hospitalization treatment facilities".

CONFIDENTIALITY OF RECORDS

SEC. 333. The Secretary may authorize persons engaged in research on, or treatment with respect to, alcohol abuse and alcoholism to protect the privacy of individuals who are the subject of such research or treatment by withholding from all persons not connected with the conduct of such research or treatment the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

TITLE IV—THE NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

ESTABLISHMENT OF COUNCIL

SEC. 401. (a) Section 217(a) of the Public Health Service Act is amended—

(1) in the first sentence thereof, by inserting "the National Advisory Council on Alcohol Abuse and Alcoholism," immediately after "the National Advisory Mental Health Council,";

(2) in the second sentence thereof, by (A) inserting "the National Advisory Council on Alcohol Abuse and Alcoholism," immediately after "the National Advisory Mental Health Council,", and (B) inserting "alcohol abuse and alcoholism," immediately after "psychiatric disorders,"; and

(3) in the fourth sentence, (A) by inserting "(other than the members of the National Advisory Council on Alcohol Abuse and Alcoholism)" after "the terms of the members"; (B) by striking out "and" before "(2)"; and (C) by striking out the period at the end and inserting a semicolon and "and (3) the terms of the members of the National Council on Alcohol Abuse and Alcoholism first taking office after the date of enactment of this clause, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment."

(b) Section 217(b) of such Act is amended, in the second sentence thereof, by inserting "alcohol abuse and alcoholism," immediately after "mental health,".

(c) Section 217 of such Act is further amended by adding at the end thereof the following new subsection:

"(d) The National Advisory Council on Alcohol Abuse and Alcoholism shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Secretary in the field of alcohol abuse and alcoholism. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of alcohol abuse and alcoholism and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of alcohol abuse and alcoholism, and (2) to collect information as to studies being carried on in the field of alcohol abuse and alcoholism and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health and welfare agencies or organizations (public or private) or physicians or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of alcohol abuse and alcoholism; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council."

APPROVAL BY COUNCIL OF CERTAIN GRANTS UNDER PART C OF COMMUNITY MENTAL HEALTH CENTERS ACT

SEC. 402. Section 266 of the Community Mental Health Centers Act is amended (1) by inserting "(other than part C thereof)" immediately after "this title", and (2) by adding immediately after the period the following: "Grants under part C of this title for such costs may be made only upon recommendation of the National Institute on Alcohol Abuse and Alcoholism established by by such section."

TITLE V—GENERAL

SEC. 501. If any section, provision, or term of this Act is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this Act, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

SEC. 502. (a) Each recipient of assistance under this Act pursuant to grants or contracts entered into under other than competitive bidding procedures 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 or contract, the total cost of the project or undertaking in connection with which such grant is given 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 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 such recipients that are pertinent to the grants or contracts entered into under the provisions of this Act under other than competitive bidding procedures.

SEC. 503. Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

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

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

There was no objection.

AMENDMENTS OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer two technical amendments.

The Clerk read as follows:

Amendments offered by Mr. STAGGERS: Page 64, line 2, strike out "Institute" and insert in lieu thereof "Advisory Council".

Page 64, add at the end of line 16 the following: "or contract".

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio: Strike sections (c), (d), and (e) of title II, line 8 on page 5 and all that follows through line 3 on page 51.

Mr. BROWN of Ohio. Mr. Chairman, the purpose of this amendment is to strike out the language in the legislation that provides—and I quote:

No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior alcohol abuse or prior alcoholism.

My amendment would also strike a section which includes an exemption to that provision in the case of certain sensitive agencies such as the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, and other sensitive agencies involving national security. And it would strike a section that says:

This title has not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

And it would strike a further section which says:

Section 7352 of title 5 of the United States Code is repealed.

Section 7352 of title V of the United States Code reads, and I quote:

Excessive and habitual use of intoxicants. An individual who habitually uses intoxicating beverages to excess may not be employed in the competitive service (Public Law 89–554, Sept. 6, 1966, 80 Stat. 527.)

Mr. Chairman, I submit that the action of striking this section of the code may be precedential with reference to narcotics abuse of various types in addition to the use of intoxicating alcoholic beverages, and that also this language may be confusing the situation of the dismissal of a person in the civil service for the use of those beverages to the extent that he cannot perform his job.

If I am employed in the civil service, Mr. Chairman, and it is suggested that I am not able to perform my functions and I say, "Well, all right; you caught me; I am an alcoholic;" Or if I have been off the job because of alcoholism; Or if I have been unable to do my job because of alcoholism but I say, "I am willing to take the cure," which the first part of this section sets up for people who are alcoholic, can I, in fact, be fired and have it stick? I think not if I am willing to take the cure. That will be fine and dandy; they will dry me out and get me back on my feet; and so long as I perform I guess I will be in no danger, until the next time I am unable to perform my job because of alcohol.

And then what? Am I then dismissed? No. I am willing to take the cure again, Mr. Chairman, and I think I can probably keep my job on that basis and maintain myself in the Federal civil service for a good long time before the invocation of part (D) of this comes into effect, which says that this title shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

As long as I am willing to take the cure set up by this section I think I can keep my job. I think we would be better off not to speak to this problem whatever and leave the basic law stand, which says than an individual who habitually uses intoxicating beverages to excess may not be—and it does not say "shall not be" but "may not be"—employed in the competitive Civil Service.

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

I think the gentleman has certainly given his views. I think we have appropriate provisions in the bill to deal with this. In one of the sections the gentleman read it says "this title shall not be construed to prohibit the dismissal of a Federal civilian employee who cannot properly function in his employment." We think that gives discretion to handle the problem. The bill also states that in the case of people in the CIA, the FBI, the NSA, or any department or agency of the Federal Government designated for the purpose of national security by the President or in positions in any department or agency of the Federal Government and so on, that the individual can be dismissed.

We also take another perspective. The Civil Service Commission has testified that they are generally for this part, perhaps with some minor changes, but they did testify they were for it.

Mr. BROWN of Ohio. Will the gentleman yield?

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

Mr. BROWN of Ohio. What about the case where a man is repeatedly unable to perform his function because of alcoholism but he is willing indeed and submits himself to the cure provided by the Civil Service and gets dried out and goes back on his job and holds that job for weeks or months or years and then cannot get the job again because of the problem?

Mr. STAGGERS. On that question, as the gentleman said, that that could have occurred, but we deleted that provision of the bill. Under the bill, a person who cannot perform his job can be fired immediately. There is no reason to take him back. Even though he may say he should be taken back, because he has taken the cure, that will have nothing to do with his dismissal.

Mr. BROWN of Ohio. Why should we not say that he should not have his job back if he uses habitually alcohol beverages to excess?

Mr. STAGGERS. Well, I would say this to the gentleman. I think this is just as strong as that is, because it says he can be fired. The Civil Service, when asked about this provision, said they had no objection to the change.

Mr. BROWN of Ohio. I am not concerned about their viewpoint as much as I am about my own.

Mr. STAGGERS. I think he can be fired immediately, and that is the end of it.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we worked over his very problem at length in the committee. In paragraph (D) of section 201, I think it adequately covers this since it states that this title shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment. This does give the right for immediate discharge in case the man cannot function. Of course, no department will put up with a habitual drunkard. The idea of drying out and coming back and so forth and things like that is a figment of a fertile imagination. Certainly none of us mean for habitual drunkards to hold positions of trust in the offices of our Government.

Mr. BROWN of Ohio. Will the gentleman yield?

Mr. CARTER. I yield to the gentleman.

Mr. BROWN of Ohio. Perhaps we could strike a compromise, then, and leave off section (e) which repeals the language which says an individual who uses intoxicating beverages to excess may not be employed in the competitive service.

Now, if the gentleman's purpose is as he stated, then none of us want to see people who are habitual drunkards employed in the Federal Civil Service, then I am sure he would have no objection to that.

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

Mr. CARTER. I yield to the distinguished chairman of the committee.

Mr. STAGGERS. Let me say this to the gentleman. In the original bill, there is this language:

(d) This title should not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

The committee amended this language from the original version so as to deal with this problem. However, I do not mind the attempt of the gentleman to repeal that particular section of the bill and I do not believe the gentleman from Kentucky would. If the gentleman from Ohio thinks this will help in some way, I am willing to accept it.

Mr. CARTER. I certainly will agree to this portion of the gentleman's amendment.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, the way to amend my amendment, then, I believe is to strike line 8 on page 50 and all thereafter down through line 23, and down through line 3 on page 51 be stricken from the legislation.

I wonder if I could have an expression

from the chairman or a representative from the majority side as to that?

Mr. STAGGERS. That would be perfectly all right with me to strike this repealer out because I do not believe it would make any difference in the interpretation to be given the bill as it is presently written.

Mr. CARTER. Certainly we are in agreement in principle on it.

Mr. STAGGERS. I would be willing to accept that amendment, as modified.

Mr. ROGERS of Florida. Mr. Chairman, if the gentleman will yield, I would suggest that the gentleman from Ohio withdraw his other amendment and offer this amendment now.

The CHAIRMAN. Does the gentleman from Ohio ask unanimous consent to withdraw his original amendment?

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent to withdraw my initial amendment and to substitute therefor that line 24, page 50, and all after that thereto down through line 3, page 51, be stricken.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio to withdraw his original amendment?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Ohio.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio: Strike out line 24, page 50, and all that follows down through line 3 on page 51.

The amendment was agreed to.

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

Mr. Chairman, I have listened intently to the discussion of this bill and I am sure there is abuse of alcohol and that there are alcoholics. This bill is undoubtedly a worthy bill. It does provide for the expenditure of a lot of money in the initial stages, and I have the feeling that this is barely a start in the amount of money that will be spent. But the thing that intrigues me, in view of some of the statements that have been made as to the terrible situation that exists with respect to the abuse of alcohol and alcoholism in this country, is the fact that there is no provision in this bill for any kind of curbs with respect to interstate shipment and thereafter the sale and use of alcohol.

It seems to me that there might well have been some kind of a mandatory provision on the interstate transportation of liquor to provide that it could not be sold to a known alcoholic, or someone who abused the use of alcohol. In certain States where there are package stores, liquor cannot be sold to a person who uses alcohol to excess, and I do not understand why there were not some curbs in this bill other than a restriction, such as the one we just heard, as to employment within the Federal Government.

Every package of cigarettes carries a label to the effect that "This package of cigarettes may be hazardous to your health."

Did the committee give any thought to a label on liquor saying that this may be injurious or hazardous to health, habit-forming, and so on and so forth?

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

Mr. GROSS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would say this: that it is a problem for the States. I would also say to the gentleman that I introduced a bill recently to prohibit advertising in any way on the airways across State lines such as we made in the tobacco industry. This is up to the States at the present time, and I am not so sure if it is abused but that it could be a deadly thing if abused. That is what we are trying to get at in this measure, and try and prevent it, and for rehabilitation. We recognize this. We had the Volstead Act at one time, and it did not work.

Mr. GROSS. I understand that. I am not advocating a return to prohibition. Not at all.

Mr. STAGGERS. This we think is the best we can do under the circumstances. And as I said, I have introduced a bill to prohibit advertising.

Mr. GROSS. I will say to the gentleman from West Virginia that I am going to support this legislation, but having set the pace with cigarettes and the hazards that it may present to the health of an individual, I am surprised that this legislation does not contain some kind of a warning to consumers of alcohol that their health as well may be jeopardized.

Mr. STAGGERS. Mr. Chairman, I think in answer to the inquiry of the gentleman from Iowa that most people in America know the hazards to health and understand this, and there are those who say that, used in moderation, it is not that. I do not know. I am not a doctor, and I do not know whether the doctors even know. But we are talking about the abuse and what has already occurred in the country. We are trying to get at that in some way.

Mr. GROSS. I am well aware of the potentialities of damage to health by cigarettes also, but that has not prevented Congress from mandating a notice on each package of cigarettes that says "Warning: The Surgeon General has determined that cigarette smoking is dangerous to your health."

And we might well give consideration to supplementing this legislation next year, or as soon after Christmas as possible, with some kind of a warning on every bottle of liquor.

Mr. STAGGERS. If the Surgeon General tells us this we will put it on there.

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

Mr. GROSS. Yes, of course, I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, certainly I understand the gentleman's point, and we know that many labels are put on many products from our States in the South and south-central areas; they have been labeled, and I trust that there will be no effort to label others as being hazardous to one's health. It would be extremely hard on the industry in that area.

Mr. GROSS. I will say to the gentleman from Kentucky that I was opposed to sticking a warning label on every package of cigarettes because I think everyone of us who uses them are aware that they can be dangerous to health. I will smoke them just the same. It makes little difference how many warnings are put on packages of cigarettes or bottles of liquor. Those who want to smoke and perhaps take a small-sized drink will do so. But I do think it is unfair to brand one and not the other.

Mr. CARTER. The gentleman may be quite right in what he is saying, but I would regret to see everything that comes from my native State so labeled.

The CHAIRMAN. Are there any further amendments to the committee amendment? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MOORHEAD, 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. 18874) to provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism, pursuant to House Resolution 1301, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

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

The amendment was agreed to.

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

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

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

The bill was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 3835) to provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS of West Virginia moves to strike out all after the enacting clause of the bill (S. 3835) and insert in lieu thereof the provisions of the bill (H.R. 18874) as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970".

TITLE I—NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

ESTABLISHMENT OF THE INSTITUTE

SEC. 101. (a) There is established in the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism (hereafter in this Act referred to as the "Institute") to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") by this Act and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall, in carrying out the purposes of section 301 of the Public Health Service Act with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

(b) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

REPORTS BY THE SECRETARY

SEC. 102. The Secretary shall—

(1) submit an annual report to Congress which shall include a description of the actions taken, services provided, and funds expended under this Act and part C of the Community Mental Health Centers Act, an evaluation of the effectiveness of such actions, services, and expenditures of funds, and such other information as the Secretary considers appropriate;

(2) submit to Congress on or before the expiration of the one-year period beginning on the date of enactment of this Act a report (A) containing current information on the health consequences of using alcoholic beverages, and (B) containing such recommendations for legislation and administrative action as he may deem appropriate;

(3) submit such additional reports as may be requested by the President of the United States or by Congress; and

(4) submit to the President of the United States and to Congress such recommendations as will further the prevention, treatment, and control of alcohol abuse and alcoholism.

TITLE II—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR FEDERAL CIVILIAN EMPLOYEES

ALCOHOL ABUSE AND ALCOHOLISM AMONG FEDERAL CIVILIAN EMPLOYEES

SEC. 201. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and with other Federal agencies and departments, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among Federal civilian employees, consistent with the purposes of this Act. Such policies and services shall make optimal use of existing governmental facilities, services, and skills.

(b) The Secretary, acting through the Institute, shall be responsible for fostering similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

(c) (1) No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior alcohol abuse or prior alcoholism.

(2) This subsection shall not apply to employment (A) in the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, or any other department or agency of the Federal Government designated for purposes of national security by the President, or (B) in any position in any department or agency of the Federal Government, not referred to in clause (A), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

(d) This title shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

(e) (1) Section 7352 of title 5 of the United States Code is repealed.

(2) The table of sections of subchapter V of chapter 73 of such title is amended by striking out the item relating to such section 7352.

TITLE III—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A—FORMULA GRANTS

AUTHORIZATION

SEC. 301. There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, $80,000,000 for the fiscal year ending June 30, 1973, for grants to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism. For purposes of this part, the term "State" includes the District of Columbia, the Virginia Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in addition to the fifty States.

STATE ALLOTMENT

SEC. 302. (a) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 301 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism; except that no such allotment to any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

(b) Any amount so allotted to a State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such four States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

(c) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this part, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is the least, shall be available for such purpose for such year.

STATE PLANS

SEC. 303. (a) Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter in this section referred to as the "State agency") will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of alcohol abuse and alcoholism, to consult with the State agency in carrying out the plan;

(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of alcohol abuse and alcoholism, including a survey of the health facilities needed to provide service for alcohol abuse and alcoholism and a plan for the development and distribution of such facilities and programs throughout the State;

(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6);

(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

(9) provide reasonable assurance that Federal funds made available under this part

for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds; and

(10) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this part.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

PART B—PROJECT GRANTS AND CONTRACTS

GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

SEC. 311. Section 247 of part C of the Community Mental Health Centers Act is amended to read as follows:

"GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

"SEC. 247. (a) The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, may make grants to public and private nonprofit agencies, organizations, and institutions and may enter into contracts with public and private agencies, organizations, and institutions, and individuals—

"(1) to conduct demonstration, service, and evaluation projects,

"(2) to provide education and training,

"(3) to provide programs and services in cooperation with schools, courts, penal institutions, and other public agencies, and

"(4) to provide counseling and education activities on an individual or community basis,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

"(b) Projects for which grants or contracts are made under this section shall, whenever possible, be community based, provide a comprehensive range of services, and be integrated with, and involve the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals.

"(c)(1) In administering the provisions of this section, the Secretary shall require coordination of all applications for programs in a State.

"(2) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under such section 303. The State shall furnish the applicant a copy of any such evaluation.

"(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(A) provide that the activities and services for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

"(B) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

"(C) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(D) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

"(d) To carry out the purposes of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971, $40,000,000 for the fiscal year ending June 30, 1972, and $50,000,000 for the fiscal year ending June 30, 1973."

PART C—ADMISSION TO HOSPITALS

ADMISSION OF ALCOHOL ABUSERS AND ALCOHOLICS TO PRIVATE AND PUBLIC HOSPITALS

SEC. 321. (a) Alcohol abusers and alcoholics shall be admitted to and treated in private and public general hospitals, which receive Federal funds for alcoholic treatment programs, on the basis of medical need and shall not be discriminated against solely because of their alcoholism. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act; except that the Secretary shall not terminate any such Federal assistance until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and has provided an opportunity for correction or a hearing.

(b) Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by section 404 of the Community Mental Health Centers Act.

PART D—GENERAL

COMPREHENSIVE STATE HEALTH PLANS

SEC. 331. Section 314(d)(2) of the Public Health Service Act is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by striking out the period at the end of subparagraph (K) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (K) the following new subparagraph:

"(L) provide for services for the prevention and treatment of alcohol abuse and alcoholism, commensurate with the extent of the problem."

SPECIALIZED FACILITIES

SEC. 332. Section 243(a) of the Community Mental Health Centers Act is amended (1) by inserting "or leasing" after "construction", and (2) by inserting "facilities for emergency medical services, intermedite care services, or outpatient services, and" immediately before "post-hospitalization treatment facilities".

CONFIDENTIALITY OF RECORDS

SEC. 333. The Secretary may authorize persons engaged in research on, or treatment with respect to, alcohol abuse and alcoholism to protect the privacy of individuals who are the subject of such research or treatment by withholding from all persons not connected with the conduct of such research or treatment the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

TITLE IV—THE NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

ESTABLISHMENT OF COUNCIL

SEC. 401. (a) Section 217(a) of the Public Health Service Act is amended—

(1) in the first sentence thereof, by inserting "the National Advisory Council on Alcohol Abuse and Alcoholism," immediately after "the National Advisory Mental Health Council,";

(2) in the second sentence thereof, by (A) inserting "the National Advisory Council on Alcohol Abuse and Alcoholism," immediately after "the National Advisory Mental Health Council,", and (B) inserting "alcohol abuse and alcoholism," immediately after "psychiatric disorders,"; and

(3) in the fourth sentence, (A) by inserting "(other than the members of the National Advisory Council on Alcohol Abuse and Alcoholism)" after "the terms of the members"; (B) by striking out "and" before "(2)"; and (C) by striking out the period at the end and inserting a semicolon and "and (3) the terms of the members of the National Council on Alcohol Abuse and Alcoholism first taking office after the date of enactment of this clause, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment."

(b) Section 217(b) of such Act is amended, in the second sentence thereof, by inserting "alcohol abuse and alcoholism," immediately after "mental health,".

(c) Section 217 of such Act is further amended by adding at the end thereof the following new subsection:

"(d) The National Advisory Council on Alcohol Abuse and Alcoholism shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Secretary in the field of alcohol abuse and alcoholism. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of alcohol abuse and alcoholism and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of alcohol abuse and alcoholism, and (2) to collect information as to studies being carried on in the field of alcohol abuse and alcoholism and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health and welfare agencies or organizations (public or private) or physicians or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditioned gifts for work in the field of alcohol abuse and alcoholism; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council."

APPROVAL BY COUNCIL OF CERTAIN GRANTS UNDER PART C OF COMMUNITY MENTAL HEALTH CENTERS ACT

SEC. 402. Section 266 of the Community Mental Health Centers Act is amended (1) by inserting "(other than part C thereof)" immediately after "this title", and (2) by adding immediately after the period the following: "Grants under part C of this title for such costs may be made only upon recommendation of the National Institute on Alcohol Abuse and Alcoholism established by such section."

TITLE V—GENERAL

SEC. 501. If any section, provision, or term of this Act is adjudged invalid for any reason,

such judgment shall not affect, impair, or invalidate any other section, provision, or term of this Act, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

SEC. 502. (a) Each recipient of assistance under this Act pursuant to grants or contracts entered into under other than competitive bidding procedures 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 or contract, the total cost of the project or undertaking in connection with which such grant is given 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 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 such recipients that are pertinent to the grants or contracts entered into under the provisions of this Act under other than competitive bidding procedures.

SEC. 503. Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

The motion was agreed to.

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

The similar House bill (H.R. 18874) was laid on the table.

EMERGENCY HEALTH PERSONNEL ACT OF 1970

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1302 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1302

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. 19860) to amend the Public Health Service Act to authorize the assignment of commissioned officers of the Public Health Service to areas with critical medical manpower shortages, to encourage health personnel to practice in areas where shortages of such personnel exist, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, 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 Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, 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.

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

The SPEAKER. The gentleman from California is recognized.

Mr. SISK. Mr. Speaker, House Resolution 1302 provides an open rule with 2 hours of general debate for consideration of H.R. 19860, Emergency Health Personnel Act of 1970. The resolution also provides that it shall be in order to consider the committee substitute as an original bill for the purpose of amendment.

The purpose of H.R. 19860 is to provide for the use of commissioned officers of the Public Health Service to provide health services to persons living in communities and areas of the United States where health personnel and services are inadequate.

After receiving a request from a State or local health agency and certification by State and district medical societies for an area that health personnel are needed, the Secretary of Health, Education, and Welfare determines which communities or areas may receive assistance.

Persons receiving services through this program shall be charged at rates prescribed by the Secretary. If payment for services is authorized under medicare or medicaid, or through insurance programs, the Secretary is required to collect from such program. Amounts paid for services rendered under the legislation will be deposited in the U.S. Treasury.

A National Advisory Council on Health Manpower Shortage Areas is established, consisting of 15 members, to consult with and make recommendations to the Secretary.

The sum of $10 million is authorized for fiscal year 1971, $20 million for fiscal year 1972, and $30 million for fiscal year 1973.

Mr. Speaker, I urge the adoption of the rule in order that H.R. 19860 may be considered.

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

Mr. Speaker, again in the interest of trying to save time so we can get home by Christmas, I will not make any additional statement repeating what the gentleman from California (Mr. SISK) has said.

The purpose of the bill is to authorize the use by commissioned officers of the U.S. Public Health Service to provide health services to persons living in areas of the United States where either health personnel or services, or both, are inadequate.

In the United States today, we are suffering from a shortage of health personnel. While the ratio of physicians to population has remained steady since 1940 more and more doctors have turned to specialization; thus the number of doctors in general practice has greatly decreased—from 90 for every 100,000 in 1940 to a ratio of 31 per 100,000 in 1967. Particularly in rural areas is the shortage acute. Because the number of general practitioners continues to decline, these same rural areas will continue to suffer the greatest problems from a shortage of doctors, as the specialists naturally tend to practice in urban areas.

The bill seeks to alleviate this shortage somewhat by authorizing Public Health Service officers to provide needed health services in areas facing a doctors shortage. The Secretary of Health, Education, and Welfare will determine those areas which qualify for such assistance based upon his own evaluation and the recommendations of a State's dental and medical health associations.

When an area has been designated for assistance, the Secretary may assign public health officials if he receives a request for such services from the State or local health authority and he receives a certification that such assistance is needed, given by the State and district medical—or dental—societies.

Persons receiving assistance will be charged rates set by the Secretary.

Authorizations contained in the bill total $60,000,000 and are as follows: $10,000,000 for fiscal 1971, $20,000,000 for 1972, and $30,000,000 for fiscal 1973.

There are no minority views. The administration urges deferral on the bill until it has completed its study of all public health programs.

Mr. SISK. 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. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19860) to amend the Public Health Service Act to authorize the assignment of commissioned officers of the Public Health Service to areas with critical medical manpower shortages, to encourage health personnel to practice in areas where shortages of such personnel exist, and for other purposes.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 19860, with Mr. BOLAND 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 West Virginia (Mr. STAGGERS) will be recognized for 1 hour, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 1 hour.

The Chair recognizes the gentleman from West Virginia.

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

Mr. Chairman, this bill has the title, "The Emergency Health Personnel Act of 1970." It is intended to provide physicians, dentists, and other health personnel, to provide health services in areas of the United States where there is a crit-

ical shortage of health manpower. This would be accomplished through assignment of commissioned officers and other personnel of the Public Health Service to those areas to provide needed services.

The bill would authorize appropriations of $60 million over a 3-year period to provide for payment of the costs of the program under which commissioned officers and other personnel of the Public Health Service would be assigned to provide medical services in areas of the United States which are critically short of health manpower.

The United States is today suffering from a shortage of physicians and other health manpower, which means that in many areas of the United States no doctors are available; or, if doctors are available, there are too few of them.

The distribution of physicians in the United States is quite uneven, so that shortage is much more acute in some areas than in others. This bill provides that the Secretary of Health, Education, and Welfare will determine which areas of the United States are suffering from critical shortages of health personnel, and then if a proper request is made by the appropriate authority of that area, personnel of the Public Health Service may be assigned to provide health services in that area.

In order for the Secretary to have authority to assign personnel to an area, he must first receive a request from a State or local health agency or a public or nonprofit private health organization in that area for the assignment of health personnel. The Secretary must also receive a certification from the State medical society, and from the district medical society covering that area, as well as from the local government, that such health personnel are needed in the area.

The bill provides that a charge will be made for services, based upon the costs to the United States of providing those services with provision for services being provided to persons who cannot pay therefor, and for recovery of costs from insurance carriers or other Government programs such as medicare and medicaid.

A similar bill, S. 4106, has passed the Senate, and we think this bill would be particularly helpful as a means of providing health services to people in areas of the United States where there are no doctors available.

Our Subcommittee on Public Health and Welfare held hearings on this legislation, and revised it in a number of respects to meet objections made to it. As was pointed out by the Surgeon General in his testimony, the appropriations authorizations contained in the bill are at a low enough level where it is apparent that the bill authorizes pilot projects and demonstrations. In my opinion we ought to pass the bill, as an experiment to determine if this approach is a desirable one for furnishing health services in areas which are critically short of health manpower.

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

Mr. Chairman, the principal purpose of this bill is to provide medical assistance in areas of critical need by use of the Public Health Service.

The authorization the first year will be for $10 million; and for 1972, it will be $20 million; and for 1973, it will be $30 million.

While the ratio of physicians to population has remained constant between 1950 and 1963, the ones in private practice have declined from 109 per 100,000 to 97 per 100,000. General practitioners declined from 90 per 100,000 in 1940 to only 31 per 100,000 in 1967.

While the above shows a national picture, consider that in 1963 there were 181 physicians per 100,000 in large metropolitan areas as contrasted with 50 per 100,000 in isolated rural areas.

The Secretary of Health, Education, and Welfare in this will determine who can receive assistance. The Secretary must consider the following:

First, need of the area for health services;

Second, willingness of the community to assist and cooperate with the service—and that includes the State and district medical societies, and they must ask for it;

Third, recommendations of any comprehensive, areawide planning group covering the area; and

Fourth, recommendations of the State medical, dental, or other health associations, and from other medical personnel of the community or area.

This bill does not include financial inducements found in other bills which would encourage recently graduated medical students to serve in these areas.

The administration has not responded to the request for opinions. However, it is felt they may well favor this.

It is my feeling that this will provide services, and will provide young people, young commissioned officers of the Public Health Service who will go into the ghetto areas where they are needed, and who will go into the rural areas where there are very few physicians. The need in these areas is great. Certainly I think this will help give medical assistance where it is most needed, and I strongly recommend passage of this bill.

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

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

Mr. BINGHAM. Mr. Chairman, the chairman of the committee will recall I testified before the subcommittee in favor of this bill. I think it is potentially an enormously useful bill, but I was a little disturbed in some of the amendments that have been made in the committee and also in the committee report at the degree of emphasis that appears now to be in the bill on the subject of rural areas.

I would like to ask the chairman of the committee this question. Is it still the intention of the committee that this bill would apply in urban areas as well as rural areas where there is a shortage of medical personnel?

Mr. STAGGERS. Yes, indeed. That is the intent of the bill—completely. I can assure the gentleman from New York of that.

Mr. BINGHAM. I thank the chairman. I would like to comment that in my district in New York City and in parts of our other great cities we do have extraordinary shortages of medical personnel, particularly general practitioners.

They are almost disappearing in some areas. I am glad to have the reassurance that it is the purpose of the committee that this program be available under the conditions laid down to go into urban areas.

Mr. STAGGERS. I thank the gentleman.

Mr. ROGERS of Florida. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I am happy to yield such time as he may consume to the gentleman from Florida, a member of the committee.

Mr. ROGERS of Florida. Mr. Chairman, I rise in support of H.R. 19860, a bill to amend the Public Health Service Act to authorize the assignment of commissioned officers of the Public Health Service to areas of our Nation with critical health manpower shortages.

We all know that there is a critical shortage in health manpower throughout the Nation. It has been estimated that this shortage amounts to approximately 50,000 physicians, 20,000 dentists, 200,000 nurses, and thousands of other health professionals and paramedical personnel.

This manpower shortage is extremely severe in isolated rural areas and in urban poverty areas. Doctors, nurses, and other health professionals are gravitating toward the urban areas, leaving a void in health care delivery in the rural areas. Another very serious factor is the steady decline in the number of general practitioners available to serve rural or urban poverty areas.

H.R. 19860 provides for the establishment of an identifiable administrative unit within the Public Health Service to administer a program to improve the delivery of health services in health shortage areas. This program would not deal with the overall problem of decreasing the shortage of health personnel in the United States. Rather, this legislation is directed at attempting to alleviate the acute problems in health care delivery arising in health manpower shortage areas. There is a substantial number of counties which do not have even one doctor in residence to provide services to the people.

A State or local health agency or other public or nonprofit private health organization in a critical health manpower shortage area, so designated by the Secretary of Health, Education, and Welfare, may request the Public Health Service to assign health personnel to that area to provide health care and services under the provisions of this bill. Before the Secretary may send health personnel into any area, the State and district medical societies, or dental or other health societies, would be required to certify that such an area has a shortage of doctors, dentists, nurses, or any other types of health personnel represented by such societies. Such certification as to substantiate a health man-

power shortage would also be required from the community or communities directly affected by the proposed program.

The Secretary, in cooperation with the State and local governmental agencies, the State medical, dental, and other associations, and the other medical or governmental personnel of the community or area considered for assistance, shall provide health care services through the Public Health Service. Any person receiving health care would be charged to the extent practicable for such service at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such service. If a person receiving assistance is determined under regulations of the Secretary to be unable to pay the established fee, then the Secretary may provide for the furnishing of such service at a reduced rate, without charge, or under other governmental programs such as medicaid and medicare established for that purpose.

This legislation also provides that the Secretary shall, to the extent feasible, utilize the health facilities existing in the area to be served or to otherwise arrange for the use of the nearest health facilities, or lease or otherwise provide facilities in the area.

The bill also provides for the establishment of the National Advisory Council on Health Manpower Shortage Areas, which will be composed of 15 members representing the public consumers of health care, medical, dental and other health professions, State health agencies, Public Health Service, and the National Advisory Councils on Comprehensive Health Planning and Regional Medical Programs. The Council shall consult with, advise, and make recommendations to the Secretary in carrying out this important program.

It shall be the function of the Secretary under the provisions of subsection (f) of section 329 of the Public Health Service Act to establish guidelines with respect to how the service will be utilized in the designated need areas. It is the intent of the Subcommittee on Public Health of the Interstate and Foreign Commerce Committee that the Secretary provide in such guidelines for the establishment of residency training programs and residency accreditation for students who have graduated from medical schools, while these students are participating in the Public Health Service program established pursuant to this legislation. I believe that this provision will offer a tremendous incentive to medical school graduates to participate in this program upon graduation.

Since this is a new and innovative program, the committee decided that a modest 3-year program first be implemented in order to evaluate its potential in solving the problem of health care delivery in rural and other health manpower shortage areas. The committee is authorizing in this bill, $10 million for fiscal 1971, $20 million for fiscal 1972, and $30 million for fiscal 1973.

I am urging the administration to wholeheartedly proceed with this vital program immediately upon its enactment. We cannot ignore the state of health care delivery and shortage of health services in any areas in our Nation. I urge my colleagues to join with me in helping to meet this need by supporting the Emergency Health Personnel Act of 1970.

Mr. Chairman, I have received information from reliable sources that while the Nation is in the midst of a health crisis, the administration is considering closing eight public health hospitals and 30 clinics.

The facilities under consideration are located in 32 States and the District of Columbia and last year administered to more than 535,000 patients for a total of 1,700,000 visits. The hospitals have a bed total of more than 2500, and logged 37,000 admissions last year.

The Department of Health, Education, and Welfare made the recommendation to the President and it was originally scheduled to be announced Thursday, but has been delayed. I have wired the President asking him not to close the facilities.

At a time when this Nation is in a desperate health crisis I find it unbelievable that the administration would add to the problem by closing health facilities. We need more facilities and more health personnel, not less.

We should be opening these hospitals to more people, not burdening other facilities with the patients in these public health hospitals who would be transferred. The VA hospitals would have a problem absorbing these patients and it would cost us millions to contract them to other public and private hospitals.

The public health facilities are treating mostly merchant seamen, Coast Guardsmen. None of the public health Indian facilities were mentioned on the close list.

There might in fact be less need for these facilities because of the limited definition of patients admissible for these facilities, but we should expand the use of these facilities instead of closing them.

I hope that the House will pass the Emergency Health Personnel Act today because it is a logical extension of the public health facilities and personnel which are involved in the shutdown.

This bill would encourage the expansion of the Public Health Service so that the Secretary of Health, Education, and Welfare could assign medical personnel into areas where there is limited or no facilities or manpower. We should use these eight hospitals and 30 clinics and help these cities and the people who need health treatment in these areas.

I have no information as to the status of the narcotics centers in Lexington, Ky., and Fort Worth, Tex., but I would hope these would not be affected.

Those hospitals on the list are, along with beds, San Francisco, 366; New Orleans, 403; Baltimore, 238; Boston, 190; Staten Island, 636; Galveston, 160; Norfolk, 210; and Seattle, 281.

The clinics are: Mobile, Ala.; San Diego, San Pedro, Calif.; Jacksonville, Miami, Tampa, Fla.; Atlanta, Savannah, Ga.; Honolulu, Hawaii; Chicago, Ill.; Portland, Maine; Detroit, Mich.; St. Louis, Mo.; Buffalo, New York City, N.Y.; Cincinnati, Cleveland, Ohio; Portland, Oreg.; Philadelphia, Pittsburgh, Pa.; San Juan, P.R.; Charleston, S.C.; Memphis, Tenn.; Houston, Port Arthur, Tex.; and Washington, D.C.

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

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

Mr. HALL. I appreciate the gentleman yielding.

I have studied the bill and the committee report in detail. I believe I have heard every word spoken in favor of the bill by its proponents here today.

I am conscious of all those who support the bill, and through the years have been not only conscious of but also intimately associated with the needs of the Nation, whether they be in the civilian or military area, for the services of the critically scarce and highly trained personnel such as physicians and their ancillary aides in giving and maintaining quality care to the people.

I believe the report is very forthright, and I complement the committee on it. It states that the proportion of physicians is generally the same in this great United States of America of ours as it was after World War II. This is true, although there is, of course, a constant question of where the specialist vis-a-vis the general practitioner may decide to practice, whether it be in his workshop or another area.

At the same time, concomitantly, there is also a question of whether or not in the town of No Go, Mo., one may not get better medical care by getting in a modern car, with a telephone call ahead, with modern communications, and on a modern interstate highway going to a nearby hospital, as compared to the old-time doctors, when there were five in No Go, Mo., who could of course have hitched up their horses and gone to the bedside.

Outside of all that, there are a few questions I believe ought to be answered about this bill.

First. Where is the U.S. Public Health Service going to get these young general practitioners they are going to assign to the lesser advantaged areas of the metropolis or to the rural area?

Mr. ROGERS of Florida. If the gentleman will permit, I will say I know he is one of the most expert Members of the House in this whole field, and we have appreciated his advice to the committee all through the years.

I believe they are going to find these young doctors mainly will be attracted as they come out of school. We had a great deal of testimony from the organization that represents these young doctors, some 20,000 of them, and they do want to get into serving the general public, with the general delivery of services, family practice and community practice.

I was impressed by some of the testimony that it is beginning in the junior, sophomore, and freshman years, that as many as 80 percent in the classes now have indicated they want to go into this type of practice. This gives them an out.

To the other point the gentleman made about the community, I am sure this is true. It may be better just to drive a car

to a close community, if it is close enough and so forth.

This would be controlled in the medical association, which must give approval. I believe we have to put in all the safeguards for really trying to do a competent job, and there is a critical area with respect to which everyone agrees, the community, and the medical people say this should be done.

Mr. HALL. Mr. Chairman, if the gentleman will yield further, I appreciate his statement and I appreciate the safeguards that the committee has written in here as to who will decide about what is a critical area and so forth. However, in that connection I do want to point out that the business of medicine itself has done a pretty good job of increasing its annual output of physicians and ancillary aides. The number of medical schools has gone from 64 to 113 since 1949 to my knowledge. The annual increment of graduates has gone up from around less than 7,000 to over 13,000 per annum. That is why the ratio is still generally, as stated in the committee report, overall one physician for less than every 1,100 citizens in the United States in spite of our population explosion.

Now, insofar as the source of personnel is concerned, I am glad to hear the testimony of the gentleman that more and more young people, even in their junior and senior years, will be interested in participating, but there is nothing in the world to keep them participating as private practitioners in private practice. I received the award of the year, although I am a specialized specialist in surgery, in family practice in Missouri, and I am very proud of that. As the gentleman knows, I aided and abetted him in his bill to provide more family physicians which went through earlier this year. Your report forthrightly said that there are other bills and that this is minimum additional funding for that purpose. Are these people going to receive constructive military credit for service in these courses when so assigned? Let us get to the nub of the problem.

Mr. ROGERS of Florida. Yes; as is the present law. If they sign up presently in the Public Health Service for 2 years, they get credit. So we are not changing this at all. Only if the military does not need them.

Mr. HALL. Is that written into this bill in any proviso?

Mr. ROGERS of Florida. No. We do not change it at all. We have not touched the present law. This bill does not touch it at all.

Mr. HALL. I am sure the chairman and the distinguished gentleman from Florida know constructive military credit has been removed from the U.S. Public Health Service officers who were given certain assignments heretofore and maybe 2, 3, or 4 years ago, and I have forgotten the exact time. That was removed as far as providing draft deferment was concerned and so forth.

Mr. ROGERS of Florida. That is true. We do not touch on that at all.

Mr. HALL. One final question, Mr. Chairman, or two other questions, if the gentleman will permit and indulge me.

Mr. ROGERS of Florida. Certainly.

Mr. HALL. No. 1, there is considerable statement in the report about the testimony of the Surgeon General of the United States. You know, we have many surgeons general. The surgeons general of the armed services. However, the law itself and the statutes we have enacted say that the Surgeon General of the U.S. Public Health Service is the Surgeon General of the United States. I am not sure whether he is going to assign his own professional commissioned Officer Corps to these duties or whether the Secretary of Health, Education, and Welfare and maybe some social worker and adviser to the Secretary or an assistant in charge of what-you-may-call-it or someone else who never knew a doctor or had a treatment and so forth was going to assign the personnel. What is the committee's thinking on it?

Mr. ROGERS of Florida. It ought to be done by the Surgeon General. It is the intent that it must be done by the administrative unit in the Public Health Service. We tied it down.

Mr. HALL. I appreciate that, and it is a good legislative record to have in this enactment.

I notice on page 3 of the report a paragraph headed "Revitalization of the U.S. Public Health Service." Mr. Chairman, for the benefit of those who are here, the commissioned officer corps of the U.S. Public Health Service—and this is one of the principal reasons why I was concerned about the procurement of trained physicians, a rare and scarce category of personnel who have only their training to sell and for the most part have paid for it and endured the rigors of training for 13 or 14 years in order to obtain it—has been going downhill. In fact, I appeared before the distinguished gentleman's committee as long as 4 years ago and predicted then that unless something was done the commissioned officer corps of the U.S. Public Health Service was then under a Surgeon General who would preside over its demise.

This has become a fact as surely as one wants to track the points of deterioration, and it is still going on.

Does the distinguished gentleman know, for example, that today on the desk of the Commander in Chief, the President of the United States, is an order from the Secretary of Health, Education, and Welfare to close five additional HEW and U.S. Public Health Service hospitals that are in being and are used for many purposes, including the men of the U.S. merchant marine and others, and there are only eight remaining, if this is signed into law and five will be closed with the stroke of a pen, including between 54 and 72 outpatient clinics?

I ask the gentleman from Florida (Mr. ROGERS), the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS), and the Committee of the Whole House on the State of the Union wherein does it avail us to appropriate additional funds and call up additional personnel on the one hand and close down institutions and preside over the demise of institutions that are now engaged in quarantine work, engaged in international research, on immunology, and all of these other things, and so forth. In other words, on the one hand we are closing them down and on the other hand we are asking for these increases. It just does not make logic and sense.

Mr. ROGERS of Florida. I agree with the gentleman from Missouri. I have wired the President and have asked him not to permit this to happen and I am sure the gentleman from Missouri has probably done the same. I think you will find that this committee will go into this problem in depth at the earliest opportunity.

Mr. HALL. I have done more than that, I will say to the gentleman from Florida. I have tried to call the President, but I cannot get to him. However, I hope the gentleman or the chairman of the committee can get to him, because it is a sad state when the physician at the White House is used only to take care of sniffles when the President can call upon the Assistant Secretary of Health, Education, and Welfare, the Assistant Secretary of Defense for Health and Environment or others on matters of policy pertaining to such things that would allow them to close down as they already have in Memphis and many other fine public service hospitals while we in the Congress are appropriating more and more funds for brick and mortar and staffing and personnel on the one hand to build up care in the other areas.

I think the gentleman has a good bill and I shall support it as it is written. However, I hope we will get off the stick of this paradox and begin to exercise some responsible legislative oversight.

Mr. ROGERS of Florida. I share the gentleman's feelings and I am sure the committee will take action accordingly.

Mr. HALL. I thank the gentleman.

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

Mr. Chairman, I would like to ask a question with reference to the language in the bill in order to clarify my thinking and perhaps help me in the preparation of an amendment at the appropriate time.

On page 6 at the bottom thereof, section 329, subsection (b) there is the following language:

> Upon request of a State or local health agency or other public or nonprofit private health organization, in an area designated by the Secretary as an area with a critical health manpower shortage, to have health personnel of the Service assigned to such area, and upon certification to the Secretary by the State and the district medical societies——

My question of the gentleman is this: What is a nonprofit private health organization? Is that one of these ad hoc groups that can be put together by any group of interested citizens to look after their concerns about the public health or whatever it is?

Well, does that refer to any defineable designated agency? Because it seems to me if it does apply to ad hoc groups that can throw themselves together to express their concern about the medical situation in any broad community, that it may be made up of people who have no particular knowledge or expertise in medical and health problems, and services,

and certainly need the health service personnel, from the way they work, and it may be self-defeating.

Mr. ROGERS of Florida. I share the concern of the gentleman that it just would not be a temporary group gotten together. I think we would have to have it established as being a nonprofit private health organization that has had concern, that is an on-going organization. But also I may point out to the gentleman that this nonprofit group—it would have to be certified, I would agree, but it would have to also have the approval, as the gentleman knows, not only of the community and the governmental bodies there, but it would also have to have the approval of the medical societies, the dental societies. So even if anybody asked for it, I do not care if they are just—although this is not so, even if not, you know, it is fully protected. But this would have to be a medical group, I would anticipate, a nonprofit private health organization such as a hospital group, or a clinic group, or something like that, that would have knowledge.

Mr. BROWN of Ohio. What about the OEO CAP Council, for instance?

Mr. ROGERS of Florida. Well, I would agree they could ask.

Mr. BROWN of Ohio. That is my question. In other words, from whom would you permit this request? It could come from just anybody, any sort of a little group that says that the health service on Capitol Hill is not sufficient, and not enough.

Mr. ROGERS of Florida. No; it could not be, but if it is an established group that is an on-going group, and it is knowledgeable in the field, then they would be qualified to request. But you have the protection where the request has to be joined in by all of the other groups, it is not a single request by this group that would bring it about.

Mr. BROWN of Ohio. Would the gentleman have any objection to eliminating the word "nonprofit"?

Mr. ROGERS of Florida. I think it would be an error to do so, because the intent is clear. We have every safeguard required in it.

I might yield for a moment to the gentleman from Kentucky who was very specific about this perfection, and I would yield to the gentleman from Kentucky to comment on it.

Mr. CARTER. Mr. Chairman, I thank the gentleman for yielding, and if you will read further down in the paragraph, it goes on to say:

> And upon certification to the Secretary by the State and the district medical societies (or dental societies, as the case may be) for that area, and by the local government for that area. . . .

All of these are necessary before such an organization which the gentleman mentions can receive this assistance.

But actually, when we get down to it, why should not a nonprofit private organization receive the help if it is properly certificated?

Mr. BROWN of Ohio. Another question in further clarification, if the gentleman will yield further:

Do I understand the procedures, then, that the organizations indicated on line 25 on page 6, and line 1 on page 7, first make their request to the local units, general local units of government, and to the local medical and dental societies before the administration at the Federal level is involved in the redtape and paper work? Or do they make their request directly to the Department of Health, Education, and Welfare or Secretary of Health, Education, and Welfare, and we get into all of the redtape and paper work before they check with the local medical and dental societies and the general units of local government?

Mr. ROGERS of Florida. I presume they would ask that their local groups be coordinated first. I think this would be in the prerogative of the Secretary to try to set up the exact procedure, this I think would be the logical way, and I am sure that is what will be done, otherwise there is no reason in making a request unless you have agreement within the area.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, the first thing is this area must be designated as one which needs the physician or health services by the Secretary, then the group applies and it must be certified.

Mr. BROWN of Ohio. If the gentleman will yield further, I am sure the gentleman knows very well how these things work when all you have to do is get some nonprofit local group together to make a request on the Federal Government, to hawk up some sort of group like that, and the request is made, then the Federal Government comes in like the U.S. Marines, or the Cavalry, to save a bad situation which may or may not be realistic.

My concern is whether or not the general units of the local government, the local and medical dental societies are brought into the issue for expert judgment first before starting involving the Federal Government into the question.

Mr. CARTER. I am quite sure, I must say to the distinguished gentleman, he is fighting dangers that do not exist.

Mr. BROWN of Ohio. Good.

Mr. CARTER. Those dangers are not there and certainly private nonprofit organizations, as may exist, can ask for this relief when they are in an area designated as needing health care. Of course, it must have approval after that.

I can see nothing bad coming out of this such as the distinguished gentleman envisions. All I can see is that we are making this bill to help people in the ghetto areas and the rural areas of America.

It is a good bill and I am for it. I urge support for it.

Mr. BINGHAM. Mr. Chairman, I wish to express my support for the Emergency Health Personnel Act of 1970. This bill reflects much of the substance of my bill, H.R. 19659, the National Health Service Corps Act of 1970 and provides a means for meeting the health needs of communities where doctors, dentists, and other health personnel and services are generally unavailable.

The fact that doctors and other health professionals are not attracted to areas of urban and rural poverty is a fact of life which hardly needs documentation. Yet in considering the need for health care, urban areas are often overlooked since almost all major cities do have established hospitals and often medical centers along with them. Unfortunately, the large number of people these facilities have to serve often means that there are large groups of people within the cities who, for all practical purposes, are not served by the facilities which do exist.

This legislation, by expanding the Public Health Service beyond its important but presently limited role, would bring much needed health care to impoverished urban as well as rural communities. Under present law, the Service can only provide direct health care to American Indians, merchant seamen, the Coast Guard, and Federal prisoners. With today's recognition that Federal assistance is needed to break the symbiotic relationship that exists between poverty, ignorance, and disease, it is entirely fitting that the Public Health Service be expanded to embrace this new recognition of the need and the Federal responsibility to meet it.

Mr. Chairman, while I support this bill, I do have reservations about two changes which the Subcommittee on Public Health and Welfare has made. First, the bill before us states that the Secretary of Health, Education, and Welfare, in determining which communities or areas may receive assistance under this bill, shall take into consideration the recommendations of State and local medical associations and personnel. But the bill also gives a veto power to State and local medical societies and to local governments over the use of Public Health Service personnel in their communities. I certainly agree that the views of local medical and governmental officials should be given serious consideration by the Secretary, as the bill provides, but I believe that to give such people an absolute veto over this program could unnecessarily hinder the delivery of health care to people who sorely need the benefits of this bill. I therefore intend to offer an amendment at the appropriate time to delete this veto power from the bill.

Second, the purpose of this bill is to provide health services to areas where such services are presently inadequate or totally unavailable. Since the shortage of physicians in the country is great, and since the scope of this legislation is limited, my bill specified that priority would be given to those areas of the United States where poverty conditions exist and where health facilities are inadequate. My bill would have authorized the Secretary to utilize Public Health Service personnel to provide needed services without charge, except in the case where the Secretary had to establish a mechanism for providing health care requiring the establishment of programs not otherwise authorized by law. Only in such a case would the Secretary be authorized to charge for the services.

The present bill, on the other hand, does not specify that poverty areas should be given priority and does require that any person who receives a service under this act shall be charged for the service. The bill does specify that the

Secretary may provide for the furnishing of such service at a reduced rate or without charge if a person is unable to pay the usual charge.

I am concerned, however, that this change does not place the needed emphasis on the fact that poverty areas should receive first priority for programs under this act. Furthermore, the fact that the recipients will, whenever possible, be charged the full cost of providing services to them is actually an incentive to set up programs in communities where the Public Health Service will be able to recover its costs. I want to make clear my assumption that the Public Health Service will not succumb to this temptation but will establish its programs in areas where the need is greatest, recognizing that this cost recovery provision is primarily a means of assuring that persons who can afford to pay for all or part of the services rendered will do so. It is my belief that if the programs are set up in the areas of greatest need, there will be few such people.

Finally, Mr. Chairman, let me raise one final point. It is not fair that doctors, who have been able to obtain a complete medical education, are able to serve in the Public Health Service as a means of fulfilling their military obligation while male nurses, technicians, and other paramedical personnel do not have this alternative available to them. The crisis in the availability of medical care will not be solved without the services of these paramedical professionals and I believe that everything possible should be done to encourage young people to enter this important field.

If this legislation is enacted into law, as I hope it will be, I will introduce, in the new Congress, legislation to amend the Selective Service law to give paramedical personnel in the Public Health Service the same alternative, vis-a-vis the draft, as is now accorded to doctors. I might also mention that the principle that a young man should be able to choose civilian service in lieu of military service is something I have sought for all young men. The details of my proposal are embodied in the National Service Act of 1970—H.R. 18025—which I also plan to reintroduce in the new Congress.

Mr. ADAMS, Mr. Chairman, concern has been expressed regarding the need to have some control on the Secretary of Health, Education, and Welfare being able to assign members of the commissioned officers corps to areas designated as medical need areas.

The committee, in order to prevent a wide scale assignment of public health personnel to deprived areas has undertaken to insert an amendment on the Senate bill and the subcommittee bill which would provide a built-in check system.

Their amendment would require that before the Secretary could send in any public health personnel to a critical need area there would have to be a certification of the need for such personnel by the State and district medical society and the local government.

While this protective certification process may indeed be a necessary thing, concern has been raised by a number of groups representing associations who have members serving in the commissioned corps that the State and district medical society would have the power to certify the need of a nurse, osteopathic physician, pharmacist, veterinarian, optometrist, or sanitary engineer to name a few.

These groups feel that when the Secretary or appropriate State agency or other persons makes a request that they have an area of critical health manpower shortages, that in many cases the shortage may not necessarily be one requiring a medical doctor, and therefore if it should require the certification of the appropriate health association involved.

The committee amendment did make reference that certification to the Secretary would also be by the dental societies, as the case may be which indicates that there is a realization that the dental society would certify the need for dentists from the Public Health Service Corps and not the medical society.

The same should be true regarding the use of public health officers who are nurses, osteopathic physicians, pharmacists, veterinarians, or optometrists. Their local society should have some input into the determination of members from their professions who may or may not be needed.

Therefore, Mr. Chairman, I ask that the following amendment be considered: That section 329(b) of the bill be amended as follows:

On line 17 after the words "dental societies," and before the word "as" the words "or other appropriate health societies" be inserted.

Thus Mr. Chairman, the safeguard control the committee included would be left intact but the concern of those other health professionals who provide a fine service as commissioned officers of the Public Health Service would also be protected.

Mr. MINISH. Mr. Chairman, I rise in support of the Emergency Health Personnel Act of 1970. I support this legislation because its intent is most commendable. The bill proposes that commissioned officers of the Public Health Service be utilized in communities where health personnel and services are inadequate.

There is certainly a noticeable shortage of physicians and other health manpower. The distribution is so uneven, moreover, that in 1963, the total number of physicians in private practice varied from 59 per 100,000 to 183 per 100,000.

To deal with this very problem, I earlier sponsored H.R. 19036, the Community Health Act. This legislation would relieve the shortage of physicians and other health personnel in small communities and other medically deprived areas. The measure that I sponsored would accomplish its purpose by repaying in full the educational debt of any physician, dentist, optometrist or other critically needed health specialist signing a contract to practice for 3 years in a medically deprived area. Such a measure would have a dual purpose; it would provide the needed manpower to deprived communities, in addition to helping health manpower afford training.

There is no question about the shortage of doctors and dentists in America, as well as others in allied health fields. We know, too, how impossibly expensive medical training prevents many worthy individuals from obtaining the medical education they could utilize to the benefit of the public.

While I applaud the purpose of the bill under consideration, I must add that its program requires much supplementing. The Congress should recognize the need for additional legislative action in addition to the Emergency Health Personnel Act of 1970 in order to provide citizens with the health care to which they are entitled.

Mr. SCHMITZ. Mr. Chairman, I am strongly opposed to H.R. 19860, the Emergency Health Personnel Act, and urge that it be wholly rejected by the House. The purpose of this bill is frankly and clearly stated on the first page of the committee report:

> The principal purpose of the bill is to provide for the use of commissioned officers of the Public Health Service to provide health services to persons living in communities and areas of the United States where health personnel and services are inadequate.

Yet the full significance of this has not yet been brought out in our debate.

The Public Health Service was never intended to provide personal medical services in competition with private physicians—whether or not some bureaucrat thinks that their services in a given area are "inadequate." The Public Health Service is supposed to deal in public health, not private care—in disease prevention and in research and development, not in the treatment of patients. To bring the Public Health Service into direct medical care is to take another long step toward socialized medicine—the last thing we need, considering the rate at which we are already plunging into it. Enthusiasts for programs of this kind should be reminded over and over again that socialized medicine has been a colossal failure in every country that has tried it—and, to their sorrow, there have been many. We can still block it in the United States. The defeat of this bill would be a good place to start.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

Mr. CARTER. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Health Personnel Act of 1970".

SEC. 2. Part C of title III of the Public Health Service Act is amended by adding after section 328 the following new section:

"ASSIGNMENT OF MEDICAL AND OTHER HEALTH PERSONNEL TO CRITICAL NEED AREAS

"SEC. 329. (a) It shall be the function of an identifiable administrative unit within the Service to improve the delivery of health services to persons living in communities and

areas of the United States where health personnel and services are inadequate to meet the health needs of the residents of such communities and areas.

"(b) Upon request of a State or local health agency or other public or nonprofit health organization, in an area designated by the Secretary as an area with a critical health manpower shortage, to have health personnel of the Service assigned to such area, and upon certification to the Secretary by the State and the district medical societies (or dental societies, as the case may be) for that area, and by the local government for that area, that such health personnel are needed for that area, the Secretary is authorized, whenever he deems such action appropriate, to assign commisioned officers and other personnel of the Service to provide, under regulations prescribed by the Secretary, health care and services for persons residing in such areas. Such care and services shall be provided in connection with (1) direct health care programs carried out by the Service; (2) any direct health care programs carried out in whole or in part with Federal financial assistance; or (3) any other health care activity which is in furtherance of the purposes of this section. Any person who receives a service provided under this section shall be charged for such service at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such service; except that if such person is determined under regulatioins of the Secretary to be unable to pay such charge, the Secretary may provide for the furnishing of such service at a reduced rate or without charge. If a Federal agency or a State or local government agency or other third party would be responsible for all or part of the cost of the service provided under this section if such service had not been provided under this section, the Secretary shall collect from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"(c) Commissioned officers and other personnel of the Service assigned to areas designated under subsection (b) shall not be included in determining whether any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare has been exceeded.

"(d) Notwithstanding any other provision of law, the Secretary, to the extent feasible, may make such arrangements as he determines necessary to enable officers and other personnel of the Service in providing care and services under subsection (b) to utilize the health facilities of the area to be served. If there are no such facilities in such area, the Secretary may arrange to have such care and services provided in the nearest health facilities of the Service or the Secretary may lease or otherwise provide facilities in such area for the provision of such care and services.

"(e)(1) There is established a council to be known as the National Advisory Council on Health Manpower Shortage Areas (hereinafter in this section referred to as the 'Council'), The Council shall be composed of fifteen members appointed by the Secretary as follows:

"(A) Four members shall be appointed from the general public, representing the consumers of health care.

"(B) Three members shall be appointed from the medical, dental, and other health professions and health teaching professions.

"(C) Three members shall be appointed from State health or health planning agencies.

"(D) Three members shall be appointed from the Service, at least two of whom shall be commissioned officers of the Service.

"(E) One member shall be appointed from the National Advisory Council on Comprehensive Health Planning.

"(F) One member shall be appointed from the National Advisory Council on Regional Medical Programs.

The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this section.

"(2) Members of the Council shall be appointed for a term of three years and shall not be removed, except for cause. Members may be reappointed to the Council.

"(3) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

"(f) It shall be the function of the Secretary—

"(1) to establish guidelines with respect to how the Service shall be utilized in areas designated under this section;

"(2) to select commissioned officers of the Service and other personnel for assignment to the areas designated under this section; and

"(3) to determine which communities or areas may receive assistance under this section taking into consideration—

"(A) the need of the community or area for health services provided under this section;

"(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Service in providing effective health services to residents of the community or area;

"(C) the recommendations of any agency or organization which may be responsible for the development, under section 314(b), of a comprehensive plan covering all or any part of the area or community involved; and

"(D) recommendations from the State medical, dental, and other health associations and from other medical personnel of the community or area considered for assistance under this section.

"(g) To carry out the purposes of this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $20,000,000 for the fiscal year ending June 30, 1972; and $30,000,000 for the fiscal year ending June 30, 1973."

AMENDMENT OFFERED BY MR. STAGGERS

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

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: On page 11, after line 18, insert the following:

"SEC. 4. Title II of the Public Health Service Act is amended by adding after section 223 the following new section:

"'DEFENSE OF CERTAIN MALPRACTICE AND NEGLIGENCE SUITS

"'SEC. 223 (a) The remedy against the United States provided by sections 1346(b) and 2672 of Title 28, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of title 28, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee (or his estate) whose act or omission gave rise to the claim.

"'(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

"'(c) Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: *Provided,* That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

"'(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

"'(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to assault or battery arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

"'(f) The Secretary or his designee may, to the extent that he deems appropriate, hold harmless or provide liability insurance for any officer or employee of the Public Health Service for damage for personal injury, including death, negligently caused by such officer or employee while acting within the scope of his office or employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such employee is assigned to a foreign country or detailed to a State or political subdivision thereof or to a non-profit institution, and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury.'"

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. STAGGERS. Mr. Chairman, the Surgeon General came to my office and asked that this amendment be put into the bill because of the low pay that so many of those who work in the U.S. Public Health Service receive. They just cannot afford to take out the customary liability insurance as most doctors do. So they have asked, if in the event there is a suit against a PHS doctor alleging malpractice, the Attorney General of the United States would defend them in whatever suit may arise.

Mr. Chairman, that is what the amendment means in simple words. I think it is a good amendment, and is an amendment that ought to be adopted by the House. It is needed because of the low salaries that they receive and in view of their low salaries, they cannot afford to take out the insurance to cover them in the ordinary course of their practice of medicine.

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

Mr. STAGGERS. I am glad to yield to the gentleman.

Mr. HALL. Mr. Chairman, I appreciate the gentleman yielding.

I think the gentleman's amendment is fundamental to the use intended of this personnel under this bill.

But I would like to ask the gentleman if his committee is also looking into the general problem in the United States of malpractice insurance? It would seem to me that this should be a first step forward, in dealing with this impossible situation that exists, especially in category V of high risk. Unfortunately, today medical practitioners find themselves at a point where they can no longer procure in the private market, at any price, including up to $10,000 a year, premium insurance for malpractice, in this day and time.

Now even Lloyds of London will no longer insure this particular category of practitioner. So it seems to me to be elemental that at some day in the not too distant future the distinguished gentleman's committee should address itself to the problem of either limiting liability or disassociating that paradoxical team in harness, of the ambulance chasing barrister and the not too ethical practitioner—or else taking over this insurance itself from the Federal point of view.

There may be other alternatives, but if there are, I cannot say what they are, and I hope that this committee will soon address itself to this problem. I know of innumerable numbers of these scarce and critically trained personnel who are retiring early because of the lack of availability of malpractice insurance.

Mr. STAGGERS. I appreciate the remarks of the gentleman from Missouri. I assure him that the committee will be going into aspects of that particular situation to which the gentleman has referred.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ADAMS

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

The Clerk read as follows:

Amendment offered by Mr. ADAMS: Page 7 line 6; after the words "dental societies" and before the word "as", insert the words "or other appropriate health societies".

Mr. ADAMS. Mr. Chairman, I hope that the Committee will accept this amendment.

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

Mr. ADAMS. I yield to the chairman of the committee.

Mr. STAGGERS. I believe the amendment would accord with the concept of what was intended, and personally I have no objection to it.

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

Mr. ADAMS. I yield to the gentleman from Kentucky.

Mr. CARTER. I would like to ask to what other health groups the gentleman refers.

Mr. ADAMS. The other health groups would be those such as nurses, pharmacists, optometrists, or osteopathic physicians as groups that are typical of those who have appropriate medical societies. Those would be the kind of people who would be included.

Mr. CARTER. In that case I would accept the amendment.

Mr. ADAMS. I thank the gentleman.

PARLIAMENTARY INQUIRY

Mr. BINGHAM. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BINGHAM. I have an amendment at the desk which affects in part the same lines that are to be amended by the amendment offered by the gentleman from Washington. I am not sure whether I would be foreclosed from offering my amendment, since that passage would be amended if the gentleman's amendment is agreed to. Otherwise, I could offer my amendment as a substitute amendment or as an amendment to the amendment offered by the gentleman from Washington.

The CHAIRMAN. The Chair will respond by saying that the gentleman from New York would not be foreclosed from offering his amendment, because it would strike additional language and insert new language.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

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

Mr. BROWN of Ohio. I should like one further clarification of the gentleman's amendment. It does not, I gather, add ad hoc groups, nonprofit organizations, or that sort of thing?

Mr. ADAMS. No; it does not.

Mr. BROWN of Ohio. People who do not have medical expertise within the grasp of their own purse?

Mr. ADAMS. The gentleman is correct in his interpretation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. ADAMS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

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

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 7, line 4, delete all after the comma down through and including the comma on line 7, and insert in lieu thereof, "upon consultation with the State and district medical societies (or dental societies, as the case may be) for that area, and upon certification to the Secretary by the local government for that area".

The CHAIRMAN. The gentleman from New York is recognized in support of his amendment.

Mr. BINGHAM. Mr. Chairman, if this amendment is agreed to, I will ask unanimous consent that it be amended to conform to the amendment just offered by the gentleman from Washington. I agree with the gentleman's amendment, and it is not my purpose to contravene what he has just added to the bill.

The purpose of this amendment is to make it a matter of consultation with the State and District medical societies, rather than giving them a veto power over whether the Secretary shall certify that the medical facilities in the area are not available.

The local government would still have the requirement that it certify that health personnel are needed for the area, but the State and District medical societies would be consulted rather than be required to certify.

I would call attention to the fact that at a later point in the bill it is required that their recommendations be taken into account and my amendment is consistent with that.

The medical societies certainly should be consulted, but I am afraid from the experience that some of us have had with local medical societies in particular that I would not be happy with the situation where they would be in a position to say, oh, yes, there is plenty of medical care available in this particular area, and thereby be able to block the Secretary from certifying that health personnel were needed in that area.

That is the essence of my amendment, that the State and District medical societies would have to be consulted but they would not have to certify that the health personnel were needed. Only the local government for the area would have to certify.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment. I might say to the House that this bill would not have reached this House unless these very words were placed in here as a safeguard. We did not want doctors being assigned to an area where other doctors say they are not needed or where it is not certified there is a critical need. There is no one better qualified to do this than the local doctors and medical societies.

This bill would not have come to this House floor, I can assure Members, if these words had not been in the bill. We are not trying to make this a bill that would send the doctors into every area

in the country, but only into the areas where it is certified they are needed.

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

Mr. Chairman, the reason we placed this particular statement in the bill was because we wanted to obviate the very thing the distinguished gentleman from New York mentioned: that is, where a district group would certify, rather than a local group. It is to keep one man or one jealous physician—as I think the distinguished gentleman from New York perhaps envisions—from blocking another physician going into an area where he may be very much needed.

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

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

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I am not sure I correctly understood the language of the bill, but I pose this situation. Suppose a situation would arise in my own Bronx County where we have a Bronx County Medical Society, and there is no smaller medical society. Supposing it was shown a medical officer was needed in a large area of Bronx County. Would it be the Bronx County Medical Society that would have to certify that medical care was not available?

Mr. CARTER. I do not know how it is in the gentleman's area, but the medical society in the area would have to certify that need. Surely in God's good heaven if there were such a need, they would certify that need.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the reason this language was put in the bill was to bear directly on the point the gentleman has raised, which is that the local medical and dental societies are considered to be competent judges of whether or not there is a gross medical need in an area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was rejected.

AMENDMENT OFFERED BY MR. BINGHAM

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

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 7, line 23, delete the word "pay" and insert in lieu thereof the word "afford".

Mr. BINGHAM. Mr. Chairman, it may well be that this amendment can be taken care of by legislative history. I do not want to create additional difficulties for the committee, but I do raise the point that the way the bill now reads in the committee amendment, an interpretation could be made that if the individual in question physically had the funds in his possession to pay the medical charges he would not qualify. Surely that is not a desirable situation. What I assume the committee had in mind was that the person be determined under regulations of the Secretary to be unable to afford to pay the medical charges.

If the committee can assure me that is the interpretation which is intended, I shall be glad to ask unanimous consent to withdraw my amendment.

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

Mr. BINGHAM. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I agree with what the gentleman had to say.

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

Mr. BINGHAM. I yield to the gentleman from Kentucky.

Mr. CARTER. I will say to the distinguished gentleman from New York, the purpose is to confine services to those who are unable to pay, basically. That is the purpose of the bill. Of course, if they have money to pay, if they are wealthy people, they should pay unless provisions are made for this to go back to the Secretary.

Mr. BINGHAM. Now I am confused, because I understood the chairman of the committee to agree with my position that the committee meant to say they were unable to afford to pay. That is quite different from having money in hand.

Let us say that they have some money available, but it is available to pay for groceries for the youngsters, and they cannot afford to pay medical bills. Surely that is the situation many times. Generally many of these people have some income, either from public assistance or other sources. They get some few dollars a week, but they should not have to pay medical bills before they pay for food for the children.

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

Mr. BINGHAM. I yield to the gentleman from Kentucky.

Mr. CARTER. I do not believe any officer in the U.S. Public Health Service would take grocery money from the pockets of a poor man. I feel they will be men of principle and will feel as this bill means, for them to deal charitably with poor people.

Mr. BINGHAM. On the basis of the gentleman's statement and the statement of the chairman of the committee, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York.

There was no objection.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, 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. 19860) to amend the Public Health Service Act to authorize the assignment of commissioned officers of the Public Health Service to areas with critical medical manpower shortages, to encourage health personnel to practice in areas where shortages of such personnel exist, and for other purposes, pursuant to House Resolution 1302, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

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

The amendment was agreed to.

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

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

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 4106) to amend the Public Health Service Act in order to provide for the establishment of a National Health Service Corps, a bill similar to the one just passed by the House.

The clerk read the title of the Senate bill.

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

Mr. HALL. Mr. Speaker, reserving the right to object, can the gentleman from West Virginia assure us that S. 4106 is an identical bill?

Mr. STAGGERS. If the gentleman will yield, it is not identical but it is similar and it is a National Health Service Corps bill.

Mr. HALL. Is it the purpose of the distinguished gentleman from West Virginia to strike out all after the enacting clause of S. 4106 and substitute the House-passed bill and, if necessary, go to conference?

Mr. STAGGERS. Yes.

Mr. HALL. Mr. Speaker, I thank the gentleman for his statement, and withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill as follows:

S. 4106

An act to amend the Public Health Service Act in order to provide for the establishment of a National Health Service Corps.

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 "National Health Service Corps Act of 1970".

SEC. 2. Title II of the Public Health Service Act is amended by adding at the end thereof a new part as follows:

"PART J—NATIONAL HEALTH SERVICE CORPS

"ESTABLISHMENT OF NATIONAL HEALTH CORPS; FUNCTIONS

SEC. 399h. (a) There is established in the Service a National Health Service Corps (hereinafter in this part referred to as the 'Corps') which shall be under the direction and supervision of the Surgeon General.

"(b) It shall be the function of the Corps to improve the delivery of health services to persons living in communities and areas of the United States where health personnel,

facilities, and services are inadequate to meet the health needs of the residents of such communities and areas. Priority under this part shall be given to those urban and rural areas of the United States where poverty conditions exist and the health facilities are inadequate to meet the needs of the persons living in such areas.

"STAFFING; TERM OF SERVICE

"SEC. 399i. (a) The Surgeon General shall assign selected commissioned officers of the Service and such other personnel as may be necessary to staff the Corps and to carry out the functions of the Corps under this part.

"(b) Commissioned officers of the Service in the Corps and other Corps personnel shall be assigned for service in the Corps for a period of twenty-five months. An individual assigned to the Corps may voluntarily extend his service in the Corps for a period not to exceed an additional twenty-five months. As individual shall have the right to petition the Director (appointed pursuant to section 339j of this part) for early release from service in the Corps at the end of twenty-four months of service therein.

"DIRECTOR OF THE NATIONAL HEALTH SERVICE CORPS

"SEC. 339j. The Corps shall be headed by a Director who shall be appointed by the Secretary, in consultation with the Surgeon General of the United States Public Health Service. It shall be the responsibility of the Director to direct the operations of the Corps, subject to the supervision and control of the Surgeon General and the Secretary.

"AUTHORITY OF SECRETARY TO UTILIZE CORPS PERSONNEL

"SEC. 399k. The Secretary is authorized whenever he deems such action appropriate to utilize commissioned officers of the Service and other personnel assigned to duty with the Corps to—

"(1) perform services in connection with direct health care programs carried out by the Service;

"(2) perform services in connection with any direct health care program carried out in whole or in part with the Department of Health, Education, and Welfare funds or the funds of any other department or agency of the Federal Government; or

"(3) perform services in connection with any other health care activity, in furtherance of the purposes of this Act. Should services provided under this subsection require the establishment of health care programs not otherwise authorized by law, the Secretary is authorized and directed to establish mechanisms whereby recipients of such services, or third parties shall pay, to the extent practicable, for services received. Any funds collected in this manner shall be used to defray in part the operating expenses of the Corps.

"SEC. 399l. It shall be the function of the Director—

"(1) to establish guidelines with respect to how the Corps shall be utilized;

"(2) to assist the Surgeon General, at his request, in the selection of commissioned officers of the Service and other personnel for assignment to the Corps, and to approve all assignments of Corps members.

"(3) to establish criteria for determining which communities or areas will receive assistance from the Corps, taking into consideration—

"(A) the need of any community or area for health services provided under this part;

"(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Corps in providing effective health services to residents of the community or area;

"(C) the prospects of the community or area for utilizing Corps personnel after their tour of duty with the Corps;

"(D) the recommendations of State and local health agencies; and

"(E) recommendations from the medical, dental, and other medical personnel of any community or area considered for assistance under this part.

"MANPOWER LIMITATIONS SUSPENSION

"SEC. 399m. (a) Commissioned officers of the Service assigned to service with the Corps and other personnel employed in the Corps shall not be included in determining any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare.

"(b) Notwithstanding any other provision of law, the Corps may, to the extent the Secretary determines such action to be feasible, utilize the facilities and personnel of hospitals and other health care facilities of the Service in providing health care to individuals as authorized under this part, and to lease, renovate, or purchase such other facilities as may be required to carry out the purposes of this Act.

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 399n. There is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972; $12,000,000 for the fiscal year ending June 30, 1973; and $15,000,000 for the fiscal year ending June 30, 1974."

AMENDMENT OFFERED BY MR. STAGGERS

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

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Strike out all after the enacting clause of S. 4106 and insert in lieu thereof the provisions of H.R. 19860, as passed, as follows:

That this Act may be cited as the "Emergency Health Personnel Act of 1970".

SEC. 2. Part C of title III of the Public Health Service Act is amended by adding after section 328 the following new section:

"ASSIGNMENT OF MEDICAL AND OTHER HEALTH PERSONNEL TO CRITICAL NEED AREAS

"SEC. 329. (a) It shall be the function of an identifiable administrative unit within the Service to improve the delivery of health services to persons living in communities and areas of the United States where health personnel and services are inadequate to meet the health needs of the residents of such communities and areas.

"(b) Upon request of a State or local health agency or other public or nonprofit private health organization, in an area designated by the Secretary as an area with a critical health manpower shortage, to have health personnel of the Service assigned to such area, and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for that area, that such health personnel are needed for that area, the Secretary is authorized, whenever he deems such action appropriate, to assign commissioned officers and other personnel of the Service to provide under regulations prescribed by the Secretary, health care and services for persons residing in such areas. Such care and services shall be provided in connection with (1) direct health care programs carried out by the Service; (2) any direct health care program carried out in whole or in part with Federal financial assistance; or (3) any other health care activity which is in furtherance of the purposes of this section. Any person who receives a service provided under this section shall be charged for such service at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary may provide for the furnishing of such service at a reduced rate or without charge. If a Federal agency or a State or local government agency or other third party would be responsible for all or part of the cost of the service provided under this section if such service had not been provided under this section, the Secretary shall collect from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"(c) Commissioned officers and other personnel of the Service assigned to areas designated under subsection (b) shall not be included in determining whether any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare has been exceeded.

"(d) Notwithstanding any other provision of law, the Secretary, to the extent feasible, may make such arrangements as he determines necessary to enable officers and other personnel of the Service in providing care and services under subsection (b) to utilize the health facilities of the area to be served. If there are no such facilities in such area, the Secretary may arrange to have such care and services provided in the nearest health facilities of the Service or the Secretary may lease or otherwise provide facilities in such area for the provision of such care and services.

"(e)(1) There is established a council to be known as the National Advisory Council on Health Manpower Shortage Areas (hereinafter in this section referred to as the 'Council'). The Council shall be composed of fifteen members appointed by the Secretary as follows:

"(A) Four members shall be appointed from the general public, representing the consumers of health care.

"(B) Three members shall be appointed from the medical, dental, and other health professions and health teaching professions.

"(C) Three members shall be appointed from State health or health planning agencies.

"(D) Three members shall be appointed from the Service, at least two of whom shall be commissioned officers of the Service.

"(E) One member shall be appointed from the National Advisory Council on Comprehensive Health Planning.

"(F) One member shall be appointed from the National Advisory Council on Regional Medical Programs.

The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this section.

"(2) Members of the Council shall be appointed for a term of three years and shall not be removed, except for cause. Members may be reappointed to the Council.

"(3) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

"(f) It shall be the function of the Secretary—

"(1) to establish guidelines with respect to how the Service shall be utilized in areas designated under this section;

"(2) to select commissioned officers of the Service and other personnel for assignment to the areas designated under this section; and

"(3) to determine which communities or areas may receive assistance under this section taking into consideration—

"(A) the need of the community or area for health services provided under this section;

"(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Service in providing effective health services to residents of the community or area;

"(C) the recommendations of any agency or organization which may be responsible for the development, under section 314(b), of a comprehensive plan covering all or any part of the area or community involved; and

"(D) recommendations from the State medical, dental, and other health associations and from other medical personnel of the community or area considered for assistance under this section.

"(g) To carry out the purposes of this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $20,000,000 for the fiscal year ending June 30, 1972; and $30,000,000 for the fiscal year ending June 30, 1973."

Sec. 4, Title II of the Public Health Service Act is amended by adding after section 223 the following new section:

"DEFENSE OF CERTAIN MALPRACTICE AND NEGLIGENCE SUITS

"Sec. 223(a) The remedy against the United States provided by sections 1346(b) and 2672 of Title 28, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of title 28, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee (or his estate) whose act or omission gave rise to the claim.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

"(c) Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: Provided, That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to assault or battery arising out of negligence in the performance of medical, surgical, dental or related functions, including the conduct of clinical studies or investigations.

"(f) The Secretary or his designee may, to the extent that he deems appropriate, hold harmless or provide liability insurance for any officer or employee of the Public Health Service for damage for personal injury, including death, negligently caused by such officer or employee while acting within the scope of his office of employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such employee is assigned to a foreign country or detailed to a State or political subdivision thereof or to a non-profit institution, and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury."

Amend the title so as to read "An Act to amend the Public Health Service Act to authorize the assignment of commissioned officers of the Public Health Service to areas with critical medical manpower shortages, to encourage health personnel to practice in areas where shortages of such personnel exist and for other purposes."

The amendment was agreed to.

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

The title was amended so as to read: "A bill to amend the Public Health Service Act to authorize the assignment of commissioned officers of the Public Health Service to areas with critical medical manpower shortages, to encourage health personnel to practice in areas where shortages of such personnel exist, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 19860) was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the two bills just passed.

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

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 19333, SECURITIES INVESTOR PROTECTION ACT, 1970

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight tonight to file a conference report on the bill H.R. 19333.

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

There was no objection.

INTERNATIONAL COFFEE AGREEMENT ACT

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1295 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1295

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. 19567) to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1968. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. MATSUNAGA. 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 1295 provides for the consideration of H.R. 19567, which, as reported by our Committee on Ways and Means, would continue until July 1, 1971, the President's authority to carry out and enforce certain provisions of the International Coffee Agreement of 1968. While the International Coffee Agreement itself will not expire until September 30, 1973, the President's authority to implement that agreement, as provided in the International Coffee Agreement Act of 1968, Public Law 90–634, expired on September 30, 1970. The resolution provides an open rule with 1 hour of general debate, after which the bill shall be read for amendment under the 5-minute rule. After the bill has been reported to the House with such amendments as may have been adopted, 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.

Briefly, the act which H.R. 19567 would extend provides the President with necessary authority:

First, to require that valid certificates of origin accompany coffee imports from any member of the International Coffee Organization and to limit coffee imports from countries that are not members of the agreement;

Second, to impose special fees and other measures to offset discriminatory treatment by other governments in favor of the export or reexport of processed coffee;

Third, to require the keeping of certain records and the rendering of certain reports relating to the importation, distribution, prices, and consumption of coffee; and

Fourth, to issue and enforce such rules and regulations as may be necessary to fully implement the obligations of the United States under the International Coffee Agreement.

Mr. Speaker, as a representative of the only State in the Union which produces coffee commercially, I can attest to the fact that the International Coffee Agreement has achieved its primary objective—relative stability of price at a level which is reasonable to consumers and equitable to producers of coffee. The extension of the President's authority under the International Coffee Agreement Act of 1968 would be beneficial to American consumers, who drink more coffee than the citizens of any other country.

Mr. Speaker, I urge the adoption of House Resolution 1295 in order that H.R. 19567 may be considered.

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

Mr. MATSUNAGA. I yield to the distinguished gentleman from Iowa.

Mr. GROSS. I have read with interest the report accompanying this bill, and particularly the language which appears on page 2 which says:

> In the early 1960's losses from declining coffee prices offset development aid and frustrated our efforts to promote growth and stability in the less-developed countries of the world.

I happen to serve on the Inter-American Subcommittee of the Committee on Foreign Affairs, and I can see no difference in the stability of the Latin American countries since this bonanza of the International Coffee Agreement came their way. And if the gentleman from Hawaii can cite me any substantial change in the stability of the various governments in that area I will be glad to hear about it.

Mr. MATSUNAGA. As the gentleman well knows, the stability of South American countries is not determined wholly by the coffee agreement. The coffee agreement was intended to stabilize the price of coffee, and this objective the agreement has succeeded in obtaining.

Mr. GROSS. Oh, yes, you bet your life it has succeeded; it has succeeded in stabilizing coffee prices to Americans at the highest constant levels we have known.

Mr. MATSUNAGA. That is not correct, as the gentleman knows. Before the agreement was entered into, the gentleman from Iowa, if he drinks coffee, must have been paying a fluctuating price, at times rising as much as a dollar to $1.25 a pound, for coffee. The price has been stabilized at about 60 percent of that high price since the coffee agreement has been put into effect.

Mr. GROSS. When did you pay $1.25 for a pound of coffee except during the war days, when it was rationed?

Mr. MATSUNAGA. There were periods after the war. As I stated earlier, and as the gentleman perhaps knows, Hawaii is the only State in the Union which produces coffee commercially. At one time our industry produced as much as $17.5 million worth of coffee, but because of the instability of the price of coffee on the domestic market, as well as on the world market, that industry has dwindled to a production of only $1.3 million annually. Before the coffee agreement was entered into, at times when the price of coffee was good everybody went into the coffee business; the following season the price would plummet down because of the oversupply and then everybody would go out of the coffee business. As a consequence the supply would then become so limited that the price of coffee would go sky-high, and once again everybody would go into the coffee business. This vicious cycle continued throughout the seasons before the International Coffee Agreement was entered into.

Mr. MILLS. Mr. Speaker, would the gentleman yield?

Mr. MATSUNAGA. I yield to the distinguished gentleman from Arkansas.

Mr. MILLS. Mr. Speaker, I appreciate the gentleman yielding, and I want to address myself to the point raised by the distinguished gentleman from Iowa.

Let me just point out that the Consumer Price Index for all goods and services increased 24 percent between 1965 and September 1970. The price index for all goods increased 23 percent during the same period. The price of coffee, however, increased only 16 percent, whereas the price of cola drinks increased 31 percent. So coffee has increased less than the others.

Mr. GROSS. Mr. Speaker, if the gentleman would yield further, does the gentleman know what a 1 percent increase in the price of coffee means to the consumers of the United States?

Mr. MATSUNAGA. It is an increase of 1 percent.

Mr. GROSS. What is it related in terms of dollars paid for coffee?

Mr. MATSUNAGA. At 60 cents a pound, that would be 0.6 cent.

Mr. GROSS. Have you got some coffee in Hawaii you are selling for 60 cents a pound that is worth drinking?

Mr. MATSUNAGA. Yes, at wholesale, of course.

Mr. GROSS. There is a lady, Helen Sewell, who runs a shop right back here in the corner, off the House floor and she sells coffee by the cup. The wholesale price of the coffee she buys has doubled since this international cartel was established.

Mr. MATSUNAGA. Well, is the gentleman going to believe the coffee shop owner or the distinguished chairman of the Committee on Ways and Means, who has just stated that while the average increase in the price of all goods was 23 percent and the price of cola drinks increased 31 percent in the last 5 years, the price of coffee increased only 16 percent? Will not the gentleman from Iowa accept the word of the distinguished chairman of the Committee on Ways and Means?

Mr. MILLS. Let me give the gentleman a little bit more of the statistics here.

The wholesale price of regular coffee in 1964, before we had an agreement, was 79.3 cents on the average.

The regular in 1969 was 78.6 cents on the average—which is less.

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

Mr. Speaker, I will have more to say on this later. But I would like to ask the gentleman from Arkansas (Mr. MILLS) if he has consulted with his wife lately on what she pays for any name-brand coffee?

Mr. MATSUNAGA. Mr. Speaker, I yield to the gentleman from Arkansas.

Mr. MILLS. She always takes me into her confidence on matters of that sort.

Mr. GROSS. You may supply the money and she may have consulted with you about that, but I will say to the gentleman that I do not think he has consulted with his wife lately on the price of coffee.

Mr. MATSUNAGA. The last time the gentleman from Iowa raised a question about a product of Hawaii, he confessed he had never tasted Hawaii's delectable papaya. I hope the gentleman is not saying that he has not enjoyed our Kona coffee which is the best in the world.

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

Mr. MATSUNAGA. I yield to the gentleman.

Mr. VANIK. I would like to say in response to the inquiry raised by our good friend, the gentleman from Iowa, that I share his concern on the effect that this arrangement has on coffee prices. I raised that issue before our committee. All that this present proposal does is to put this on probation for another 6 months, after which we can decide if we are going to continue such an arrangement or whether we should permanently terminate it.

I think this is the effect of the present bill and urge my good friend to support it at this time.

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

Mr. Speaker, I think the rule has been adequately explained—and probably the bill has been explained so that we can vote on it shortly.

But there is one thing possibly that has not been explained. As I understand it, in recent years Brazil has continuously violated the agreement with respect to its shipments of soluble coffee.

The report suggests that unless Brazil ceases all such violations which seek to increase its exports, the United States will impose a special duty on Brazilian coffee to bring its price up to that of other nations and, thus, restore a balance in the coffee market.

That is the reason, I believe, at this time we are only extending the agreement for 6 months, until July 1, 1971. In the past it has usually been extended for 2 years. I think the gentleman from Arkansas (Mr. MILLS) is going to straighten this out in one way or another before we have another extension of this agreement.

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

Mr. MATSUNAGA. Mr. Speaker, there being no further requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the bill (H.R. 19567)

to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1968, be considered in the House as in Committee of the Whole.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 19567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302 of the International Coffee Agreement Act of 1968 (19 U.S.C. 1356f) is amended by striking out "October 1, 1970" and inserting in lieu thereof "October 1, 1973".

With the following committee amendments:

Page 1, lines 5 and 6, strike out "October 1, 1973" and insert "July 1, 1971".

Page 1, after line 6, insert the following:

"SEC. 2. The amendment made by the first section of this Act shall take effect as of October 1, 1970."

The committee amendments were agreed to.

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

Mr. Speaker, it would hardly be expected that officials of the State Department, especially those who held forth in Foggy Bottom during the 1960's, would blush with shame for having taken the citizens of this country for a ride. They did it so often that it became commonplace and they were hardened to it. That is why they got away with establishing and operating one more gravy train for the foreigners—the International Coffee Agreement.

But in the light of what has happened to American coffee consumers in the last decade, there ought to be some blushing and red faces in the present State Department and on the part of the Ways and Means Committee in seeking today to keep this foreign handout gravy train in operation for even another 6 months.

When legislation first came before the House of Representatives to put the United States into this International Coffee Agreement, I predicted that coffee prices to American consumers would never be the same again; that the stability which the striped-pants crowd and the Ways and Means Committee prated about would mean just one thing to American consumers—prices stabilized at the highest levels the traffic will bear. I was told, in effect, by the chairman of the Ways and Means Committee, Mr. MILLS, that I did not know what I was talking about. But on May 27, 1964, when Mr. MILLS brought to the floor a bill to provide for free importation of instant coffee, there was this discussion:

Mr. GROSS. I would say to the gentleman from Arkansas that the International Coffee Agreement has worked in reverse insofar as American consumers are concerned. We have seen nothing but increasing prices for coffee to consumers.

Mr. MILLS. I must say in connection with the gentleman's statement that I have been somewhat disappointed in the developments that have occurred since the House did act on this legislation implementing this coffee agreement. The price of coffee has gone up.

And then Mr. MILLS further confirmed on May 27, 1964, the devious nature of this coffee deal when he said:

We were told in the committee that the agreement itself could not go into effect until the implementing legislation was passed and I so stated on the House floor. But I find, even though the other body has not passed the implementing legislation to this good date, that they are operating, as a practical matter, under the treaty as though the treaty had been implemented.

Yet we are asked here today to go right on picking the pockets of U.S. consumers to satisfy the avariciousness of an international coffee cartel.

If anyone doubts what I have said I invite you to go to the nearest store and try to buy a pound of so-called name-brand coffee for less than 90 cents. Then compare that with the lowest retail prices for the same brand prior to the cartel this Government and Congress helped establish.

The legislation adopted in the early sixties provided that the President issue annual reports on the operation of the coffee agreement. Well, the Comptroller General took a look at one or more of these reports and on October 23, 1969, he reported that contrary to the pledge made by the State Department that—

We do not envisage the use of the agreement as a device for the transfer of U.S. resources to the less developed countries.

That is exactly what happened. The Comptroller General indicated improper transfer of resources of some $300 million per year, or perhaps $1½ to $2 billion over the life of the agreement.

The above cited pledge of the State Department was made to get the original legislation through Congress. It attests to the shabbiness of the methods that were used.

Since the Comptroller General's action, and apparently with the cooperation of the State Department, the coffee producing countries, using the cartel, staged a raid on the coffee market. It is estimated this may well cost U.S. coffee consumers $900 million in 1970 and perhaps more in 1971. And there is no shortage of coffee. The cartel has made an artificial shortage by virtue of its restricted export quotas.

When the original legislation was before the other body the specific question was raised as to what would happen if foreign coffee producers tried to manipulate supplies for the purpose of heavily raising prices. Secretary of State Rusk answered that—

Provision has been made to adjust quotas to prevent marked price rises.

And then Under Secretary of State Averell Harriman, that great pacifier, rushed to Congress to repeat that "we can prevent increases in the price of coffee." 1962 is long gone, as are the Rusks and Harrimans from the Washington scene, but their memory should linger long in the minds and pocketbooks of American coffee consumers.

Barron's Weekly puts it well when it says that—

If Congress had not been bamboozled by the Alliance for Progress it would never have gone along with taxing American housewives to fill the coffers of Brazilian and Colombian landowners.

And the Journal of Commerce says:

When performance consistently falls short of intent, as in the case with the international coffee agreement, the time has clearly come to ascertain why.

That is what the sponsors of this legislation owe the consuming public of this country—a frank and precise explanation of how they can justify a continuation of this raid upon them for the benefit of foreigners most of who have been and still are wallowing in the trough of foreign aid handouts, financed by these same taxpayers and consumers.

I said before and I repeat—this legislation, deliberately creating an international coffee cartel, had a shabby course through Congress when it was first conceived. The State Department advised and a subservient Congress consented to putting the United States into this nefarious deal. Neither has had the decency to tell Americans that it is another foreign aid program piled on top of the $200 billion that has already been scattered to the four winds in the form of foreign handouts.

Now is the time to terminate this underhanded raid on the American public—not 6 months from now.

Mr. FINDLEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I noted that this bill came to us without hearings by the Ways and Means Committee. Am I correct on that?

Mr. MILLS. Mr. Speaker, if the gentleman will yield, the gentleman is incorrect.

Mr. FINDLEY. I asked for the hearings and I could not get a copy.

Mr. MILLS. The hearings were in connection with the trade bill which we passed earlier.

Mr. FINDLEY. I might say to the gentleman that I inquired at the desk for hearings on this bill and could not secure a copy.

Mr. MILLS. The hearings were held and were part of the hearings on the foreign trade bill. There were 16 volumes, in total, on the trade bill; the coffee testimony appears in volume 14. We specifically included the coffee agreement in our announcement.

Mr. FINDLEY. I am disappointed they were not available here today during consideration of this, but I do hope the Ways and Means Committee, before it brings another proposed extension of this authority to the House, will have hearings at which all questions connected with the consumer interest in this bill can be explored.

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

Mr. FINDLEY. I yield to the gentleman from Arkansas.

Mr. MILLS. Let me repeat, the hearings with respect to the coffee agreement are in part 14 of the hearings. The hearings on that part were held on June 12 through June 15, 1970, and they have been in print for all that period of time.

Mr. FINDLEY. Then I have a series of questions I would like to raise. To what extent do the producers of coffee get direct benefit from the price improvement under the agreement? I raised that question, because when I was in Colombia about a year ago, I asked the agricultural people in that country, and it was their impression the people in Colombia got the same price irrespective of the price achieved by the coffee agreement.

The difference went to the Government. To be sure, that is a benefit to the Government but hardly one to the producer. Can the gentleman shed any light on that?

Mr. MILLS. Mr. Speaker, if the gentleman will yield, the agreement itself does not attempt to control who gets the sale, who gets the benefit of the sale, or anything of that sort.

Mr. FINDLEY. The quota goes to the country, I assume; does it not?

Mr. MILLS. The country may ship to the other countries which consume coffee what is the agreed amount for that country in the council for that particular year. But there is never any amount agreed upon which is less by any margin than that which is anticipated will be consumed. For example, in the United States our quotas with respect to the countries shipping to the United States are always in excess of what is anticipated will be our demand here in the United States.

But I do not know of the situation to which the gentleman refers.

Mr. FINDLEY. Is the arrangement with the government of the country where the quota is established?

Mr. MILLS. If the gentleman will yield, the arrangement is between various governments. There are 62 governments, as I remember, which are parties to the International Coffee Agreement the Senate ratified in 1968.

Mr. FINDLEY. I note on the top of page 3 of the committee report that since the establishment of the agreement the annual earnings of the exporting members have averaged about $500 million above the preagreement level, while consumers generally have enjoyed moderate price levels. This is ambiguous language. I wonder if this means that the U.S. consumers are paying higher prices to the tune of roughly 40 percent, up to the $500 million set forth in that sentence?

Mr. MILLS. Mr. Speaker, if the gentleman will yield, that may appear somewhat misleading, unless you also read the subsequent sentences. After reading it when printed I had the same thought in my mind the gentleman has, as to that particular sentence; but it appears clear later.

Most of this increase in earnings over the preagreement level is due to the increased consumption of coffee especially in Europe, where there has been a rather sizable increase in the consumption of coffee in the past 3 or 4 years.

Mr. FINDLEY. I can understand easily why the average price today—at least, the average price in recent months—compared to the peak price just before the agreement was established would be somewhat lower, but can the gentleman tell me how the average price, say, for the past 12 months or any selected period of time compares with a similar period of preagreement time?

Mr. MILLS. If the gentleman will yield, I can. The gentleman must bear in mind a very significant fact which has occurred during the course of this year. The price of coffee throughout the world was affected by a freeze or a frost that reduced the amount of coffee produced in Brazil. There was an increase in the price of coffee some time in March or April of this year due to that very fact. Of course, there was speculation and manipulation, perhaps, which went on as a result of the world knowledge that there was likely to be a shortage of coffee.

It turned out that there was not a shortage of coffee. We had access to all we needed and the other 62 countries had access to all they needed.

The price now, since we reported the bill, is some 4 cents under what it was prior to the time we reported the bill on October 6.

I have in my hand a letter which I will ask unanimous consent to have printed in the RECORD in connection with my remarks.

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

There was no objection.

The SPEAKER. The time of the gentleman from Illinois has expired.

(On request of Mr. MILLS, and by unanimous consent, Mr. FINDLEY was allowed to proceed for 3 additional minutes.)

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

Mr. FINDLEY. I yield to the gentleman from Arkansas.

Mr. MILLS. This letter is from the general manager of the Folger Coffee Co. in Cincinnati, dated November 19. He says in this letter to me:

> This week most of the country's coffee manufacturers have announced price declines of 4¢ per pound on their various brands of Vacuum Coffee—Folger's included. These moves have been made possible by recent declines in world market prices of green coffee.

He goes on to point out the fact that our action on October 6 in reporting this legislation for this short extension to July 1 had the effect of causing this very thing to happen to the coffee market. Then he ends his letter in the last paragraph as follows:

> Once again, Mr. Mills, whatever the outcome of the enabling legislation, there is little doubt that millions of concerned coffee drinkers throughout the country appreciate the contribution that you and your committee have already made in their behalf. Moreover, it is our sincere belief that if the House and Senate support your recommendation for a limited extension of the United States participation in the agreement of June 30, 1971, to permit further Congressional review of the whole subject, the United States coffee-drinking public will stand to benefit even further.

Mr. FINDLEY. Can the gentleman inform me as to how the price paid for coffee in the United States would compare with the price paid locally for coffee in a typical producing country? That might be an index as to how much more the consumer here pays.

Mr. MILLS. I cannot give you that information. I frankly do not know what the profit margins are. But I know what the price of green coffee is. It is about 51 cents a pound. That is green coffee. The world price now is about 51 cents a pound. I have some ads here that somebody brought me from today's newspaper showng that Giant is selling Colombian coffee, which the gentleman from Iowa (Mr. GROSS) mentioned a moment ago, I believe, at 79 cents a pound. Roast Right coffee is selling at 77 cents. Here is another one on Colombian coffee at 85 cents, and here is fresh coffee, 75 cents, which is another ad from some other store. However, those are apparently the prices being paid today by Washington housewives. But 51 cents is the price of green coffee.

Mr. FINDLEY. Does the distinguished chairman plan to hold hearings before any further extension of the agreement authorization expires?

Mr. MILLS. We have always had hearings, I will say to my friend from Illinois, on this.

Will the gentleman yield to me for just one moment further?

Mr. FINDLEY. Surely.

Mr. MILLS. I have had as much concern and reservation about this extension as anybody in the world can have, because I am getting sick and tired of us trying to help countries throughout the world by these types of arrangements and assuming a responsibility in connection with it, and then the minute we get the ink dry on the agreement they do something in turn to violate the agreement. Of the 62 countries in the world who are in this agreement, there is at least one, in my opinion, today that has violated this understanding and discriminated. That is the country of Brazil. However, I cannot bring myself to penalize all of the other countries just because Brazil wants to wear a black hat.

What we said to the President is this: In place of giving you an extension of two or three years, like you asked for, we will give you an extension up to July 1, and we serve notice on you and Brazil that the Committee on Ways and Means will not report out any further extension of this program unless you tell us by April 1 that you have succeeded in getting Brazil to withdraw its discriminatory treatment. They tax the green coffee that they ship out of Brazil and ship to all of the consuming countries, but they do not tax the green coffee used in Brazil by the soluble coffee industry of Brazil. They thought that they would equate the situation by putting in a 13-cent tax on the soluble coffee being exported from Brazil, but it takes at least 30 cents to equate that difference and eliminate the discrimination. If we do not pass this legislation and give the President the opportunity that is in this legislation and Brazil refuses to eliminate the discrimination, then he cannot do anything about it. He can, if this legislation is extended, put a tax of 17 cents on soluble coffee when it arrives in the United States to accomplish the necessary results.

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

(By unanimous consent, Mr. FINDLEY was allowed to proceed for 1 additional minute.)

Mr. FINDLEY. Mr. Speaker, I appreciate the responses which the chairman has made, but I am still not convinced that this has really been answered from the standpoint of the consumer.

Mr. Speaker, I would like to express the further hope that when this legislation again comes before the House, it will come a little bit earlier in the session. It seems that we always take up the

coffee agreement extension in the twilight of each session. It would be gratifying if we could have an opportunity to have a more extended discussion and the availability of the hearings.

Mr. MILLS. Mr. Speaker, if the gentleman will yield, I want the gentleman to bear in mind that it may be we will never be faced with another opportunity to continue this coffee agreement, because if we do not get this discrimination eliminated, this Committee on Ways and Means will not ask for further continuation of it beyond July 1. We served notice on the President of Brazil to that effect.

AMENDMENT OFFERED BY MR. MORSE

Mr. MORSE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MORSE: On page 1, immediately after line 8, insert the following:

"SEC. 3. (a) On or before April 1, 1971, the President shall submit to Congress a report with respect to (1) the benefits of the International Coffee Agreement to United States consumers, and (2) the effect of such Agreement on international trade."

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

Mr. MORSE. I yield to the gentleman from Arkansas.

Mr. MILLS. The gentleman from Massachusetts very kindly called to my attention, before offering the amendment, the contents of his amendment and I told him I had no objection to it and as far as I am concerned I am perfectly willing to accept the gentleman's amendment.

Mr. MORSE. I thank the gentleman.

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

Mr. MORSE. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding. I only wish he had included in the instructions and in his amendment language to the effect that the committee take a look at the Comptroller General's report in connection with this matter as of October 23, 1969, and that the committee or someone in Congress go into this business of U.S. taxpayers' funds being used through the medium of the International Monetary Fund and other international lending institutions to lend money to the coffee producers in some of these countries to finance their withholding of coffee from the market in order to keep prices high in this country.

I think that is a matter that deserves the attention of the committee, if not the President of the United States, and that something be done about it.

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

Mr. MORSE. I yield to the gentleman from Arkansas.

Mr. MILLS. This report came out after the committee had reported the legislation implementing the 1968 agreement. This bill only extends the President's authority for 6 months. As far as I recall I did not know anything about the report and as far as I know no other member of the committee did before we acted at that time. But it is a matter, as well as the entire subject, that will be looked into by the committee before there is any further extension of this agreement, if there ever is any extension of it.

The SPEAKER. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MORSE).

The amendment was agreed to.

Mr. FASCELL. Mr. Speaker, I shall not impose very long on the attention of my colleagues but I would like to make three brief comments about the legislation to implement the International Coffee Agreement.

In the first instance, I agree wholeheartedly with the distinguished chairman of the Committee on Ways and Means that the International Coffee Agreement, worked out nearly a decade ago, has brought benefits to the producers as well as the consumers of coffee.

By moderating the fluctuations in the price of raw coffee, this agreement has assured an adequate and growing supply of this popular product, with increasing income to coffee producers in the developing countries.

Simultaneously, the agreement has been of benefit to the consumers. As pointed out in the Ways and Means Committee report, the price of raw coffee has declined from 41 cents per pound in 1965 to 38 cents per pound in 1969. An unexpected freeze in Brazil, followed by a severe drought, subsequently distorted the coffee price structure—but we hope only temporarily.

My second point, again based on the information submitted to the House by Chairman MILLS, is that a collapse of this agreement, which could occur without U.S. participation in it, can result in a sharp cut in U.S. exports to the developing countries.

This point is stressed on page 3 of the Ways and Means Committee's report and it makes sense: for how can we expect other countries to purchase our goods, particularly the industrial products which form the backbone of the income-profit-employment formula of our national prosperity and growth, if we do not allow them to earn some funds with which to purchase American-made commodities?

Now my third and final point is this:

Considering the importance of the International Coffee Agreement to the producers, to the consumers, and to the general well-being of the United States;

Considering, further, that this agreement, already consented to by the U.S. Senate and ratified by the U.S. Government, runs until 1973;

Why is it then, I ask, that the bill reported by the Ways and Means Committee would only extend the implementing statute for 9 months—until June 30, 1971?

This is the second time that the implementing legislation is being enacted—but for periods far short of the duration of the agreement itself.

From the standpoint of foreign policy—and this is the thing which concerns me in particular as chairman of the Inter-American Affairs Subcommittee—I question the soundness, and the utility, of such an unusual approach.

The problems that could develop are obvious if every one of the 60-some countries which are parties to the International Coffee Agreement would decide to follow our lead and implement it on a month-to-month or year-to-year basis.

We would not have an operational agreement then—and we would be right back where we started in 1961, deprived of all the benefits which this agreement has brought to us and which Chairman MILLS has described so eloquently.

(Mr. MILLS asked and was given permission to extend his remarks at this point in the RECORD and to include tables and a letter.)

Mr. MILLS. Mr. Speaker, as has been indicated, the purpose of H.R. 19567 as reported by the Committee on Ways and Means is to continue to July 1, 1971, the authority of the President contained in the International Coffee Agreement Act of 1968, Public Law 90–634, to carry out and enforce certain of the provisions of the International Coffee Agreement, 1968. Mr. Speaker, Members of the House will recall that the Senate gave its advice and consent to the ratification of the International Coffee Agreement, 1968, on June 28, 1968, and that agreement was ratified by the President on June 10 of that year. Although the agreement expires on September 30, 1973, the authority of the President to implement the agreement under Public Law 90–634 expired on September 30, 1970.

The main objective of the agreement is to stabilize coffee prices at levels which are reasonable to consumers and equitable to producers through the establishment of export quotas.

By participation in the International Coffee Agreement, the United States recognizes that consumers as well as producers suffer from extreme fluctuations in prices which characterized trade in coffee prior to the establishment of the first International Coffee Agreement in 1962. As the world's most important coffee consuming country, the United States has a substantial interest in fostering international cooperation aimed at assuring a sufficient supply of coffee at reasonable prices and in avoiding the peaks in prices which sometimes caused the retail price of coffee to rise to well over $1 per pound.

Of equal significance in terms of this country's participation in the agreement is the adverse effect which the instability of foreign exchange earnings from coffee can have on the development efforts of many of the less developed countries which have been the beneficiaries of U.S. assistance. In the early 1960's, losses from declining coffee prices offset development aid and frustrated our efforts to promote growth and stability in the coffee-producing countries of Latin America, Africa, and Asia.

Since the establishment of the International Coffee Agreement, the annual earnings of the exporting members have averaged about $500 million above the preagreement level. At the same time, consumers generally have enjoyed moderate price levels. The expansion in export earnings was accomplished largely by increasing coffee consumption, particulary in Europe.

Control of the volume of exports through allotment of quotas to each producing member is the principal means by which the agreement influences prices. At least 30 days before the beginning of each coffee year, the International Coffee Council, by a two-thirds majority vote of both producing and consuming

members, adopts an estimate of total world imports and exports for the following coffee year. Based on such estimates, the Council establishes a total annual quota for all producing members, which is then prorated among the producers in proportion to their individual base quotas.

Consuming countries generally have benefited from stable prices which until recently have trended downward during the life of the agreement. The composite indicator price of green coffee as measured by the International Coffee Organization declined gradually from 41 cents per pound in September 1965 to 38 cents a pound in September 1969. However, in the summer of 1969, this downward trend in prices was dramatically reversed due to a freeze in Brazil followed by a severe drought. The psychological impact on the coffee trade of a prospective sharp reduction in fresh supplies in 1970 sparked a rise in coffee prices, and in the summer of 1970, the composite indicator price of 52 cents per pound resulted. If it had not been for the efforts that the consumer members of the coffee agreement made to arrest the rise in prices, there is little doubt prices would have shot up to their preagreement peaks. Decisions reached in the Council regarding the annual quota and provisions for selective and composite increases in export quotas are intended to provide an adequate safeguard against further increases in prices during the 1970–71 coffee year.

In terms of our own price statistics as measured by the Bureau of Labor Statistics Consumer Price Index, the retail price of coffee in September 1970 was 110 as compared with 137 for all goods and services and 133 for all foods.

Of major concern to the Committee on Ways and Means in considering this legislation has been the failure of Brazil to comply fully with its obligations under the coffee agreement. That agreement provides specifically in article 44 that exporting countries may not discriminate in favor of their exports of processed coffee as compared to their exports of green coffee. Despite this provision, Brazil tax policy continues to favor its soluble coffee exports.

As indicated in its report, the committee believes that the principle behind article 44 is a fair and reasonable one in the context of a commodity agreement and should be adhered to by all members of the coffee agreement. What is at issue is the question of access to a raw material on equitable terms. U.S. processors of soluble coffee pay a price for their raw material that incorporates a very stiff export tax which in terms of today's prices is the equivalent of 25 cents per pound. The Brazilian soluble coffee manufacturer buys his raw materials at the domestic price and pays only a token tax of 13 cents per pound when his finished product is exported. Since it takes about 3 pounds of green coffee to produce 1 pound of soluble coffee, American manufacturers of soluble coffee are at a distinct disadvantage.

The committee believes that Brazil should take action to end the discrimination and fulfill its obligations under the International Coffee Agreement. Failing this, the United States should remedy the situation. Section 302(1)(c) of the act which would be extended by H.R. 19567, was written specifically for this purpose. It provides the President with the necessary authority to impose a special fee as he deems appropriate to offset discriminatory treatment by other governments in favor of their exports of soluble coffee.

This issue has been the subject of lengthy consultations and negotiations between the United States and Brazil. In view of the previous delays in reaching the solution to this problem, it is believed that action either by Brazil or by the President is necessary. The Committee on Ways and Means in its report requests that the President report to the Congress by April 1, 1971, as to whether action has been taken either by Brazil or under the President's own authority to terminate the effects of the discriminatory treatment of soluble coffee imports into the United States from Brazil. Further, the committee has given notice that it will not consider further requests to extend the International Coffee Agreement Act of 1968 in the absence of such action.

With this situation in mind, your committee has amended H.R. 19567 so that the law authorizing the implementation of the coffee agreement will expire on July 1, 1971. Mr. Speaker, subject to the conditions I have just discussed, the committee is satisfied that it would be to the overall interest of the United States to extend the legislation allowing the United States to carry out its obligations under the International Coffee Agreement. On behalf of the committee, I urge the passage of H.R. 19567, as amended.

I include the following material:

COFFEE PRICES, TRENDS IN CONSUMER PRICE INDEX

Year	All goods and services	All foods	Coffee	Cola
1953	93.2	95.6	105.5	84.0
1954	93.6	95.4	150.9	89.0
1955	93.3	94.0	109.9	90.0
1956	94.7	94.7	116.8	91.7
1957	98.0	97.8	114.0	95.9
1958	100.7	101.9	101.1	99.2
1959	101.5	100.3	84.9	105.0
1960	103.1	101.4	83.1	107.4
1961	104.2	102.6	81.6	111.0
1962	105.4	103.6	78.8	112.5
1963	106.7	105.1	77.4	118.6
1964	108.1	106.4	92.8	124.5
1965	109.9	108.8	94.8	125.8
1966	113.1	114.2	93.1	129.8
1967	116.3	115.2	88.4	137.8
1968	121.2	119.3	87.3	147.7
1969	127.2	125.5	85.5	155.3
1969:				
September	129.3	127.5	86.6	156.8
October	129.8	127.2	87.0	158.0
November	130.5	128.1	90.0	158.7
December	131.3	129.9	92.3	158.4
1970:				
January	131.8	130.7	94.9	159.2
February	132.4	131.5	97.4	160.3
March	133.2	131.6	99.7	161.9
April	134.0	132.0	102.2	162.0
May	134.6	132.4	103.6	163.0
June	135.2	132.7	105.4	164.2
July	135.7	133.4	107.3	164.8
August	136.0	133.5	108.7	165.0
September	136.6	133.3	109.9	165.2

[1] The Consumer Price Index for all goods and services increased 24 percent between 1965 and September 1970. The price index for all goods increased 23 percent during the same period. The price of coffee, however, increased 16 percent. At the same time the price of cola drinks increased 31 percent.

THE FOLGER COFFEE CO.,
Cincinnati, Ohio, November 19, 1970.

Hon. WILBUR D. MILLS,
Committee on Ways and Means,
House of Representatives,
Washington, D.C.

DEAR MR. MILLS: This week most of the country's coffee manufacturers have announced price declines of 4¢ per pound on their various brands of Vacuum Coffee—Folger's included. These moves have been made possible by recent declines in world market prices of green coffee.

This welcome news has produced a great deal of comment and conjecture in the press—some of it conflicting—as to the reasons for the reversal in green coffee prices after more than 15 months of consistent and substantial increase.

With Congressional action still pending on the enabling legislation for renewal of U.S. participation in the International Coffee Agreement, we felt it would be appropriate to provide you with a brief updating of what has happened to the coffee market since we last wrote you on October 1, as well as an indication of what we have concluded from these developments.

First, our conclusions.

We believe that world coffee prices have eased in recent weeks for these basic reasons:

1. The most important contributing factor, in our judgment, may have been your Committee's announcement on October 6 that it had voted to extend U.S. participation in the International Coffee Agreement only through June 30, 1971—rather than for the three-year period originally under consideration. Evidence to this effect:

(a) Almost immediately following announcement that it was the intent of the Congress to take another "hard look" at the agreement next June, coffee-producing countries that had been withholding coffee in anticipation of higher prices started selling coffee rather aggressively.

(b) The composite world market price of green coffee, which had been rising steadily for 15 months, peaked at a high of 52.31¢ per pound on October 5, the day before announcement of your Committee's decision. Since then it has declined slowly but steadily. On Monday, November 16, the composite price stood at 50.61¢ per pound, down 1.7¢ per pound from the October 5 peak; and certain classes of coffee, principally those used in the popular Vacuum Coffee blends, have declined by greater amounts, thereby justifying the 4¢ per pound price declines referred to above.

2. A second contributing factor, in our judgment, is that unreasonably high green coffee prices have hurt coffee consumption in this country. Our figures show that total U.S. retail sales of all types of coffee are down about 1.5%, comparing the 6-month period ending October 1, 1970 with the same 6 months a year ago. This plus the fact that usage of imported soluble coffee has been increasing over this time span has, of course, temporarily lessened U.S. demand for green coffee.

We believe that these events, plus the fact that world supplies of coffee have been plentiful all along, add strength to the argument that the size of the increases in green coffee prices dating back to the Brazilian frost of 1969 was unwarranted and prices are still unreasonably high today.

We are certainly encouraged by the recent downtrend in export prices, but we sincerely hope that this will not result in a relaxing of the very sound and constructive position that you and your Committee have taken toward renewal of the International Coffee Agreement. To this point we would offer these facts for your consideration.

1. Although the composite price of green coffee is down 1.7 cents per pound from its October 5 peak, the price is still more than

15 cents per pound higher than it was just prior to the Brazilian frost.

2. It is by no means yet clear that the mechanisms of the Agreement or the new world export quotas established in London in August are working effectively to return prices to reasonable levels or that they will prevent resumption of the uptrend. For example:

(a) Although world export quotas have been increased twice since October 1, the classes of coffee receiving the largest quota increase have actually declined the least in market price.

(b) The real test, however, will occur when and if the composite price of green coffee reaches 48 cents per pound, only 2.6 cents per pound below the price on November 16. At that point, under the provision established in London for the current coffee year worldwide export quotas will be cut back sharply. It remains to be seen whether this action will work to stabilize prices or whether it will drive them back to new highs.

Once again, Mr. Mills, whatever the outcome of the enabling legislation, there is little doubt that millions of concerned coffee drinkers through the country appreciate the contribution that you and your Committee have already made in their behalf. Moreover, it is our sincere belief that if the House and Senate support your recommendation for limiting extension of U.S. participation in the Agreement to June 30, 1971, to permit further Congressional review of the whole subject—the U.S. coffee drinking public will stand to benefit even further.

Sincerely,

E. L. ARTZT,
General Manager.

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 19567, a bill to continue for a period of 9 months—until July 1, 1971—the International Coffee Agreement Act of 1968. In view of the detailed explanation the chairman has already given, my remarks will be brief.

The international coffee agreement was first negotiated in 1967 and 1968, ratified as a treaty, and implemented through legislation in 1965. The current agreement was negotiated in 1967 and 1968, ratified as a treaty and implemented legislatively through the International Coffee Agreement Act of 1968, which is extended by this bill. The act provides authority for the United States to require that valid certificates accompany importation from member countries and to limit imports of nonmember countries. The act also contains provisions safeguarding consumer interests and authorizing the President to take action to prevent discrimination by other countries against U.S. producers.

The coffee agreement, which is subscribed to by 62 countries involving 98 percent of the world coffee trade, is designed to moderate the extreme fluctuations in price that characterized coffee trade during the 1950's and early 1960's. The agreement provides a mechanism for insuring a more stable relationship between supply and demand that will avoid prices peaking, as they have in the past, at over $1 per pound retail. Additionally, the adverse effect on our efforts to assist underdeveloped countries resulting from extreme fluctuations in foreign exchange earnings of countries in Latin America, Africa, and Asia, which rely heavily on coffee exports, is an objective of the agreement.

Both consuming and supplying nations are accorded representation in the International Coffee Council and the Executive Board in proportion to their share of the international coffee trade. Pursuant to this representation and authority contained in the basic implementing legislation, the United States, which consumes about 40 percent of world exports, has been able to insure that consumers are fully protected against unwarranted increases in prices.

The committee has been assured that the agreement has accomplished the goal of reasonable price stability in a way that is advantageous to both the supplying and consuming countries, which have a mutual interest in avoiding wide price fluctuations. The retail price of coffee has risen more slowly since the agreement was implemented in 1965 than both the consumer price index generally and the components of the consumer price index relating to foods.

However, the continued discrimination of Brazil against U.S. producers of soluble coffee is of great concern to the Ways and Means Committee. Although article 44 of the coffffee agreement specifically prohibits exporting countries from discriminating in favor of their exports of processed coffee as compared to green coffee, Brazil imposes a tax on soluble coffee exports that is substantially less than the tax on exports of green coffee. This means that American producers of soluble coffee, who use about 3 pounds of green coffee to produce one pound of soluble, have substantially greater costs as a result of this discrimination.

This issue between the United States and Brazil was submitted to arbitration in accordance with procedures of the agreement, and a ruling issued finding Brazil in violation of the agreement and recommending that the discrimination against U.S. producers be eliminated. While Brazil took some token action in response, the discrimination against U.S. interests remains largely intact.

Action to eliminate this discrimination by Brazil is essential to continued U.S. participation in the agreement. This action should be taken by Brazil, but if Brazil does not so act, the President should use his authority under the 1968 legislation to impose fees offsetting the discriminatory treatment by Brazil.

The bill before the House, therefore, only extends the agreement for 9 months instead of the 3 years requested by the administration. The committee has, in our report, requested the President to report to the Congress by April 1, 1971, as to whether or not the discriminatory treatment has been remedied. We make it clear in our report that we will not entertain requests to extend the implementing legislation beyond the period provided by this bill unless such action is taken.

Mr. Speaker, in view of the benefits accruing from the international coffee agreement and the safeguards the Committee on Ways and Means has provided, I recommend that H.R. 19567 be passed by the House.

GENERAL LEAVE

Mr. MILLS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the bill H.R. 19567.

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

There was no objection.

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

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

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

The bill was passed.

The title was amended so as to read: "A bill to continue until the close of June 30, 1971, the International Coffee Agreement Act of 1968."

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 12962. An act for the relief of Maureen O'Leary Pimpare.

LEGISLATIVE PROGRAM

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

Mr. GERALD R. FORD. Mr. Speaker, I have taken this time for the purpose of asking the distinguished majority leader the program for tomorrow.

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

Mr. GERALD R. FORD. I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, in reply to the inquiry of the gentleman from Michigan, may I say that we plan to take up the firefighters bill, and the U.N. Building bill, and conference reports that might be ready.

There is a possibility that the housing conference report and the supplemental appropriation bill conference report might be ready tomorrow.

Mr. GERALD R. FORD. Mr. Speaker, I would further ask the distinguished majority leader if the investors protection bill conference report will also be taken up? Was that not filed?

Mr. ALBERT. May I state to the gentleman that I am not aware of it—the gentleman from Iowa (Mr. GROSS) has just indicated to me that it has been, so we could also take that conference report up, too.

Mr. GERALD R. FORD. Mr. Speaker, I thank the gentleman.

THE PRESIDENT WONDERS

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

Mr. BINGHAM. Mr. Speaker, the President wonders why he has difficulty convincing the poor he is concerned about them. The President wonders why black people in this country do not believe he

really stands behind his rhetoric about equality of the races. The President wonders why the youth of this country refuse to fall in line behind his pragmatic politics of the silent majority.

Yesterday's newspapers brought us the news that the Nixon administration, as part of a 23-percent cut in antipoverty funds, is considering cutting out entirely the funds for VISTA and for the rural loans program in the fiscal 1972 budget request now being prepared. Today's newspapers bring us the news that the Peace Corps budget will be cut by $20 million, representing a 22-percent slash.

And the President wonders?

THE 91ST CONGRESS NOT GOING OUT IN A BLAZE OF GLORY

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

Mr. HALL. Mr. Speaker, last night on one of the local Washington television stations, the Novak half of the Evans-Novak team, discussed the apparent chaos that has overtaken the 91st Congress. To say the least, they did not portray us as going out "in a blaze of glory."

Mr. Novak, while noting that the President has not contributed a great deal of help toward alleviating the situation, nonetheless laid the blame for the congressional disarray squarely at the doorstep of the majority leader in the U.S. Senate.

According to Mr. Novak, the Senate majority leader has stood by, his face cloaked in a self-beknighted, kindly smile, while measure after measure has remained bottled up in committee, legislation that should have been brought to the floor months ago. Now, here it is, 7 days before Christmas, the 92d Congress set to convene in a little more than 4 weeks, and we are just now finally voting on appropriations that should have been enacted and signed into law by last July.

It pains me to remind this body that the last time such legislation was ready on time, was during the 83d Congress during the Presidency of Dwight Eisenhower.

Mr. Speaker, if I may take the liberty of paraphrasing the well-known poem by Clement Clarke Moore: "Twas the night before Christmas, when all through the House there were quorum calls."

I am afraid that is the predicament in which we will find ourselves in a few days. Do you not think it is time we shut down this "budget busting" enterprise, and give the American people a respite for Christmas?

MILITARY SURVEILLANCE OVER CIVILIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MIKVA) is recognized for 60 minutes.

(Mr. MIKVA asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I have no desire to overdramatize the disclosure in recent days pertaining to the allegations that the Army was spying on elected officials and other civilians in the Chicago area. In fact, they cannot be overdramatized.

If true, they constitute a major constitutional crisis which threatens this House, the other body, and every other political institution in this country. If true, the allegations mean that the worst form of corruption has taken place in our Military Establishment—the corruption of office. If true, the charges mean that there are persons in the military who have totally violated their oath of office and superimposed their judgment on that of the electorate in terms of the manner in which the country is to be run. In frightening summary, the allegations if true mean that there are some military men who are prepared to impose a military control over the people of this country in order to "save the country." It becomes very important then, to find out if the charges are true.

According to Secretary of the Army Resor, we have nothing to worry about. He has "received information" that the charges are not true. I regret to tell the Secretary that there is ample information to suggest that the information is true. More important, I cannot believe that the Secretary, assuming he understands the seriousness of the crisis, is willing to let the matter rest on his quickie investigation. It does not even come up to the level of a whitewash—it is a "no wash." It appears that he looked in the personnel jackets of the elected officials involved. I am no spy, but it did not ever seem likely that these alleged spies would put their snooping results in my Army personnel file, or in Senator STEVENSON'S Marine Corps file. About the only reassurance that I can find from Secretary Resor's statement—and it is not much—is that he wants to emphasize that "had any such alleged activities been conducted, they would have been in violation of Army policies."

I say that is not much reassurance because if that is not true, we are certainly undone. I never dreamed that it was otherwise. Let me also say at this point that I have no doubt that the President and the Secretary of Defense, and indeed Secretary Resor were as shocked by the charges as was I. It boggles the mind to think otherwise.

If the President of this country or the civilian heads of the military ever become a part of or condone such a program of surveillance, then the hour of our undoing has arrived. Our free institutions are threatened not because of a Republican plot to embarrass Democrats, or a conservative plot to embarrass liberals, or a hawkish plot to embarrass doves. The threat comes from the fact that if the allegations are true, there are a group of militarists who have the power and desire to choke off any disagreement with military policy—which they are going to make.

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

Mr. MIKVA. I yield to the gentleman.

Mr. POFF. Mr. Speaker, it is sometimes easier to stand mute than to speak. It is nearly always safer. But no man who loves liberty can stand neutral when freedom stands in jeopardy.

When the military asserts the right to maintain clandestine surveillance over the conduct and convictions of a civilian, freedom stands in jeopardy.

What the military has done is outrageous. It is altogether reprehensible. It is utterly indefensible. If the military can spy upon the people's freely chosen representative, it can spy upon those who chose him. And then, no man's liberty is secure.

And here I take my stand. I stand not only to rebuke the wrongdoer but to defend the victim. Hon. ABNER MIKVA is honorable, he is patriotic, he is immensely gifted, he is a sincere and sensitive gentleman. His views and mine frequently conflict, but we are spokesmen of different electorates. He speaks the sentiments of those who chose him to speak, those who have affirmed and reaffirmed their confidence in him.

Can any man honorably deny another the right to disagree? Can society survive and remain free if it hushes dissent?

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

Mr. MIKVA. I yield to the gentleman.

Mr. YATES. Mr. Speaker, I want to associate myself with the remarks made by the distinguished gentleman from Virginia (Mr. POFF).

Mr. Speaker, I think the gentleman's eloquent and powerful statement has a great foundation, in fact, particularly insofar as the gentleman from Illinois is concerned, my very good friend Mr. MIKVA.

Mr. Speaker, I want the gentleman from Illinois to know that following our colloquy on the floor a few days ago with the chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON) in which I expressed myself as being outraged over the report that the Army had under surveillance the gentleman from Illinois, the junior Senator from Illinois and the former Governor Kerner of Illinois.

Following that colloquy I want the RECORD to show that I wrote a letter to the distinguished chairman of the Appropriations Committee in which I urged him to carry out the investigation that he promised to make as chairman of the Defense Subcommittee of the Committee on Appropriations on the surveillance of the Army, particularly the surveillance that had been the subject of newspaper reports, conducting a vigorous and aggressive and thorough investigation and getting to the bottom of this, because certainly we in America, the people of America, do not want a police state; above all, they do not want a military police state. I thank the gentleman.

Mr. MIKVA. I thank the gentleman from Illinois.

Mr. BURTON of California. Mr. Speaker, will the gentleman yield?

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

Mr. BURTON of California. I would like fully to associate myself with the

remarks of our distinguished colleague from Illinois (Mr. YATES). The reaction in the part of California that I represent has been one of shock and deep concern with respect to the report of our most able, distinguished, and highly respected colleague from Illinois (Mr. MIKVA), who has reportedly been subject to this unbelievable abuse of responsibility.

Those of us who have worked with our colleague from Illinois (Mr. MIKVA), have found him to be on all occasions one of the most thoughtful, energetic, and concerned Members ever to serve in the House of Representatives, and it is perhaps in some curious way fortunate that if such a circumstance had to occur and be brought to the public view, that it would involve a Member whose personal character and integrity is so far beyond any possibility of reproach that there could be no possible justifiable explanation of the conduct of the military in this particular regard.

So I would like to say to my colleague that though perhaps this incident has created some moments of unhappiness for him, perhaps for the rest of us in the House and, for that matter, for all Americans in the country who are concerned and determined that the military in a free and democratic society have its place—which place can certainly never be to look into the actions of the elected representatives of the people of this country—so I say to my colleague from Illinois (Mr. MIKVA) that whatever discomfort the surfacing of this reported conduct may cause you, perhaps we are all fortunate that it involved someone of your undisputed high character and grand repute.

Mr. MIKVA. I thank my colleague for those kind words.

Mr. REID of New York. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from New York (Mr. REID).

Mr. REID of New York. I thank the gentleman from Illinois for yielding.

I believe the gentleman from Virginia (Mr. POFF) has put the matter simply, starkly, and eloquently. He has drawn the line of the right of liberty and the right of dissent with unmistakable clarity. It is totally clear that the military should not be engaged in clandestine research on elected public officials. I believe that the initial statement of the Secretary of the Army, Mr. Resor, stated categorically that this was an endeavor that did not have his approval, if it existed at all, and I believe that the White House has issued an equally sharp and categorical disclaimer.

It is further my understanding that Senator ERVIN may be conducting an inquiry into this next year. And I can only state my regard for the gentleman in the well and my conviction that the House and Senate must make abundantly plain and clear the principle here involved and, as necessary, must ascertain all the facts surrounding this question. If the allegations bear any truth whatsoever, this body and the Senate and the Executive must relentlessly discover all the facts and make clear beyond peradventure that this kind of operation will not continue in a free society, and that all Americans, including elected Representatives, may be assured of their basic and fundamental rights.

Finally, one thing this country does not need is further fear or suspicion. What we need is a rebirth or reasoned inquiry so that hope and freedom may bring forth the best in America and encourage the free exchange of ideas so that all men can make an important and valid contribution to our country and to principles of liberty under which our country was born and by which it must be sustained.

I commend the gentleman in the well for bringing this matter to the attention of the House tonight, and I pledge to him that I, as one Member, along with him, will not rest until we get to the bottom of the matter and all of the facts are clearly and unmistakably ascertained.

Mr. MIKVA. I thank the gentleman from New York.

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

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

Mr. PUCINSKI. I commend the gentleman for taking this time to discuss this very critical problem that has come to light. I am sure we can all agree it would be difficult to improve upon the very eloquent words of the gentleman from Virginia (Mr. POFF) in commenting on the ability of the gentleman in the well, the gentleman from Illinois (Mr. MIKVA), but this problem goes much further than infringing on the rights of Members of Congress. This investigation by the Army intelligence unit, as reported in Chicago, involved spying on some of our most outstanding citizens in Government and out of Government, and involved spying and surveillance on our businessmen on both sides of the political spectrum; and involved surveillance on Mr. W. Clement Stone, who is one of the largest contributors to President Nixon and the Republican Party; and involved an investigation of young Republicans; and involved an investigation of Father Lawler, an outspoken foe of busing in Chicago; and involved surveillance of the Reverend Jesse Jackson, who is head of the Operation Breadbasket in Chicago; and involved surveillance of our former State treasurer and now Senator from Illinois, Mr. ADLAI STEVENSON.

So we can see from the pattern of the people who have been under surveillance by this Army unit that what they were really doing here was investigating the religious beliefs of people and investigating the political beliefs of people and various other views—economic and whatnot.

I believe this really shows the enormity of the transgression on the rights of citizens. This would be despicable in itself if it were merely surveillance of men in public office, because of their disagreement with some views on Vietnam or on this or on that issue; but here we have the broad scope of citizens investigated in a clandestine manner without any of them being advised they were under surveillance. The unit even went so far as to investigate newsmen, including Morton Kondracke, of the Chicago Sun-Times and Richard De Sutter, of the Chicago Daily News, so we can see how deeply rooted was this whole practice by the Army.

I submit that this is what Hitlers are made of. The next step is the knock on the door in the middle of the night.

I agree with the gentleman in the well that he has every right to be incensed. I do not know whether I was under investigation or not, but that does not in any way temper my outrage at this practice, and I believe we ought to have a full investigation of this practice.

The thing that disturbs me is that we have had some statements from the Defense Department indicating that there is no record of this, nor any knowledge of this when the fact of the matter is that some time back Secretary of the Army Resor ordered these records destroyed; and then the office in Chicago microfilmed the records of every one of these dossiers.

Those microfilms are now somewhere here in Washington at one of the intelligence agencies. So, obviously, the orders were not carried out. This information is still floating around. It means there is somebody somewhere in this Government who continues to feel the necessity for preserving this information and these records.

It seems to me that while we can be comforted by the statement of the President, as reported by his press secretary, Mr. Ziegler, that the President was outraged by this report and wanted a full investigation, we cannot rest until we are completely assured that the military in this country has not and is not continuing this practice.

It is, I believe, a fundamental thing. What it shows is the arrogance of the military in usurping the very keystone of this democracy of civilian rule, when the military decides it is going to set up its own intelligence service to spy on the civilian authorities of this country.

This is one of the greatest threats to America.

We Americans pride ourselves that our President, a civilian, is the Commander in Chief of our Armed Forces. We pride ourselves on the fact that the Secretaries of the Army, Navy, and Air Force are civilians. We pride ourselves on the fact that the Secretary of Defense is a civilian.

This whole country is based on the concept of civilian rule; yet, we see here the military, perhaps without the knowledge of the civilian authorities, conducting this kind of a secret, clandestine operation. I believe this fact in itself shows how far down the road we have gone and how every American ought to be outraged by this practice.

Mr. REID of New York. Mr. Speaker, will the gentleman yield?

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

Mr. REID of New York. I thank the gentleman for yielding.

The gentleman from Illinois (Mr. PUCINSKI) is familiar, is he not, with an article which appeared a number of months ago in the Washington monthly relative to certain activities which were

apparently carried on at Fort Holabird as to the compilation there of a certain list? I wrote Mr. Robert Jordan, General Counsel, Department of the Army, two letters on that matter, and I was assured in a letter from him dated April 16 that the blacklist had been destroyed and in a letter dated August 5 that a computerized data bank discovered at Fort Hood had been destroyed.

I understood the gentleman to say he had information to indicate that some such list as this in Chicago allegedly had been destroyed but in fact had been microfilmed. Does he have any evidence that the material at Fort Holabird of the same character, supposedly destroyed, was also microfilmed?

Mr. PUCINSKI. It is my understanding, so far as the intelligence information gathered by the intelligence detachment 113, stationed in Chicago, with headquarters at the 2200 block of Howard Street, that those records were ordered destroyed but before they were destroyed they were microfilmed and the microfilms were sent here to Washington. So far as I know they are still somewhere in some intelligence agency in Washington.

It occurs to me we certainly ought to have a full investigation to make sure, if this report is incorrect, that it is so established.

So far as my information is concerned, those microfilms are still very much usable. There has been some talk about the fact that the computer programing has been destroyed and therefore the microfilms would be of very limited use. I believe we all know that is not too much of a problem, to reestablish the programing and to put those microfilms back to full use if anybody wants to use them.

Mr. REID of New York. I appreciate the gentleman's comment. I want to say further that I will pursue that question, as one Member and as a member of the Committee on Government Operations. If the gentleman could give me any further information I will include it in a letter I will send to the Army, to the Secretary and the General Counsel of the Army. If these lists have not been destroyed, as the General Counsel's letters to me explicitly stated they have, then there has been a clear violation of both the spirit and the communication between the Executive and the Congress on this matter. The gentleman is eminently correct. This should be looked into and set clearly before the American people and the facts established. If this practice is still continuing, it should be stopped cold.

Mr. PUCINSKI. I will be very happy to cooperate with the gentleman.

Mr. MIKVA. I want to assure the gentleman that I will turn over all of the information I have.

One of the points I am making in my remarks is that there must be a full investigation by the Government Operations Committee of the House of Representatives into this matter starting back with the original charges that were made in the Washington magazine and including those charges made on the NBC documentary earlier this month and including the charges of the sergeant involved and several other military operatives who have spoken out or are in the process of speaking out, because there is a great deal of confusion.

I share the gentleman from New York's refusal to believe that any hiring agency in connection with this was aware either of the operations when they were going on or that perhaps the orders to destroy had not been carried out. Perhaps, for instance, Sergeant O'Brien, of Chicago, specifically stated that when the first Washington article appeared he was told to cool it for a few days, but shortly thereafter, according to him, operations resumed full blast.

These are the kinds of things that I think once and for all a responsible committee of this House and of the other body and the Executive must get to the bottom of. Until we do know the situation no one can feel secure that in fact the military is in control of it.

Mr. REID of New York. If the gentleman will yield, I look forward to working with him and seeing that the Government Operations Committee does get to the bottom of it and very promptly at that. I will endeavor to set this in motion at the earliest possible time, perhaps next week. Further, I will welcome any and all material that the gentleman has and make it a part of the official record and see if we cannot get to the bottom of this. The facts are a bit confused. Genuine fears have been raised. This is not an area that should be in doubt, but instead must be as clear as the fundamental rights of every Member.

I have been apprised that the basic investigative jurisdiction of the Army over civilians was established in the Delimitations Agreement of February 9, 1942, was subsequently updated, and is currently being revised. I believe the Government Operations Committee should conduct further investigation into this matter also to ascertain precisely what the regulations are at this time.

Mr. MIKVA. I agree with the gentleman from New York completely on that.

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

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

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Speaker, of course, we are all appalled at the possibility that the military may have been spying on elected officials in America and most particularly the gentleman from Illinois (Mr. MIKVA). But there may be some rewarding result from their activities. I say this because I think if they have been observing the gentleman from Illinois, they have been observing a good influence in this Nation and they may be better people when they finish than when they began; because they would have been observing a man of great character, a man of great dedication, dedication to his country and to his countrymen. They would have been observing a public servant who shows great concern, sensitivity, and sympathy for the aspirations of his fellow Americans that he serves so well.

So it could be that the end result would be, rather than an appalling situation—and appalling it is—that the people who did the spying will find out when it is all over that they may be a little bit better people because of their association with the gentleman from Chicago, just as I know I am a better person merely for the association I have been honored to have with a dedicated public servant such as the gentleman from Illinois (Mr. MIKVA).

I thank the gentleman for yielding.

Mr. MIKVA. I thank the gentleman for his remarks.

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

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

Mr. FOLEY. Mr. Speaker, if there were any question about the need for Members of this body to come to the defense of the gentleman from Illinois (Mr. MIKVA), I know that the entire Chamber would be full tonight. There, of course, is no such need.

The reason that I and other Members of the House of Representatives on both the Republican and Democratic sides are here is not to defend the gentleman from Illinois (Mr. MIKVA), who patently needs no defense. Any suggestion that his loyalty and character have been in any way reflected upon is so ludicrous that it is beyond discussion.

What is important is the national question that has been raised by the allegations that have been made by Sergeant O'Brien and others—allegations that the elements of the military service have been involved in political intelligence surveillance, not only of public officials but of other civilians in the United States.

Mr. Speaker, we have in the United States a body of law to protect the internal and national security of our country. The responsibility for enforcing that law lies with the Department of Justice and with its duly constituted agencies. The function of the military services in no way extends to the investigation and suspected national or internal security violations of law by civilian citizens of the United States. I know of no basis in law or otherwise to justify political surveillance of civilians by any units of the military services.

So, I want to concur with the gentleman in the well. There is a most important question that has been raised by these very disturbing allegations which requires the fullest investigation.

I share the view of others tonight that assurances from Mr. Resor, the distinguished Secretary of the Army, are gratifying. His insistence that no approval from the civilian command in the Army, authorized any of the alleged activities described by Sergeant O'Brien are reassuring as are the strong statements that have come from the White House itself describing the President's personal outrage and concern with the reports.

But it is not enough for the Congress and the country to be assured that if these conditions and activities did in fact exist they will no longer be permitted to exist. It is very important, I think, that we know with certainty if they did take

place in the first instance, and which areas of the service were involved, which officers authorized them, and a detailed, meticulous investigation of every scrap of information that can be brought to public notice about the entire matter. I hope that we see in both the House and the Senate a most exhaustive investigation produce detailed information concerning the truth or falsity of these charges and if these charges are true on the conduct of every military officer and civilian official who might have in any way approved, authorized, conducted or supervised any such activities.

If these charges are true to any substantial degree we must not only disclose that fact but trace precisely what was done, precisely how it was authorized, and involve ourselves closely in the knowledge of those individual military officers and others who were in any way connected with the activity. I am convinced that if these allegations are true we will need more than assurances and more than policy statements, repudiating them; we may perhaps need a revision of the law of the United States. If these allegations are true, I think this is a matter toward which both Houses of the Congress have the greatest responsibility. Not only to assure that a personal outrage to a man of such enormous capacity, loyalty and dedication to his country as the gentleman from Illinois (Mr. MIKVA), does not again occur, but more fundamentally that the proper function of military and civilian responsibility is clearly and conclusively restored.

Mr. Speaker, I think it is gratifying tonight that Members who have joined in this special order are Members from both sides of the aisle and from every political persuasion, and viewpoint. I would personally want to be categorized as a supporter of a strong national military policy for the United States. I find myself in agreement with the general foreign and defense policies of this administration. Nevertheless, I am convinced that our democratic society can face no greater danger than the intrusion of the military into the civilian political processes of our country, particularly by secret, covert investigations of the political conduct of civilians by units of the military services.

In my judgment the military services of the Nation can have no greater pride in their magnificent contributions in peace and war than in their traditional dedication to our constitutional tradition of civilian political responsibility and control.

Every military and civilian citizen should hold that tradition dear—he is no friend of the Republic or its constitutional freedoms who holds otherwise.

Again I compliment the distinguished gentleman in the well, the gentleman from Illinois (Mr. MIKVA), for whom I have a special admiration and regard and assure him again of my determination to join with him in this critically important undertaking.

Mr. MIKVA. I thank the gentleman.

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

Mr. MIKVA. I yield to the gentleman from Tennessee.

Mr. ANDERSON of Tennessee. Mr. Speaker, I want to associate myself with the excellent remarks of the distinguished gentleman from Washington, and those of all of our colleagues who have spoken on this matter this evening, and to commend especially the distinguished colleague in the well, the gentleman from Illinois (Mr. MIKVA) for facing up so squarely and so forthrightly and so courageously to a very, very serious matter.

The reported invasion of military intelligence operatives into the private, political, and business lives of candidates for public office and public servants and other citizens, seems to me to indicate that as we anticipate the early arrival of 1971 that we are perhaps destined to wonder whether or not we are really emerging into 1984 quite rapidly; and certainly we shall, unless these present trends are summarily spotlighted and reversed.

Liberty, we must recall, is a very fragile thing. The question we must ask today is who are the protectors of this cherished American tradition? The White House has given a good statement abhorring the situation. Former Defense Secretary Clifford said that he knew nothing about it. Army Secretary Resor has given a good statement denying any responsibility and intimating that he knows nothing about it.

Well, the question is, Just who is in charge here? Is the machine running itself? Where is the accountability? And, yes, where is the credibility?

I think it is time for those of us in this Congress to shoulder our own responsibility as elected representatives of the people and to take back to this representative branch and, therefore, take back to the people those constitutional powers that have been gradually but persistently absorbed by the executive and judicial branches.

A proper, immediate, and very full investigation of the matter before us is an excellent place to start. The lack of adequate congressional oversight of all intelligence gathering activities—not only the military but the CIA and the FBI would be an appropriate addition to the agenda.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. MIKVA. Mr. Speaker, I thank my distinguished colleague for his remarks.

Mr. PRYOR of Arkansas. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman.

Mr. PRYOR of Arkansas. Mr. Speaker, I rise today to join my colleague from Illinois (Mr. MIKVA) in calling for a congressional investigation of the recent revelations of U.S. military surveillance of political figures.

If the allegations made by a former Army intelligence man, John O'Brien, are in fact true, a dangerous precedent has been established and must be stopped and stopped now before it becomes established practice.

Thus far, the press has only reported that Illinois has felt the sting of this obnoxious "snoop-job"—but where else has the same invasion occurred? Who else has been under surveillance—whether public official or businessman, housewife and journalist? Who else must now feel that every political acquaintance must lead to his eventual political destruction? Who else must be forced to feel that to talk with or meet members of our society they must first obtain Army clearance?

Ours is a nation built upon the principles of freedom which holds itself out to the world as the watchdog of freedom everywhere. While this is not the time for vitriolic rhetoric, I believe that we must now take steps to insure that our own House is kept in order and that the light of freedom will not be dimmed at home.

There is always a tendency to magnify the importance of individual and singular events, and there will be those who will accuse my colleague of doing precisely that. However, Mr. Speaker, if the U.S. Army is engaging in investigating the political activities of Members of Congress, and other public officials, I can think of no more dangerous threat to the basic foundations of a government which prides itself on civilian control of the military. How ironic it would be if the very security of the republican form of government were threatened in the name of security.

I want to make it clear that I am not presuming the truth of these allegations. That is why I am joining my colleagues in calling for a full-scale examination of this incident. But I do want to make it clear that I am so shocked even by the possibility of such activity that I must join in this protest today.

Over a century ago, one of this Nation's greatest leaders offered the following indictment:

> Accustomed to trample upon the rights of others, you have lost the genius of your own independence, and become the fit subjects of the first cunning tyrant who rises among you.

The man was Abraham Lincoln, and the place was Illinois. Once again, over a century later, Illinois is the scene, and I must add my voice in protest.

Mr. MIKVA. Mr. Speaker, I thank the gentleman from Arkansas for his remarks.

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

Mr. MIKVA. I yield to the gentleman.

Mr. SCHEUER. Mr. Speaker, I want to congratulate the gentleman in the well for his leadership in bringing this matter to the attention of the Congress and for obtaining this special order. I want to join my two distinguished colleagues who just preceded me in urging a thorough-going, painstaking, and deep-rooted investigation of all the facts and circumstances surrounding the allegations of the former member of Army intelligence.

I am, of course, not presuming the facts. It is for us to produce the facts through the time-honored method of the congressional investigation. I think all of my colleagues would join me in assuming, without any question, that neither the Secretary of the Army, Mr. Stanley Resor, nor our distinguished former colleague, the Secretary of Defense, Mr. Melvin Laird, had any knowledge of these goings-on at all. It would be unthinkable that either of those two men, with their demonstrated and ac-

knowledged love of our institutions, would for one moment permit such a state of affairs to exist. But the fact is that as our security institutions grow larger, we begin to make trade-offs, buying a certain amount of security at the price of a certain amount of freedom.

And maybe in an anxiety-ridden, urban society, we must do this. Maybe "search and frisk" is justified. Maybe "no-knock" is justified. Maybe "preventive detention" is justified. But what are we achieving for these trade-offs?

We must be sure, without a peradventure, that we are controlling these trade-offs, these unhappy elements of attrition on our constitutional rights and liberties, and as the security invasions grow larger, it becomes increasingly more difficult for the men at the top in charge to know what is going on many levels below them.

It is merely for those purposes that, No. 1, establishing what has gone on; and, No. 2, making certain that the men in charge at the top of the pyramid will be able, really, to keep control of the security instruments, the security systems, and the security personnel that should be at the forefront of the legislative purpose of such an investigation.

A former Secretary of the Army said many decades ago that "Gentlemen do not read each other's mail." Do you remember that Secretary of War Stimson said this when he was asked to scrutinize the in-coming correspondence of the German Embassy?

Unfortunately, I think we must accept the fact that today gentlemen do read each other's mail. Gentlemen do intercept each other's private conversations, and for purposes of high national security, that may be necessary. But it is up to the Congress to determine the circumstances when it is necessary. It is up to the Congress to make sure that we have adequate protective devices, very rigorously to limit the occasions on which these invasions of privacy take place and to assure the safety and propriety in every way of such investigation.

Never was there a clearer challenge to the integrity of the Congress, to the integrity of the separation of powers than in this challenge that the distinguished Member from Illinois has laid before us, and I congratulate him for his leadership, and I hope that every Member of Congress, across party lines, across this aisle, will feel not only that the integrity of this institution has been threatened, but the integrity of our system of freedom, of our system of protection against tyranny, protection against totalitarianism in every form, is threatened. The chips are down, and the challenge is to us. I congratulate the Member for bringing this so starkly and so classically to our attention.

Mr. MIKVA. I thank the gentleman.

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

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

Mr. CONYERS. Mr. Speaker, I join, perhaps last tonight, a line of speakers who have addressed themselves to a most important subject brought on at the instance of the gentleman from Illinois (Mr. MIKVA), about a subject that I think has been examined with unusual ability tonight, particularly on the part of the gentleman in the well and the gentleman from Washington (Mr. FOLEY).

As I have listened to the various observations and suggestions and recommendations, it occurred to me that the situation perhaps is far worse than any of us would honestly care to recognize. I say that, taking into the consideration the full depth and breadth of the many cogent remarks that have been made here on the subject of the incursion of the military authority into the civilian activities in this country.

I suggest that many of the Members here are no longer startled by the fact that they, themselves, may be the subject of a dossier in any one of a number of internal security offices and agencies that now operate within this Government.

I say this because many of the Members in this body may very well believe, and with good reason, that their phones are not a source of private communication and that their other business may be the subject of scrutiny and observation, all contrary to the duly established procedures that ought to obtain in this country.

So what the gentleman from Illinois has done, I think, is to bring very ably this question home to the Members—and, of course, we are outraged, as we should be. But there are many thousands of citizens who do not have this platform, who are unknown even to us tonight and who have no possibility of redress against the similar and frequently worse invasions of privacy that security agencies, including the FBI, the CIA, and who knows what other military authorities have been engaged in, and thus curbing the rights that we presume and speak so eloquently of from day to day in this Hall.

So I see a much more serious picture than any Member has presented here. I am hopeful that out of the example of the gentleman from Illinois, more Members will begin to consider exactly the direction this country may be headed in—a directon that I do not speak pessimistically about, because I think it can be reversed. I am not one of those patriots in this body who thinks that things always were better than they are now, who imagines that there may not ever have been any kinds of constitutional violations that have gone on in an earlier period of this country's 196-year history, but I feel that in a sense today there are more people in America who have become conscious of the problem, even though at the same time it might not be getting better.

It is out of the courage and ability of the gentleman in the well that we have been brought to focus on this question, far beyond his own personal incense, and the skill of the Members that have preceded me tonight on this special order gives me sound reason to hope that this country can some day become what it has said that it is, but which it very clearly is not, because until we have extended the freedoms that we write and speak about to every single one of our 200 million citizens that share our birthright, then, indeed, what happened to the gentleman in the well could happen to any one of our citizens anywhere.

Mr. MIKVA. I thank the gentleman for his comments.

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

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

Mr. ICHORD. I regret that I did not hear the opening remarks of the gentleman from Illinois.

May I state first, before I put my question to the gentleman from Illinois, that the only thing I know about this whole controversy is what I have read in the newspapers. In that respect I am pretty much like Will Rogers: I believe nothing that I hear, half of what I see, and some smaller percentage of what I read in the newspapers.

Has the gentleman concluded that the Army actually spied upon him and the Senator-elect from Illinois, ADLAI STEVENSON? Has this been conclusively determined?

Mr. MIKVA. Let me say first of all that Mr. STEVENSON is now the junior Senator from Illinois. He took his oath of office last month.

The answer to your question is "No." In my remarks, I would say to my distinguished colleague from Missouri, I made it very clear that the allegations have not yet been proven. In every one of my remarks I have prefaced them by saying, "If true."

What I have said, and what I believe every Member of the House who has participated in the dialog tonight has said, is that the allegations touch on such a fundamental part of our free society that even if they were offered with no substantiation they must be addressed immediately, forthrightly, and completely.

Unfortunately, as I pointed out in my remarks, and as others have pointed out, this is not the first set of allegations about this practice which has come before the country in the past year. In previous instances it turned out that at least where there had been some smoke there also was some fire.

So I would say to the gentleman from Missouri that what I have called for tonight—is a full-scale investigation by the executive, by the Army and by the Department of Defense. Moreover, we need a full-scale investigation by this House and by the other body, so that if the allegations are not true we can purge from the public mind the suspicions that they may be, and that if the allegations are true we can purge from the military service the cancer that will destroy us if left unchecked.

Mr. ICHORD. I would agree with the gentleman from Illinois that as a general rule I would state that Army intelligence has no business whatsoever spying on civilians.

Is it not true, I would ask the gentleman from Illinois, that the President of the United States has stated unequivocally that the Army does not have this prerogative?

Mr. MIKVA. Yes. I must say that there has never been any doubt in my mind

that this President—and indeed every President this country ever had—shares that view; because it would boggle the mind if ever a Commander in Chief, himself an elected official, did not share that philosophy.

I have not the slightest doubt that President Nixon was as outraged as his press secretary said he was. Indeed, I think all the civilian heads of the agencies involved were equally outraged.

What is needed, as I indicated in my remarks and as others have indicated, is the kind of thorough sifting and winnowing of the allegations and charges which have come before the public and which now are coming before the public, so that we can once and for all make it clear to all that the military establishment in our country is run by civilians for civilians and not by the military for the military.

Mr. ICHORD. I have no difficulty in concurring, no difficulty at all in concurring with the statement of the gentleman from Illinois; but has not the Army denied the allegations that the gentleman from Illinois and the new Senator from Illinois, ADLAI STEVENSON, and Senator MCCARTHY were spied upon?

Mr. MIKVA. Let me say that Secretary Resor this morning issued a denial. I think I have no doubt again that Secretary Resor was not aware that this practice was going on. I must say the denial was something less than complete. In parts it seemed that he or some one had examined my personnel files from when I was in the military service back in the 1940's and found no entry since 1945; and therefore he assumed that this allegation was not true. I did not expect that information about espionage would be appearing in my personnel file. Let me say very clearly to the gentleman from Missouri that there has been no effort in my remarks or in those of anyone who spoke here tonight prior to the gentleman's return to the floor to prejudge this matter. What we all expressed is something that I know the gentleman from Missouri shares; namely, a deep concern about our country if these charges are true. We also have a deep concern for the military's sake if these charges are true.

Let me say also that I am very grateful for the comments of all of my colleagues who spoke here earlier tonight.

Maybe I should be grateful whatever way the allegations made by Sergeant O'Brien turn out. The remarks of all of my colleagues have been very kind.

I do not feel personally threatened or attacked. As one of the earlier speakers suggested, I have a forum from which to respond, and it is one of the greatest forums in the world. I have a constituency to which I can appeal for support. I worry, as other speakers indicated, that if there is truth to these allegations, there are 200 million people whose freedom is at stake more so, perhaps, than mine. What we seek to do by this special order tonight, and the call for action I have made and which others have made, is, not to prejudge the military or to damn it, but indeed to see what proof or disproof of these allegations which can be brought before this body or the other body or the executive branch.

Mr. ICHORD. Will the gentleman yield, if I can interject at that point?

Mr. MIKVA. Let me finish.

We are 435 Members of a free, deliberative body and I have not the slightest doubt, despite the political and ideological differences that exist between us, that there is not one person in this body who does not agree with the proposition that elective officials are responsible to the electorate and not to the military services. That is the proposition.

Mr. ICHORD. I will say to the gentleman from Illinois, from what I have heard since the gentleman from Michigan (Mr. CONYERS) addressed the House—and specifically referring to the words of the gentleman from Illinois—I cannot disagree with the gentleman. It is my understanding that the Senator from North Carolina, Mr. ERVIN, as head of a subcommittee of the Senate Judiciary Committee, does intend fully to investigate this matter and see that the facts are made explicit. Is that not correct?

Mr. MIKVA. That is correct. And part of my remarks tonight were to urge an appropriate committee of this body to engage in a similar investigation so that, as I said before, we can get to the truth or the falsity of these and similar allegations.

I thank the gentleman from Missouri for his contribution and thank all of my colleagues for their contributions.

As I said at the beginning, it becomes very important to find out if the charges are true and it becomes very important, not to the gentleman in the well and indeed perhaps not to any single Member of this House, or to any Member of the other body or to all of us collectively, but to the electorate that we represent to see to it that if the charges are not true that they are disproved fully; and, that if they are true, that we remove the source that otherwise would destroy our country.

And so, once again, we are back to the central question; namely, are the allegations true? In order to answer that question, we ought to look not only at the current charges, but at the whole sorry record of Army intelligence in domestic matters. When we do, we find so much smoke that there is a very great likelihood of the fire we fear. Let us look at that record.

THE VALIDITY OF THE CHARGES

Late last year, the first trickle of information about this pernicious practice began to leak out of the vast military bureaucracy. Christopher Pyle, a former Army intelligence officer, wrote a long, detailed, and thoroughly documented article for the Washington Monthly magazine describing the widespread use of undercover agents by Army intelligence to monitor civilian political activities. Mr. Pyle noted that the results of this covert surveillance were maintained in extensive files kept by the Army. Although various excuses and justifications were offered for these activities, it was clear from the beginning that there was absolutely no sanction, either in law or in the traditions of this Nation, for the kind of snooping which the military was carrying out.

Mr. Pyle's disclosures were followed by a flurry of denials, then of admissions and contrite explanations, and finally by promises to cease further secret spying on civilians and to destroy existing files on domestic political activities. The sincerity of these promises may be judged from events which have followed in the ensuing months.

Earlier this month it was revealed in an NBC special report that there had actually been secret military agents present on the floor of the Republican and Democratic conventions in Miami and Chicago. This revelation, too, was followed by a spate of denials from high-level civilian officials in the Department of Defense that any such activities by military personnel had been authorized. This left two possibilities: either these high-level civilian officials were being deceived by their subordinates about the nature and extent of military spying on civilian politics, or these officials were willfully misrepresenting the existence of authorized military spying. In either case, some investigation should have been conducted. Apparently, none ever was.

The public service performed by NBC in its special report is only now being appreciated. For it was that report which convinced a former Army intelligence agent in Chicago, Mr. John M. O'Brien, to come forward with his hair-raising story of Army surveillance of civilian politics and elected public officials.

At this point, Mr. Speaker, I wish to take just a moment to voice my appreciation to Mr. O'Brien for his courageous act in coming forward with the details of the Army's ill-advised meddling in civilian politics. Many citizens in Mr. O'Brien's position would—indeed, many have—simply kept quiet about the activities in which they were engaged, despite the fact that many of them must have known that there was no legal or other authority for the military to police civilian politics, and despite their own misgivings about such efforts. Mr. O'Brien has responded to a higher kind of patriotism, a partiotism which requires citizens to speak out against the illegal usurpations of their government. I believe that Mr. O'Brien's courage is the true patriotism, the patriotism which will keep this nation free.

John O'Brien's revelations have profoundly shocked the people of Illinois and the people of this Nation. What those revelations made plain is that military authorities have not limited themselves to surveillance of alleged "radicals" or violent demonstrators. The Army high command has decided that even elected officials—the very establishment itself, if you will—contains among their ranks persons who must be "watched," or whose activities must be "monitored." Among those untrustworthy souls who needed these special attentions were a candidate for the U.S. Senate, a sitting Member of the House of Representatives, a former Governor of the State of Illinois and present member of the U.S. Court of Appeals for the Seventh Circuit, and at least two members of the Chicago City Council. In addition, they were watching lawyers, newspapermen, television newscasters, teachers, philanthropists, and Republicans. They even made sure that there was no racial discrimination in the sur-

veillance and included civil rights leaders and other black citizens. What were the criteria for such surveillance? According to Mr. O'Brien, they were people who were outspoken against the war, people who belonged to peace organizations, people who criticized the President on matters either foreign or domestic. In short, it was aimed at active citizens.

The implication of the O'Brien disclosures and those which preceded them are overwhelming. How many candidates for Congress, for Governor, for mayor, for city council, for State legislature, for any public office have been subjected to this unworthy scrutiny? How many private citizens will in future years be deterred from participating in the political process—the lifeblood of a free society—by fears of the military's intervention—fears of having their children watched, their wives watched—the kind of agonizing questions I now worry about as to what effect my outspokenness on public questions is having on my family's privacy, and my friends' privacy.

Many have called John O'Brien's revelations incredible. Yes; it strains one's credibility; but I believe that we can ignore these charges only at our peril if we wish to remain a free country. I would remind my colleagues that reports of the My Lai massacre were also first labeled "incredible." Only after a thorough, prolonged probe of the incident were the true facts brought to light. I believe that only after a thorough investigation—by both Congress and the Department of Defense—will the fears of the American people be quieted. But before describing the kind of investigation which is required, and what such an investigation should cover, I believe it is worth discussing the dangers which military surveillance of civilian politics present to the kind of free society which we believe exists in America.

DANGER TO A FREE SOCIETY

It seems improbable that one should have to enumerate the reasons which make military surveillance of civilian politics dangerous to a free society. But apparently there are those in government and in the military who do not understand the dangers.

First, of course, is the danger that surveillance—or even the popular belief that it exists—will discourage the kind of full, free, and unrestrained exchange of ideas and viewpoints on which democracy is based. When citizens and participants in political debate feel that they must restrain their utterances, that they must watch their tongues, because "someone might be watching," then we have taken the first step toward totalitarianism. Then we are on the way to having in America the very Gestapo tactics which we fought to defeat in World War II.

It has long been the hallmark of totalitarian societies—police states—that only "approved" persons could participate, and that only "acceptable" ideas could be heard. Military surveillance of civilian politics raises the specter that such official "approval" and "acceptability" will someday be a requirement of American politics as it has long been in the Communist countries we condemn.

Indeed, those military officials who would arrogate to themselves the duty to watch peaceful civilians' political activities are the true subversives in our society. It is they who, more than critics of the Vietnam war, pose a threat to the continued freedom of political expression and political action.

I call these militarists subversive because they have betrayed the trust of the American people. They have betrayed their oath of office. Military officials who have misused their authority to spy upon civilian officials to whom they are constitutionally responsible will in the long run do far more damage to our constitutional form of government than all the dissenters and critics put together. For who will protect us when our protectors pervert their constitutional function and turn their authority against the citizens they are pledged to serve?

The second danger to America from military surveillance of civilian public officials is the possibility that the existence of such activities, or even the belief among public officials that it exists, will sway the judgment, influence the decisions which these officials are bound by oath to make on the basis of the public interest alone. This subtle but very real form of intimidation has undoubtedly already begun to work. From jokes among legislators and executive officials that "someone may be listening" to his telephone conversation we move on to the firm belief and then to the fear that every move is watched, every public and private action judged by some unseen military agent.

It would probably be going too far to say that the wide acceptance of military programs by the Congress has been influenced by the fear of covert military surveillance. But who can say that in future months—if the present military spying program is continued—none of us will have second thoughts about a vote on military affairs? But who can be certain that his judgment will not be swayed, perhaps even unconsciously, by the belief that he is being watched, and that the right vote may free him from continued surveillance.

What was my credential for eligibility to the club? Was it a proposal to cut military manpower by 10 percent—which idea looks better and better—or my cosponsorship of H.R. 1000, the proposal to end the war in Vietnam? Or, as Mr. O'Brien put it, my general outspokenness against the war?

And so the second danger to democracy from military spying of civilian government officials resides in the very real possibility of intimidation and interference in the free decisionmaking process by Government officials.

The third danger which covert military surveillance poses to a free society is that such activities—if they go long undiscovered and unchallenged—may actually convince a small handful of military personnel that their information gives them the power and the right to control civilian government.

I do not mean to suggest here that those who ordered or condoned military spying activities are numerous or at a high level of command. I simply do not know—and apparently neither does the White House or Secretary Laird—how far and high this military conspiracy to disrupt our form of government extends. But quite obviously if this spying took place in Illinois and involved some 800 citizens, then it has almost unquestionably taken place elsewhere. This indicates that there is a sizable group of military officers and enlisted men who have ordered, supported, or engaged in spying on civilians and civilian officials. How many men do you need to make a putsch?

And now is the time to weed them out of military service. Because if not now, then never. How satisfying, how encouraging, to this misguided group of military men it will be if after the disclosures which have recently taken place, they are not investigated and rooted out of the military service.

How else could these men interpret events, I ask, Mr. Speaker, if they are merely slapped on the wrists, and their actions do, in fact, have the tacit approval of the Nation and its civilian leadership? How could they help but be encouraged in their ill-conceived efforts to protect America from free political discussion and debate? Such a result would bring us closer than I like to think in making "Seven Days in May" a reality in America.

The principle of "civilian control of the military" has a long tradition in America. The Founding Fathers enshrined that principle in the Constitution, not once but several times.

> The President shall be Commander-in-Chief of the Army and the Navy of the United States . . . (Art. II, Sec. II of the Constitution)
>
> The Congress shall have power . . . to raise and support Armies . . . to provide and maintain a Navy, to make rules for the government and regulation of land and naval forces; to provide for calling forth the militia to execute the laws of the Union to suppress insurrections, and repel invasions; to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States . . . (U.S. Const. Art. I, Sec. 8).

All of these functions—clearly the sum and substance of control over the Nation's military forces—are vested in a civilian legislature. The founders could have chosen to place a control of the military in the hands of a general staff, or a military council. Instead, having clearly in mind the abuses to which unchecked military power might lead, they chose to place firm control over the military in the hands of elected civilian leaders. And every military leader worth his oath has acknowledged that control.

Thus, it is a founding principle of our Nation and an axiom of our Constitution which have been jeopardized by the Army's direct involvement in monitoring civilian politics. If "civilian control of the military" means anything, it must mean that the military authorities have no responsibility, no reason, and no right to engage in surreptitious-surveillance of the political process. To the extent that we allow the men responsible for it to continue in positions of authority, we are

putting in jeopardy the very freedom of our people and independence of our form of government.

The fourth danger to America from the military activities revealed in recent days is perhaps the most subtle, and therefore, the most dangerous. I said earlier that military spying on public officials was bad enough because it would discourage free political exchange, because it would inhibit qualified men from participating actively in public life, and because it would tend to intimidate legislators and officials of the executive branch. All of this is true, but it is only a part of the danger.

For the misguided snooping of which we have been hearing was not limited solely to public officials, although that is what has received the widest publicity. Surveillance included, if we may believe the stories, included journalists, religious leaders, professional men, and just ordinary citizens. What this means to the average citizen is that no one is free from covert surveillance, no one is safe from secret observance and recording of his conversations and activities. And in this belief of under present surveillance we have the beginning of the end of our way of life.

It is because of its potential for destruction of our free system that I consider the recently revealed military surveillance of peaceful civilian political activities most dangerous. As a public official—one who was allegedly spied upon—my sense of shock and outrage is, of course great. But when I consider the future of my country it is the larger implication of widespread civilian surveillance, not limited to public leaders which give the greatest cause for concern. For it is this more widespread practice which contains the seeds of destruction of our free society. It is this practice which begins the mutual distrust of citizen by citizen; it is this practice which promotes insecurity, even in the home and office; it is this practice which will make fear the watchword of America. I have a forum, at least temporarily, to defend my freedom and reputation. I have a constituency to appeal to for support. Who shall the average citizen look to for succor when the military behemoth turns its spyglass on him?

When I contemplate the implications of widespread, unchecked, military spying on private citizens, I tremble for my country, just as Jefferson did. No society can long remain a free society when it is permeated by fear, when it is governed by mutual suspicion, when it is racked by distrust of citizen by fellow citizen. That is not the America we have known, Mr. Speaker, and I hope it is not the America which we bequeath to our children.

WHAT MUST BE DONE TO STOP MILITARY SPYING

A. INVESTIGATION BY EXECUTIVE AND CONGRESS

I have tried to summarize the dangers which unchecked military spying on civilians presents to Americans. If I have missed some of the threats, it is perhaps because my mind is not as devious and Machiavellian as those who first perceived these activities.

But let me move on now to what must be done. To stop this insidious, odious, and pernicious practice, action must be taken immediately by those civilian officials in the executive branch who are in command of the military personnel involved in these activities. I would begin with the White House which apparently had no knowledge of these efforts and called them "inconceivable." I would hope that the President will order a full-scale and detailed investigation by the Department of Defense and every other executive agency that can help ferret out the facts.

Secretary of Defense, Melvin R. Laird has a responsibility not only as Chief Executive Officer of the Department of Defense but as a former Member of this House and the Defense Appropriations Subcommittee, to assure Members and all citizens that he has thoroughly and carefully investigated every aspect of this sorry episode, and that he has eliminated root and branch of every vestige of military spying activity aimed against civilian activities. I also hope that Secretary Laird will not again seek to pass off the latest revelation as a mere matter of partisan politics. Apparently unaware that John O'Brien's activities extended as late as June 1970, Secretary Laird's initial reaction to reports of military spying on civilians was that these activities occurred only under "the previous administration." Unless the influence of "the previous administration" has persisted longer than most of us in Congress had believed, it is difficult to see how military spying which occurred in June 1970, could be the responsibility of any single administration. As I said before, it is inconceivable that either President Johnson or President Nixon were aware of these activities—which make them all the more disloyal.

Equally important, I hope that the President and Secretary Laird will direct all their subordinates to cooperate fully with all congressional investigators. Because whatever action is taken by the executive branch, it will always appear somewhat suspect in the eyes of the population—it will be another case of the military investigating itself.

Therefore, I believe that to restore the confidence of Americans and the freedom of our political system, congressional action is absolutely essential. There are at least three forms which this should take.

First and foremost, a thorough investigation by committees of the Congress must be conducted in order to reveal the full extent of military spying on civilians, who is responsible for it, what action is appropriate and to those responsible, and what steps must be taken to preclude a recurrence of this sorry chapter in our history. Senator SAM ERVIN, the disinguished chairman of the Senate Judiciary Committee on Constitutional Rights, has already announced that such an investigation will be conducted in the other body. I believe that a parallel investigation in the House would be more than useful. Congressman OBEY and other Members of the House have filed a formal resolution directing the Government Operations Committee, under the distinguished chairmanship of Representative HOLIFIELD, to conduct such an investigation. My colleagues from Illinois who are members of that committee and others have made similar requests. Chairman MAHON of the Appropriations Committee has similarly expessed concern. Since one of the purported justifications for surveillance by military personnel was the freer availability of such personnel, I am sure that the Appropriations Committee would like to find out if they have been euchred as charged. Such investigations should call Mr. O'Brien, his superior officers, and all others who have or should have some knowledge about the affairs. One ground rule that is absolutely necessary is that there are no "national security" labels used to spare the military from full exposure of military intelligence on domestic activities. It has become abundantly clear that military intelligence must get out of the domestic business completely. Whatever needs there are to be protected for national security at home should be handled by the FBI, the Secret Service, or somebody other than the military who do not belong in the business at all. I believe that the national interest will be served by bringing to light the full facts of these matters and assuring the American people that Congress stands ready to protect them from the unwarranted and illegal intrusions of unauthorized military snooping.

B. LEGISLATIVE REMEDIES

But there are other possible congressional actions than mere investigation and exposure. We are a legislative body, and I believe we are not helpless to fashion legislative remedies for the evils which I have been describing. The first and most obvious legislative remedy is a limitation in the next upcoming Defense Department appropriations bill on the expenditure of any appropriated funds to finance military surveillance of the civilian population. I would hope that after looking into the present scope and nature of military spying on civilians, the Defense Appropriations Subcommittee might write such a limitation into the next DOD appropriations bill. In any case, I plan to offer such a prohibition if it is not included in the committee's bill. My prohibition would be worded approximately as follows:

> No part of the appropriations contained in this act shall be expended for salary of personnel, purchase or maintenance of equipment or premises, or support of operations which involve in whole or in part, surveillance, monitoring, information gathering—reporting, record-keeping (whether on cards, mechanically by means of electric data processing equipment, or otherwise), or any other intelligence activity by active-duty military personnel directed against any federal, state, or local public official, or candidate for public office, or against any citizen of the United States who is not on active military duty and is located within the United States, except that such activity may be carried out to the extent specifically authorized by regulation by the Sec. of Defense with respect to a citizen not on active military duty, and within the United States who has applied or been nominated for a position of trust within the Dept. of Defense which requires access to classified information.

As important as the passage of such a prohibition would be it is clearly not ade-

quate by itself. After all, the distinguished gentleman from Texas (Mr. MAHON) has assured me that there never has been—to his knowledge—any appropriated money available for the kind of military spying which has already been disclosed. Thus, it seems obvious that a mere limitation on expenditure of appropriations, will by itself, not guarantee against a recurrence of this activity and ease the mind of Americans.

Another legislative safeguard which I think should be adopted, would allow private citizens to bring suit in Federal court to enjoin and collect damages for any unauthorized intelligence activity carried out against them by military personnel. The bill would make military personnel individually liable for carrying out unauthorized surveillance, monitoring, record-keeping, or other spying activities, and would subject them to suits for damages for invasion of privacy and to equitable actions for injunctions to prohibit further unauthorized activity of any intelligence nature. Such an enactment would put Congress clearly on record against illegal military snooping against civilians and would act as a deterrent against overzealous military commanders who feel called upon to usurp the legitimate function of civilian government.

A third legislative proposal is that offered by my distinguished colleague, Congressman ED KOCH of New York. Under his bill every citizen would have the right upon request to have access to any dossiers kept on him by any Federal agency. The names of informants would be deleted and other appropriate safeguards are provided for in the bill. The citizen would have the right to supplement his dossier with any additional information he deemed relevant. Surely in a free society this is a minimum protection to the citizen given the fact that his government of necessity must collect information about him.

THE FUTURE OF OUR FREE SOCIETY AT STAKE

Mr. Speaker, it is probably not an overstatement that the action which is taken—or not taken—with respect to secret military spying on civilans will tell a great deal about what kind of a country in which future generations of Americans will live. The O'Brien revelations and those which preceded them have so shaken the confidence of Americans in the integrity of their government, that I do not hesitate to say that we have reached a crisis of confidence. My profound hope is that decisive, forthright action will be taken by officials of the Executive Branch to investigate and reveal the full extent of military spying on civilians. That action must include—at a minimum—dismissal from the service of all military personnel with command responsibility who authorized or condoned these spying activities.

But for the reasons I have indicated earlier, executive action alone will not be sufficient. The American will rightly demand that investigations be carried out by a branch of government not implicated in the very spying which is being investigated. For this reason, committees of the Congress should also move immediately to expose the fact of this unwise and unconstitutional activity, and to assure the American people that adequate steps are being taken—both administratively and legislatively—to preclude any future recurrences of these practices.

Finally, Mr. Speaker, I invite Members of the House to join in sponsoring the three legislative safeguards against future military spying on civilians which I outlined above, namely to limit the expenditure of any funds appropriated to the Defense Department for intelligence activities directed against non-military citizens of the United States, the right of action in Federal courts for injunctions and money damages against individual military personnel who engage in unauthorized spying on civilians, and Congressman KOCH'S proposal to give citizens access to their dossiers.

This is an hour in which the elected civilian representatives of the people must move decisively to reassure their constituents that the reins of government are still firmly in the grasp of proper civilian authorities.

We read books and see movies like "Seven Days in May," "Z," the World War II movies about Hitler's Germany, and we smugly congratulate ourselves that none of this could happen in our beloved country. Except that it could be happening right now. Right now, who is tapping your telephone, screening your mail, watching your family, your office staff? How many Members of this body have their own sergeants watching them—how many of your Senators? How many of your alderman are being kept under secret watch. How many of you will think again about voting against the war? How many of your constituents will think again about running for public office, or writing their Congressman, or just going to a political meeting? In this hour of our national need, the Republic you save may be your very own.

Mr. Speaker, I would like to insert at this point the very able articles which first brought these serious allegations to public attention—articles written by Mr. Jared Stout of the Newhouse News Service. They speak eloquently of the importance of a free press, and of the dependence that a free society has on that institution. Mr. Stout has served his country and his profession nobly by the work he has done.

The articles follow:

SPECIAL REPORT: ARMY SPYING ON OFFICIALS

(By Jared Stout)

WASHINGTON.—A former Army undercover agent in Chicago says top-ranked Federal and State officials, including Sen. Adlai E. Stevenson III (D-Ill.), were secretly watched by Army intelligence operatives.

Former agent John M. O'Brien, who said "I was a domestic spy for the Army," also named Rep. Abner Mikva (D-Ill.) and U.S. Circuit Court Judge Otto Kerner as targets of military surveillance.

"The Army wanted to determine their political views so that in certain situations we would know how they would react; whether they would condone violence or be for nonviolence," O'Brien said in an interview.

The surveillance was part of an Illinois-wide effort to get the names and background on anyone who opposed Vietnam war policy or "who openly opposed the Nixon administration's controversial domestic policies," the former agent said.

O'Brien, a former staff sergeant, said the spying was done by the region one office of the 113th military intelligence group (MIG) in Chicago and was paralleled by other Army intelligence units across the country.

O'Brien is the first former agent to detail for the record year-old charges the Army had watched high-ranking elected officials as well as those thought to be behind civil disturbances.

Only last Friday, Defense Secretary Melvin Laird told Sen. J. William Fulbright (D-Ark.) the military kept no files and did not watch elected officials.

But O'Brien insisted that from June, 1969, until his honorable discharge as a staff sergeant on June 8, 1970:

"My entire effort as a military intelligence agent was directed toward the offensive activities conducted by the Army involving collection of information pertaining to individuals and organizations decreed by the Army to be subversive in nature."

Informed of the O'Brien disclosures, Sen. Sam J. Ervin (D-N.C.) said the spying was "intolerable in a free society." Ervin has invited O'Brien to testify before the Senate Subcommittee on constitutional rights on his first-hand knowledge of domestic intelligence in hearings set for late February.

O'Brien agreed to come forward after reading Newhouse News Service accounts and seeing an NBC television report on unauthorized Army spying on civilians. By law, the job belongs to the FBI and local police.

The Newhouse account probed the still secret role of military agents at the 1968 Democratic and Republican National Conventions. The NBC report detailed Army infiltration and surveillance of protest groups.

"This activity had been troubling me for more than a year," O'Brien said in interview. "I realized this wasn't the Army's job, to be spying on other Americans. When I saw the reports, I decided to speak up."

According to O'Brien, the officials he named were among 800 individuals on whom the 113th Military Intelligence Group (MIG) kept dossiers. He said the records were called "the subversives file."

The file, comprising 120-feet of manila folders in four-drawer file cabinets, was kept at the 113th Region One headquarters at 2231 W. Howard St. in Chicago. O'Brien worked there as an agent from June 1969, until his discharge.

The Chicago-area native had been assigned to intelligence duties in Germany for his four previous years of Army service. He joined the service in August 1965, after his college funds ran out during his junior year at Loyola University.

O'Brien said his own spy work involved antiwar protest groups and that he participated in direct surveillance of meetings held by students for a Democratic society and the Chicago peace council, among others.

In his position, he said he had frequent access to the 113th files and it was from his recollection of those files that he told his story. He had no physical evidence of the files or the reports that filled them.

O'Brien said in his first indoctrination briefing at the 113th, he was told that "we would be targeted against civilians." He said his superiors justified the activity this way:

"Certain elements of our society have resorted to illegal methods to attain political recognition and eventually their own political goals.

"These elements have resorted, in many instances, to use of violence and the infiltration of non-political elements of our society. Such elements represent a direct threat to the existence of the constitutional form of Government in the United States and the general well-being of our society," he recalled.

"Therefore, all attempts were made to monitor the activities of such elements," O'Brien added, saying they ranged from the Daughters of the American Revolution to

Alabama Gov. George A. Wallace and Bobby Seale of the Panthers.

"My superiors told me it was the responsibility of the Army to maintain watch over potentially dangerous organizations and individuals," O'Brien said.

When he suggested this was a job for civilian agencies, O'Brien said he was told the FBI and Secret Service were short of men and "did not have the availability of personnel as did the Army."

By O'Brien's account, his superiors "believed the Army was better staffed to conduct large-scale collection operations targeted against the civilian population," and the FBI got all they collected anyway.

O'Brien said he never saw any Army directives spelling out this civilian activity. "It just was the understood policy of how we were to operate," he said.

O'Brien said the 113th MIG's judgments on who would be watched was based, in part, on a political standard that put William F. Buckley, Jr., a conservative columnist, "just left of center" and Sens. Eugene J. McCarthy (D-Minn.) and George McGovern (D-S.D.) on the "far left."

The "new left" in Army parlance was "virtually equal to Communist," O'Brien said so his unit had a wide scope of choices. "It was a blank check to investigate, penetrate and disrupt any group we choose," he said.

What triggered his disenchantment with his unit's activities, O'Brien said, was the designation of Adlai Stevenson III as a surveillance target in September, 1969. At that time Stevenson was Illinois State treasurer and had staged a picnic at his family farm in Libertyville, Ill., that was to preclude his candidacy for the Senate.

Several political powers attended the picnic, including Mayor Richard J. Daley and Negro leader Jesse Jackson.

Also among the crowd was a military intelligence agent assigned to watch Jackson, who was "considered by the Army to be Illinois' most powerful black," O'Brien recalled. "We also were targeted on the picnic," he said.

During the course of the picnic, the Army agent took a photograph of Jackson whispering in Stevenson's ear. The picture and an agent report describing the event and "the new relationship" between Jackson and Stevenson was sent through intelligence channels to Ft. Holabird, Md., a collection center for the Army's domestic intelligence.

After that picnic, O'Brien said, "military intelligence agents of the 113th covered every appearance of Stevenson in Chicago, at least up to June, 1970", when O'Brien was discharged. He could not say what surveillance, if any, was maintained thereafter.

Jackson was targeted because of his role as leader of (CAP) Operation Breadbasket and a spokesman for Chicago Negroes. Stevenson was watched, O'Brien said, because of his antiwar views.

Mikva became a person of interest "because of his outspoken criticism of (Vietnam) war policy and because he aided draft resisters."

Mikva said Tuesday he had offered legal counseling to draft resisters but did not condone flight to avoid service.

Judge Kerner was not subject to direct surveillance, O'Brien said, "as far as he knew." "We just started keeping files on him after the Commission report." The report of Kerner's Violence Commission said there was no evidence of a conspiracy in urban violence.

According to O'Brien, intelligence agents generally held to the view there was a conspiracy by dissidents to foment violence and their operations would help uncover its existence. "They didn't understand the nature of riots or the protesting," he said.

O'Brien stressed he did not condone violence or law-breaking of any kind. "But people do have the right to dissent and speak out on what they believe," he said.

He acknowledged there may be some need for intelligence by Government to uncover those who are dedicated to doing violence. "That's not a job for the Army," he said. "That job belongs to the FBI."

MILITARY SPIES AND THE PRESS

(By Jared Stout)

WASHINGTON.—A $250,000 contributor to President Nixon's campaign, Chicago insurance executive W. Clement Stone, was watched by Army intelligence agents for at least a year, because he once loaned money to a street gang to open a store and restaurant.

At the same time, the Army undercover men also kept close watch and detailed files on the activities of two Chicago newsmen, two Negro aldermen, and the wife of a millionaire Chicago lawyer who was a prominent backer of Sen. Eugene J. McCarthy.

All of the individuals—Stone, Henry Dezutter of the Chicago Daily News, Morton Kondracke of the Chicago Sun-Times, alderman William Cousins, Jr., and A. A. (Sammy) Rayner, Jr., and Lucy Montgomery, the lawyer's wife—were tucked away in a massive "subversives file" maintained by the Army.

These new disclosures were made Wednesday by former Army spy John M. O'Brien in an interview. Earlier, O'Brien revealed military spying on several top-ranked Illinois political figures.

O'Brien said Sen. Adlai E. Stevenson III (D-Ill.), Rep. Abner Mikva (D-Ill.), and U.S. Circuit Court Judge Otto Kerner were targets of his former unit, the region one office of the 113th Military Intelligence Group (MIG) in Chicago.

O'Brien was assigned as an undercover agent for the 113th MIG from June, 1969, until his honorable discharge as a staff sergeant on June 8, 1970. His personal account of political spying during his service with the 113th MIG provoked outrage in Congress Wednesday and demands for a full public disclosure of Army activities.

Irate lawmakers wanted to know why political figures and other prominent Chicagoans were watched, and became part of what O'Brien called "a subversives file" for 800 Illinois individuals and organizations.

Chairman George H. Mahon of the House Appropriations Committee promised an investigation of the reported spying, saying "we will do all we can to prevent its recurrence." Mahon, who also heads the Defense Appropriations Subcommittee that controls military intelligence funds said the acts were "an outrage."

Mikva said of O'Brien's account, "the implications of this for the country are horrifying. The whole concept of civilian control of the military is in jeopardy, and if this thing is not stopped, all the people will have left to do is salute."

Stevenson told a news conference that "as long as this remains a free country the people will judge their elected officials—not the Army.

"There is no place in a free society for snooping by the military in the peaceful political affairs of citizens," Stevenson said.

On the Senate floor, Sen. Sam J. Ervin (D-N.C.) said O'Brien would be called to testify before his Subcommittee on Constitutional Rights, which will hold February hearings on military spying and the secret creation of a domestic intelligence network.

At the White House, Presidential News Secretary Ronald L. Ziegler said it was "inconceivable" to President Nixon that such activities were going on. He told reporters Defense Secretary Melvin Laird was looking into the situation.

Ziegler said "we certainly don't condone that activity" and that Laird would put a stop to it, if he found the surveillance effort was still going on.

While Congress pressed for an inquiry, O'Brien revealed these other aspects of the 113th MIG's operations:

Clement Stone, 68, was selected for surveillance because of his $60,000 loan to the vice lords, a Chicago street gang. The money was intended to help the gang open a restaurant and store on Chicago's West Side. But it was enough of a link to a group considered "possibly subversive" by the Army to warrant a file on Stone, O'Brien said.

Stone is president of the combined insurance company of America. By his own claim, he gave more than $1 million to Republican candidates in 1968, plus $250,000 to the Nixon-Agnew ticket. Those who know him in Chicago consider him a conservative prone to charitable works.

Stone's book on the power of a positive mental attitude is said to have been a source of inspiration to Nixon. He is known as the "Mr. Big" in the Illinois GOP's money circles.

Lucy Montgomery is the wife of millionaire lawyer Kenneth F. Montgomery who came to public attention in the Chicago area as a contributor and backer of Senator McCarthy's presidential campaign. She has long been a backer of liberal causes. O'Brien said Mrs. Montgomery's file included "intimate details of her personal life."

Alderman Cousins and Rayner have been outspoken black members of the board of aldermen controlled by Mayor Richard J. Daley. They have voted frequently against the Daley machine position.

Army interest was sparked by Rayner's ties to Chicago street gangs, particularly the black P-Stone Nation. He has worked to move the gangs into legitimate enterprises.

Cousins came to Army attention as a strong supporter of the Rev. Jesse Jackson, another black Chicago leader prominent in the Southern Christian Leadership Conference. Jackson was also watched by the 113th MIG.

Judge Kerner came to the unit's attention after the national violence commission made its finding that riots were not caused by a national conspiracy, a view that O'Brien said differed from the Army's belief a conspiracy did exist. A former Governor of Illinois, Kerner was commission chairman.

The 113th mig clipped from newspapers all accounts of the Kerner commission report and called the Illinois State Police and Springfield, Ill., police to see if they had any personal information on Kerner. Both agencies supplied some data, O'Brien said.

Newsmen Dezutter and Kondracke were interesting to the 113th mig because of their sometimes critical stories on Vietnam war policy in their coverage of the war protest movement, O'Brien said. Both men's articles were clipped from newspapers. Some personal data on their personal lives also was included in their files.

A third newsman's writings, James Singer of the Chicago Sun-Times, also were kept. He, too, had covered protest demonstrations.

Dezutter is the education writer and Chicago Daily News reporter assigned to coverage of the protest movement in Chicago. Kondracke is assigned to the Sun-Times Washington Bureau; Singer works for the Sun-Times in Chicago.

At the Pentagon, Army General Counsel Robert E. Jordan III did not deny intelligence information on political activity in the Chicago area had been collected.

But Jordan insisted "current army policy specifically and emphatically prohibits collection of any information of the type referred to in these allegations."

In earlier statements, however, Jordan has conceded the Pentagon's civilian leaders did not know how far Army feld commanders may have gone in the domestic intelligence area.

Mr. EDWARDS of California. Mr. Speaker, I want to join my colleagues in calling for a full investigation of the allegations against the Pentagon raised

by the chairman of the Senate Subcommittee on Constitutional Rights.

If Army intelligence has, in fact, been engaging in wholesale spying on the domestic political scene, the persons responsible for these activities should be treated as national enemies and should be disciplined to the fullest extent possible. I can imagine no greater threat to the integrity of our Republic than the kinds of activities described in these allegations. The word "subversive" does not begin to describe these activities.

If these activities were, in fact, ordered, I have no doubt that the persons who ordered them did so with the best intentions—no doubt with a fulsome sense of self-righteousness. But good intentions and self-righteousness are no excuse for violating the basic principles of human dignity and freedom on which this Republic was founded.

Mr. Speaker and colleagues, if I read the signs correctly, the American people have many misgivings about the ability of our democratic system to hold the Nation together and to solve its pressing domestic problems. The American people do not need to have their confidence further undermined. They need reassurance that the system is sound and workable and flexible enough to surmount any crisis.

The activities described in these allegations would have exactly the opposite effect. Instead of inspiring confidence, they would serve to sow fear and suspicion, to deepen the divisions in our society, and to further rent and weaken the already sorely tried fabric that holds us together as a nation.

What the American people need now is certain knowledge that these allegations will be fully investigated and that if they are found to be true, those responsible will be appropriately disciplined.

Mr. WHALEN. Mr. Speaker, I am deeply disturbed by the information made public Wednesday by the Honorable SAM J. ERVIN, JR., a Senator from North Carolina, concerning alleged U.S. Army surveillance of public officials and other citizens.

In my view, there is no justification whatever for actions of this kind by the Army or any of the military services. If such a program is in effect, it should be discontinued forthwith. The individuals responsible for such steps should be brought before the Congress to explain themselves and appropriate disciplinary actions considered.

For the Army to subject private citizens to investigation by its agents because of political views those citizens hold which are contrary to some sort of line that someone in the Army has determined is both ludicrous and outrageous. Since the disclosure of such activities comes from so highly a respected Member of Congress as Senator ERVIN, I feel compelled to demand that Congress investigate this matter immediately.

I, therefore, Mr. Speaker, join with my colleague, the gentleman from Wisconsin (Mr. OBEY) in introducing a resolution to this effect yesterday. The measure provides for a full and complete investigation by the Military Operations Subcommittee of the House Committee on Government Operations. I urge all Members of the House to support this resolution and provide for its immediate enactment.

I am aware that the Army has expressed grave concern about this matter, and well it should. I am happy to note that the President has taken note of Senator ERVIN's information and authorized his spokesman, Mr. Ziegler, to state that a situation like this is "inconceivable—we certainly do not condone it."

However, a matter with implications as serious as alleged Army spying on civilians because of their political views demands complete elucidation by the Congress at the earliest possible moment.

Mr. DERWINSKI. Mr. Speaker, I share the concern that the Members have expressed, and especially the concerns of my colleague from Illinois, over the charge that Army intelligence units were carryinig on surveillance of certain public officials.

Obviously, when any allegation of this nature is made and there exists the possibility of such surveillance by the military, a full disclosure of the facts must be made. I will join my colleagues from Illinois and other interested Members in any necessary steps that we could properly take to bring about a complete disclosure of the facts.

The Illinois situation might be unique, it might be commonplace, it might be an exaggeration, or it might be understated. It is, however, a very serious matter and should not in any way remain unanswered by Army authorities.

Mr. UDALL. Mr. Speaker, recently this country was shocked and outraged by an incident involving the U.S. Coast Guard and a Lithuanian defector from a Russion fishing boat. Due to an error in judgment by Coast Guard officials and inaction by the State Department, Russian nationals were allowed to come aboard a Coast Guard cutter and forcibly return the Lithuanian to the Russian boat.

The President expressed his sense of outrage over this incident, and he should have. The President personally ordered an investigation of the affair and took steps to prevent its recurrence.

This week, Mr. Speaker, an even more outrageous situation came to attention. John M. O'Brien, a former Army intelligence agent, revealed that he participated in a widespread, systematic, and secret program of military investigations of civilian political activities and public officials. Included in the latter group are Senator ADLAI STEVENSON of Illinois, Congressman ABNER J. MIKVA of Illinois, and former Gov. Otto Kerner of the same State.

According to Mr. O'Brien, these men were among 800 persons who the 113th Military Intelligence Group in Chicago kept dossiers on. Mr. O'Brien said these dossiers were called the "subversives file."

In my opinion, Mr. Speaker, there are no finer Americans than these three public servants. I know each one personally and for any military official to question their loyalties even slightly is both ignorant and arrogant. The records these men have compiled speak for themselves. It would be demeaning to them and to our system for me or anyone else to feel compelled to defend their patriotism because of these preposterous events.

Of even greater importance than the reputation and integrity of any one man is the implication that this activity carries for our Nation. If Mr. O'Brien's allegations are true, the traditional civilian control of our military is in jeopardy. If we lose control of the military, we may lose control of the Republic.

I do not mean to impugn the members of our Military Establishment, Mr. Speaker. They have done their job well. But the military concept of life, the strict standards the military imposes on its own members, are completely incompatible with the rough-and-tumble principles of democracy that our Constitution commands us to follow. The military is absolutely essential in the business of war. In civilian affairs, it is equally essential that the military remain aloof from the normal processes of Government.

It is imperative then that we ask and discover how some arrogant men in the military service have arrived at the conclusion that they have the duty to monitor the activities of duly elected public officials. The Congress has not appointed the Army a civilian investigative body. The President has not issued an Executive order commanding the Army to conduct investigations into civilian affairs, and it is inconceivable to me that either would do so.

My colleague and good friend, Congressman MIKVA, one of the most able and promising new Members, has called on both the Congress and the Secretary of Defense to investigate this incredible probe. I join him in that call.

Further, I would urge the President to personally intervene here in the same manner that he did in his position as Commander in Chief in intervening in the Lithuanian affair. Our people are entitled to know just how extensive these military investigations are and precisely who ordered them. We must bring those who are responsible for this reprehensible conduct to account and hold them liable for their activities.

The President may be the only American with both the moral authority and the power to wind his way through the complexities of our military structure in an effort to find out just what is going on. The President surely has sufficient reason to involve himself. The rights of 800 loyal Americans—and perhaps even more—are certainly as sacred as the rights of one, unfortunate Lithuanian seaman.

Mr. McCLORY. Mr. Speaker, I have declined to participate in the special order requested by my colleague the gentleman from Illinois (Mr. MIKVA) on the basis that I have not been able to secure credible evidence upon which to contribute to any "searching and complete discussion" such as my colleague has described in his invitation to me.

Mr. Speaker, in this connection I am attaching copy of my letter to the gentleman from Illinois to further explain my position in this behalf:

DECEMBER 18, 1970.

Hon. ABNER J. MIKVA,
House of Representatives,
Washington, D.C.

DEAR ABNER: Thank you for inviting me to take part in the Special Order which you propose to request for Friday, December 18.

It goes without saying that any such electronic eavesdropping as has been alleged by former Sgt. John M. O'Brien would be abhorrent to all Members of Congress and this Administration.

Beyond that, it seems to me decidedly premature to speculate and comment on unverified charges concerning which appropriate committees of the House and Senate will conduct investigations and hearings. Indeed, I would prefer to join in a request that the House Judiciary Committee conduct such a hearing following the convening of the 92nd Congress.

I feel that substantially more information should be available before undertaking to condemn and criticize acts revealed solely in a letter from a former Army Sergeant to the Chairman of a Senate Subcommittee. In addition, I understand that the statements contained in the letter were based upon letters and other documents which Mr. O'Brien alleges he saw in Army files. It is reported that he has made his charges on the basis of his recollection of what he saw in the files that came to his attention.

Accordingly, I would feel that your efforts to have "a searching and complete discussion by Members of Congress" is a little premature. If the allegations are backed up by more concrete evidence I feel that the best approach would be to request and secure full dress hearings in order to fully expose and forever condemn and prohibit practices such as are charged in Mr. O'Brien's letter.

Sincerely yours,

ROBERT MCCLORY,
Member of Congress.

GENERAL LEAVE TO EXTEND REMARKS

Mr. MIKVA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

INVESTIGATION OF ARMED SERVICES

The SPEAKER pro tempore (Mr. PUCINSKI). Under a previous order of the House the gentleman from Illinois (Mr. ERLENBORN) is recognized for 5 minutes.

Mr. ERLENBORN. Mr. Speaker, I have joined with my colleague and fellow Illinoisan, Mr. FINDLEY, in asking that the House Committee on Government Operations investigate the recent allegations of surveillance by military personnel of the activities of political leaders in our State.

Because a Member of this House, Mr. MIKVA, is said to have been the object of this surveillance, I believe we ought to delve into this matter thoroughly. It is said that the comings and goings of two other men were watched by the Army, Senator ADLAI STEVENSON III and Otto Kerner, former Governor and now a judge on the U.S. Court of Appeals.

The Armed Services have no business in this sort of activity. If the allegations are verified, we must stop the practice and censure the persons responsible for it. Until we have more evidence, however, we must accept the reassurance of Stanley Resor, Secretary of the Army, that the charge is false.

During his recent news conference on television, President Nixon conceded that he had spoken too hastily about the guilt of persons facing criminal charges. I suggest that we proceed with restraint in this case, so that we will not have to make a similar retraction.

My colleague, Mr. FINDLEY, and I have asked the chairman of the Government Operations Committee, Mr. HOLIFIELD, to call promptly for a study of this case. This committee is charged with examining the operations of all executive offices. It has a Subcommittee on Military Operations and it carries on a watch over the Freedom of Information an Invasion of Privacy Acts.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The sale of electrical housewares in the United States more than doubled from 1960 to 1969. In 1960, 35 million units were sold compared to over 78 million in 1969.

PANAMA CANAL SOVEREIGNTY: ANATOMY OF THE 1964 ASSAULT ON THE CANAL ZONE

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, on May 2, 1958, in what appeared to most of our people as a sudden raid into the U.S.-owned Canal Zone territory, Panamanian University students planted 72 Panama flags at various spots in the zone, including one in front of the canal administration building while police looked on in an imposed official impotence.

This flag planting was not an innocent boyish prank by overzealous students but a carefully planned and expertly executed demonstration called operation sovereignty that I had foreseen and sought to prevent by giving timely warning in an address to the Congress. Other incidents about which I also gave similar warnings followed. These included my prediction in an address to this body on August 31, 1960, that after the Congress adjourned the President of the United States, on recommendation of the Secretary of State, would authorize the formal display of the Panama flag in the Canal Zone. Precisely as predicted, and in disregard of the provisions of House Concurrent Resolution 459, 86th Congress, adopted by the House on February 2, 1960, by a vote of 381 to 12, and of the Gross amendment to the Department of Commerce appropriation bill, 1961, adopted unanimously by the House on February 9, 1960, the President, after adjournment of the Congress, on September 17, 1960, authorized the formal display of the Panama flag in the Canal Zone in one place equal with that of the United States. The people of our country were truly shocked by this striking of the U.S. flag.

These incidents were not individual unrelated events but a sustained series of psychological probes to test the willpower of our highest officials and to serve for propaganda purposes. Instead of meeting those challenges as recommended by local police officials and snuffing them out at the start, which would have been easy to do, the highest officials of our Government temporized and tried to appease the radical elements in Panama and elsewhere responsible for them. The inevitable outcome, also foreseen, was a massive Red-led Panamanian mob assault on the Canal Zone on January 9, 1964, that for 3 days threatened the security of the Panama Canal and required the use of the U.S. Army to prevent the zone from becoming the scene of a Communist blood bath of wholesale murder, pillage, and rape, as well as damage to the canal. In spite of this dangerous situation, I am happy to report that the Panama Canal continued to operate without interruption to transit. This was possible because loyal U.S. citizens filled security positions essential for the maintenance and operation of the vital waterway. Their splendid performance again showed the wisdom of our statesmen early in the 20th century in securing full sovereign control of the Canal Zone and canal for the United States.

In an address to the House on March 9, 1964, I emphasized that the hoisting in 1960 of the first Panama flag in the Canal Zone did exactly what it was designed to do: it clouded the sovereignty of the United States over the Canal Zone and canal in a tidal wave of distorted publicity—See House Document No. 474, 89th Congress, pages 305–44.

An admirable summary by Eugene H. Methvin of facts about the Communist planned and led 1964 Panamanian mob assault on the Canal Zone was published in a recent issue of Orbis, a quarterly journal of World Affairs published by the Foreign Policy Research Institute of the University of Pennsylvania.

Because of the importance for editors, historians, and other publicists as well as for officials of our Government to have authentic information about the 1964 attack on the Canal Zone and for the benefit of historical accuracy, I quote the entire article as part of my remarks. The facts presented, as well as anything that I have read, emphasize the imperative necessity for the United States to continue its undiluted sovereign control over the Canal Zone and Panama Canal.

The indicated article follows:

THE ANATOMY OF A RIOT: PANAMA 1964

(By Eugene H. Methvin)

On January 10, 1964, world headlines screamed the news that Panama's President Roberto F. Chiari the night before had "suspended relations" with the United States amid rioting by Panamanian students who invaded the Canal Zone. U.S. forces attempt-

ing to quell the violence reportedly had killed half a dozen people, and Panama's ambassador at the United Nations demanded nationalization or internationalization of the Canal, passionately accusing Americans of "aggression" and "mass murder." New York Times headlines proclaimed, "Capital Stunned by Panama Break."

For three and a half days, the maelstrom of violence continued, leaving twenty-four dead, 400 injured, and a loss of $2 million in property destruction.

Distraught State Department diplomas in Washington decried another propaganda black eye for America. Even two weeks later, Under Secretary of State W. Averell Harriman returned from Europe to report in dismay that the United States' NATO allies were aghast at the news. Top West European officials who were proven friends, relying mainly on accounts from America's own wire services, generally believed the Panama version of the riot story: that brutish U.S. colonialists had used tanks and machine guns to shoot down masses of Panamanian civilians in cold blood. The U.S. press launched the usual round of self-examination and *mea culpa*, sending feature writers to Panama to cable back descriptions of U.S. policy mismanagement and the grievous socio-political ills that afflicted the little country and its poverty-stricken people. For weeks a bitter debate bubbled in the American capital over whether to release information gathered by the U.S. intelligence community showing that Castro-communist manipulation was behind the violence.[1]

What nobody had the courage or acuteness to say was that from the start the rioting was carefully planned and conducted by communist conflict managers schooled in the academies of subversion maintained by Moscow, Peking and Havana. From intelligence sources, evidence gathered by the respected International Commission of Jurists, and known communist procedures, the real story of how the Panama rioting was staged can be told. Consider these clues:

"Molotov cocktails" thrown against U.S. homes, businesses and automobiles contained meticulously hand-sewn wicks, not improvised rags stuffed into bottlenecks. Contents followed recipes given in communist manuals. One Panamanian mother reported that a daughter and other students who were members of a pro-Castro communist organization had stayed after school making the firebombs a full week before the riots.

Rocks hurled at Canal Zone police in front of Balboa High School had to be transported to the scene in advance. During the assault student agitators sought instructions from an adult who vanished when police moved to get his picture for identification purposes.

An amazed American witness in downtown Panama City stood beside a radio commentator broadcasting into a portable transmitter: "Ten thousand persons are defying the bullets, going toward the Canal Zone . . . The North American troops are machine-gunning the brave Panamanian patriots for the sole reason that they love their country . . . Tanks are now in our territory." But what the commentator was sending out over the airwaves bore no resemblance to the scene before them—a small, churning but peaceful crowd of spectators watching a firebombed Braniff Airlines office burn. Not one U.S. tank or machine gun was used during the four-day disorders.

One of the first stores looted after nightfall was the Compania America Arms Shop. Thus armed, snipers in the Legislative Palace and other buildings adjoining the Canal Zone poured hundreds of rounds of rifle and pistol fire at U.S. soldiers, killing four and wounding others. An informant described how known communist leaders handed out submachine guns with instructions to "go shoot up the Zone."

Through high-powered lenses U.S. troops sandbagged at the Hotel Tivoli watched a Panamanian carrying a camera rush from the Legislative Palace, draw a pistol and shoot a man in the crowd of petrified onlookers. Then, as affidavits from onlookers confirmed, the killer snapped a photograph of the body, stepped into a waiting auto and sped away. The next day, not surprisingly, six known communists who earlier had been busy agitating the crowds were identified leading a mammoth funeral procession for fallen "martyrs murdered by the North American imperialist troops."

When U.S. troops relieved the overwhelmed eighty-man Canal Zone police, they paced forward with unloaded rifles and fixed bayonets to push back the crowd, and most marauders left peacefully. But one agitator stepped to the front, rallying two dozen mobsters in a rock-throwing charge. Attempting to grab the soldiers' rifles, many were cut in the scuffle. The agitator was none other than communist Andres Galvan, whose record included sojourns in Cuba, the Soviet Union and China.

President Chiari, under pressure from his communist Minister of Education, Solis Palma, and another communist, Eloy Benedetti, legal adviser in the Foreign Ministry, ordered Panama's efficient U.S.-trained *Guardia Nacional* to stay in its barracks for four days. During the peak of the violence, he appeared on the Presidential Palace balcony with expert communist agitator Victor Avila, who tongue-lashed the crowds on to new attacks against the *Yanquis*.

U.S. intelligence authorities identified seventy communists—fifty-five of them trained in Cuba—agitating and directing mob action. Typical was Floyd Britton, a riot-tested veteran who had spent a year in Cuba studying special courses on guerrilla warfare, infiltration and mob demonstration methods, aimed specifically at Panama and taught by Soviet army officers. Assigned to organize students at Panama University, he brutally beat with a chair one who dared to oppose him.

When the rioting subsided, Cesar Carrasquillo, twenty-three-year-old leader of the Panama Student Federation, the FRU, and Hugo Alejandro Victor, fifty, the Communist Party chief, flew to Moscow to report. Few doubt that KGB experts eagerly interrogated them and integrated the operational lessons learned in their never-ending quest to perfect their technology of planned violence and deception.

THE STAGE SETTING

The Communist Party as such had been illegal in Panama since 1953. But 600 hard-core communists of the pro-Soviet, Castro or Mao variety operated openly. With an estimated 5,000 trusted fellow-travelers, sympathizers or controllable dupes to draw on, their strength was formidable despite the small number. Several score attended schools of guerrilla war, political infiltration and mass manipulation in either China, the USSR or Cuba. A tight core of twenty leaders forming the "general staff" were trained and skilled field generals of political warfare.

These professional revolutionaries operated through a vast constellation of satellite organizations, fronts and special interest groups. The two chief communist fronts were the PDP (*Partido del Pueblo*) or People's Party which was the actual Communist Party of Panama, and the VAN (Vanguard of National Action), a Marxist and militantly anti-American illegal political group which advocated violence to bring about a Castro-type revolution. The VAN cooperated closely with the PDP. Several of its members received arms training under Soviet army supervision in Cuba; the VAN leader, Alvaro Menendez-Franco, a thirty-one-year-old Panama City councilman, made at least six trips to Cuba between 1960 and January 1964.

The mightiest single organizational weapon of the communists, however, was the FRU (University Reform Front). The FRU was the most powerful student political party at the University of Panama. It included many nationalists and leftists of varying degrees, as well as many students attracted to its popular university reform program. But its policies were largely set by its communist leaders. The FRU was a coalition of student groups scattered throughout the university's seven schools.

Located just across Fourth of July Avenue from the Canal Zone in Panama City is the Panama National Institute, a high school. In 1963 the noncommunist students, banded together in the REI (Student Reform Institute), captured the student federation from the communist-oriented VAI (Vanguard of Institute Action), which maintained close liaison with the FRU and was largely directed by University of Panama students.

The Panamanian communists also had heavily infiltrated the mass communications media, both broadcast and newspapers. Some journalists were suspected of being actual party members, and many more ultra-nationalists and leftists would not hesitate to cooperate with the communists on any occasion. Panama City's Radio Tribuna, for example, was owned by Thelma King, a member of Panama's National Assembly and an ardent Castro admirer who made numerous trips to Cuba. She denied Communist Party membership, but admitted "long-standing ties" to the party.[2] On that fateful January 9, she was to prove her value with highly inflammatory broadcasts.

But communists and political demagogues and opportunists found a readily accessible hate target in the 36,000 U.S. military and civilians who lived in the Zone on a visibly higher living standard. In November 1959 the communists and the politicians combined to stir violence with demands that Panama's flag fly alongside the U.S. flag in the Zone as recognition of Panama's "titular sovereignty." American businesses were stoned and some looting occurred before Panama's *Guardia Nacional* restored order. In 1960 President Eisenhower made a "voluntary and unilateral decision" that both U.S. and Panamanian banners fly together in the Shaler Triangle, where Zone territory juts 250 yards into the heart of Panama City, and authorized a 10 per cent raise for unskilled and semi-skilled Panamanian employees of the canal company; an apprentice program to help them win promotions to pay rates based on those in the United States enjoyed by American citizens; new modern housing for the 10,000 Panamanians living in the Zone; and numerous other economic benefits. President Chiari went to Washington in June 1962 and won President Kennedy's agreement to a list of still more concessions, including flying Panama's flag in the Zone at numerous additional locations, to be fixed by high-level representatives of the two presidents in negotiations. Anti-American feelings continued.

PREPARATION FOR CHAOS

On November 1, 1963 a Venezuelan fisherman on a lonely peninsula discovered a three-ton cache of weapons and ammunition buried on an isolated beach. The Venezuelan police quickly identified them as Cuban army weapons. Within a few days they caught a Castro agent carrying blueprints for an armed insurrection that would have produced a general slaughter of thousands. The outraged Venezuelans pressed the Organization of American States hard for vigorous anti-Castro action. The Cubans desperately sought some diversion to distract the hemisphere's attention. Panama offered the best bet, a perennial tinderbox for "hate America" violence.

In late December 1963 employees of the U.S.-owned Zone bus company went on strike for higher wages. Since the company was a private one operating under franchise, the Zone government tried to stay out of the disagreement, but Panama's President

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Chiari, with an eye on the 1964 elections, did not. His public statements undermined the company's bargaining position and made a reasonable settlement virtually impossible. Finally Chiari called in the American owners and advised them to tell Governor Robert J. Fleming that unless he settled the strike on the strikers' terms within days, the Panamanian government intended to take "drastic"—but unspecified—action.

As the strike dragged on, tension built up. For several days in early January 1964 rumors spread that the communists planned a "general strike" in sympathy with the bus workers against the "Yankee" employers, which they would convert to violence. On the morning of January 9, one Panamanian newspaper quoted from "reliable sources" that "certain communist and leftist leaders," then meeting, were "awaiting the start of a general strike and seek to start riots in order to get the National Guard into action so they can say the National Guard is mistreating the people." [3] But most ominous was an intelligence report: Members of the communist student organization had been staying after school for a week to make Molotov cocktails.

Meantime, the "Zonians" providentially dropped another issue in the communists' laps. On December 30 Governor Fleming, while announcing that both flags would fly at every official Zone location, declared that after January 2 no flag at all would fly at the four Canal Zone high schools, where heretofore the U.S. flag had flown alone. The intention was to avoid friction between national groups in the student bodies, but Fleming's attempt to circumvent trouble backfired. The students returned to Balboa High School, the Zone's largest with 1,851 students, all but seventy-four U.S. citizens. They protested the no-flag decision vehemently and collected 400 to 500 signatures on a protest petition to President Johnson.

In Panama City, too, agitation began on the flag issue. That night on the "El Socialist" radio program, the commentator gave a vicious twist to Governor Fleming's announcement:

"The invaders of our territory, instead of putting up a mast for the Panamanian flag at sites where the U.S. flag has been flying, have decided—in order to mock us—to eliminate the Yankee flag from every possible site. The main purpose of the Yankees is systematically to refuse to recognize our rights. For this purpose they apply all of their shrewdness to a policy typical of an imperialist country. We Panamanians should realize that the gringos do not look upon us as their equals. Rather, they look on us their suppliers of raw materials and . . . cheap manual labor . . . They are interested in Panama simply as a source of wealth, a market for their industry, an appendix to their economy . . . Let us launch the definite struggle for national liberation, the struggle against imperialism." [4]

The Communist Party pushed this interpretation. The former secretary-general of the Communist Party wrote a "letter to the editor" of the tabloid *El Dia* on January 7 denouncing "aggressions" against the flag and country of Panama. Eliminating flagpoles at the schools was a "crude, offensive and dangerous trick," he said.

Two dozen Balboa students showed up early on Tuesday, January 7, intent on raising the Stars and Stripes on their school's lone flagpole. They found the halyards locked and two policemen standing guard; school officials had got wind of what was afoot. Nevertheless, the crowd grew quickly and some of the boys tried to climb the pole. Soon 200 to 300 students and a dozen adults were there, most clamly waiting for school to open and watching the eighty students gathered around the flagpole who finally got the halyards loose and ran the flag up. Classes began routinely at 7:45, and school officials lowered the flag during the first-period class. When the class ended, less than an hour later, 150 students gathered, raised another smaller flag, and recited the pledge of allegiance. Governor Fleming decided not to interfere. Some of the boys had vowed to keep the flag flying against any and all comers, and he had no wish to order the police to use force against them. He hoped to find some other way out, perhaps by flying both flags.

That evening, six schoolboys lowered the flag. Supplied with blankets and food by sympathizers, twenty-five students spent the night out under the stars to keep authorities from cutting down the flagpole. Fleming tried just that the next day—but the students refused to move and the workmen sent to do the job retired rather than risk a physical clash.

This commotion made big news. Radio Miramar on Wednesday declared that the "Zonians" were inflaming the same sort of emotion that had moved American settlers in Texas to declare independence and then move toward annexation to the United States: "The same thing happened in Texas and in all the countries which were absorbed by the American empire." Radio Mia intoned: "Well, these are the children of those who are taking advantage of our soil in the Canal Zone, who are living like gods, kings, and who are rude to Panamanians!" The newspaper *Critica* on Thursday front-paged a picture of Americans gathered around the Balboa flagpole and a two-inch headline in red ink, "The Zone Students Say: The Panama Flag NO!"

To the communist general staff, the Balboa incident was a gift almost too good to be true. But schooled as they were in Leninist doctrine, they were prepared for "all forms" of "revolutionary struggle," and as the revolutionary textbooks command, were ready to switch instantly from one form to another to take advantage of fast-breaking circumstances.

On Wednesday afternoon, three Panamanian students walked into the Balboa principal's office. One introduced himself as Guillermo Guevara Pas, a reporter for the Panamanian National Institute student newspaper *Impacto*. He said they wanted to know all about the American students' demonstrations. The principal politely sent them to the Canal Zone Administration Building, a block away, to talk to the Canal's public relations officer, who told them the students were violating official U.S. policy and he hoped this stubbornness would not last long. Pas himself belonged to the democratic student group at the National Institute, the REI. But with him was Francisco Diaz, a member of the communist-oriented VAI; the third student remained unidentified. Undoubtedly, Diaz or the unidentified third student reported in full to the comrades of the communist-led FRU at the University of Panama. Diaz arranged to borrow National Institute's treasured Panamanian flag used by student movements in 1947 and 1958 and the November 3, 1959, march into the Zone.

That night, the communist high command worked furiously to exploit the situation. Special logistics units secured loudspeakers, gathered firearms and Molotov cocktails. Agents in key government posts were alerted to see that police would not interfere with their plans. Infiltrators in the radio stations and newspapers were contacted and briefed, so they could arrange instantaneous broadcasts summoning forth excited crowds. Selected "shock troops" were assigned to overturn and burn automobiles as beacons signaling the mob that law and order were suspended. Other squads were to hurl firebombs into the offices of American businesses so that clanging fire engines would assure ever-growing crowds and international headlines would convey the desired impression of spontaneous and massive anti-Americanism. Veterans of Cuba's guerrilla and terrorism training, skilled with automatic weapons, were assigned to raid gun shops and lead snipers. One assignment, euphemistically called "special work" in the communist academies of violence, went to the party's most trusted and secret agents: the manufacture of martyrs.

THE BALBOA FLAG EPISODE

On Thursday at 4:30 p.m., a breathless runner burst into the auditorium of the Panamanian National Institute, just as the democratic REI students were installing their newly elected officers. "The *Vanguardia* are marching on the Zone," the messenger shouted. "They're going to raise our Institute flag at the *Yanqui* high school to show our national sovereignty!" The new leaders hurriedly consulted: they could not afford to let the rival Red group they had just beaten in a narrow election take the lead now in such a patriotic demonstration. "We march too!" they declared. Guillermo Guevara Pas let them out. News photographers, radio broadcasters with portable units and television photographers were already on hand, and the VAI students carried signs proclaiming, "Panama Is Sovereign in the Canal Zone," "Panama Is No Protectorate—It Is Free and Sovereign," "Fleming Go Home!," "The Panamanian Flag *Only!*"

The demonstrators entered the Canal Zone at 4:40 p.m. heading for Balboa High, about a mile inside the border. Within half a block of the school, twelve Canal Zone policemen stopped them. Guevara Pas, speaking excellent English, told Captain Gaddis Wall, the police commander, they wanted to raise their flag on the Balboa High flagpole and sing their national anthem. Speaking through an interpreter so there would be no misunderstanding, Wall explained that he could not permit the whole group on the school grounds, since some 200 Americans were gathered there and the possibility of trouble was too great. He proposed to conduct five Panamanian student leaders to the flagpole where they could display their flag and sing their anthem, but they could not run the banner up since the U.S. flag was already flying.

When Guevara turned to address his group, they drowned him out with shouts of "No! No! No!" Wall had his police car driven up, and helped the young man up on the fender so he could command attention. Fourteen of the radicals in the VAI group refused to go along with the compromise; they insisted that they be allowed to run up their banner—a sure bid for trouble. Guevara pleaded and cajoled for almost an hour, while individuals in the crowd hurled a steady stream of invectives at the policemen. The VAI students were in obvious control; although Guevara Pas of the REI was still at the front, he was a prisoner of the crowd. Police identified eight known VAI leaders actively running the show.[6] Wall and the other policemen noticed that one adult Panamanian was in the crowd and seemed to be supervising things; the troublemakers referred to him as "the professor" and continually ran to consult him. But as soon as a police photographer moved to get a picture this mysterious adult disappeared.

About 6 p.m., Guevara won agreement to Wall's proposal, or so it seemed. He and four other students passed through the police line bearing their flag and the National Institute standard; a sixth ran through, too, carrying a sign proclaiming Panama sovereign in the Zone, but Wall did not object. Photographs of the five students carrying the flag unfurled in front of them showed a tear of four to six inches in the middle seam of the top edge. One of the carriers held both edges of the split, keeping it closed; a Canal Zone policeman offered them an insigna pin to

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fasten it together, but they refused. The existence of this tear was later to be a hotly contested point.

By this time 400 to 500 American students and adults were gathered in front of the school. For five minutes, the Panamanians posed with their flag for the photographers. Then for their ceremony they insisted on occupying the steps leading to the flagpole where thirty American students were sitting. All had been quiet to this point, but now some of the adults raised the cry, "Stay! Stay! Stay!" As Wall allowed the Panamanians to cross the hedge ringing the pole, the Americans joined in "The Star Spangled Banner." This angered the Panamanians. Three of them demanded that they be allowed to raise their flag on the pole instead of going through the ceremony previously agreed on. Arguments flared, and as a yelling contest developed Wall deployed his policemen in a line between the two groups. He tried to persuade the Panamanian students to proceed with their ceremony, and when they refused he ordered them to rejoin their group and leave. When they refused this, too, Wall ordered his policemen to move them out. What was supposed to be a quick and peaceful ceremony had been stretched to twenty-five minutes and tension was rising dangerously.

With riot batons held horizontally, the officers began to push the six Panamanians backward. As they resisted, scuffling violently, stumbling backward over the hedge, they held tight to the flag, which tore along the already-ripped seam almost to the top of the coat of arms in the middle. "Now you made us tear our flag," one of the bearers cried in Spanish.

Across the road most of the Panamanians were orderly and quiet, but fifteen or twenty shouted, shoved and waved. The flag bearers soon stopped struggling and walked back to their crowd. They then held up the torn banner and cried, "Look what they did to our flag!" At that a roar went up and the student agitators began shouting loudly and surging against the police line. A few stones began to fly. (They had to be carried to the scene, since there were none there.) One hit a policeman, piercing his helmet liner and cutting his scalp. All the while, the portable broadcasters poured out inflammatory accounts of what was happening.

It was now 6:30. The episode had lasted more than an hour. The flag bearers returned with the flag in a Volkswagen bus to the Republic of Panama, where President Chiari personally received them,[6] while their comrades marched back to the border along Gorgas Road, en route shattering windows and street lights, overturning garbage cans and stoning automobiles. Canal Zone police followed in their cruisers at a distance, under orders to make no arrests as long as the students did no more than damage property and continued on their way out of the Zone. They crossed the boundary between 6:45 and 7 p.m., two full hours after the march began.

THE PLANNED EXPLOSION

At precisely 6:35 that Thursday evening, U.S. District Judge Guthrie F. Crowe sat down at home and tuned in the regular evening broadcast of New York stock market news.[7] His wife called from the front porch: "Come here! They're turning over a car in the street." Judge Crowe saw "seven or eight" men—not students—around a car parked along Kennedy Avenue. Looking up and down the street, he saw a number of people milling around, screaming, throwing stones and interfering with traffic. The men finally toppled the car, a small Morris Minor, dragged it to the middle of the street and set it on fire. A Panama police car drove by and parked on the adjacent corner of "H" Street. Blithely ignoring the arsonists, one policeman got out and began directing traffic. With this visible demonstration that law enforcement was not functioning, a dozen crowd members joined the firebugs in turning over and firing a second car.

This incident occurred a good ten minutes *before* the student rioters reached the border. The comrades were touching off their explosion according to plan, though a bit prematurely. Crowds attracted to the border by the radio harangues from the Balboa High School scene were quickly swept into the rioting started by these clumsy and too obvious shock troops. The evidence gathered by the International Commission of Jurists presents a clear picture of planned, manipulated violence. As Captain Wall later testified, the crowds "became infected with this excitement" and a "sort of social contagion" caught up many people in the early stages "by their mere associations with those who were already rioting."[8]

Within minutes 500 to 600 people were milling in the street, pressing against the high wire fence in front of the judge's home. His wood frame house sits on a high bank some twenty-five yards back from the street. Chunks of concrete came sailing through the windows. A few agitators began hurling Molotov cocktails over the fence. The first ones did not shatter, and Judge Crowe was able to throw them off the porch. But two on the porch and one through an upstairs window set the house afire. The judge ran to the district courthouse nearby and summoned five or six policemen, who fought the blazes with buckets and dishpans. Meanwhile, somebody in the crowd produced bolt cutters and tore through the fence. When the Canal Zone firetrucks arrived, rioters let them through. The policemen fire a volley of shots over their heads, the crowd parted, and the firemen extinguished the blaze.

Judge Crowe kept some of the unshattered Molotov cocktails for souvenirs. Each had one of the meticulously sewn wicks that later so impressed the ICJ Investigating Committee.[9] They also were half filled with sand to help the gasoline spread and burn faster—a sophisticated little trick taught in Castro's schools of social demolition and hardly likely to pop up spontaneously in a random crowd. Agitators within the crowd particularly impressed Judge Crowe. They were screaming slogans, and one picked up a handful of earth and held it high over his head crying, "It's our land! We're going to get the Yankee out!" Across the street others appeared with paint and paintbrushes to daub the buildings with the favored signs: "Yankee, go home!" "Yankee murderers!" And a block away loudspeakers were already blaring boisterious Panamanian dance music to add to the riotous atmosphere.

By the time the student column reached the border, half a block from the National Institute and Judge Crowe's home, it was 6:45 to 7 p.m. and several automobiles were already burning as beacons to the lawless and the excitement-seekers. Students joined grown-ups in stoning every car that passed bearing Canal Zone license plates. A snarling crowd surrounded one car driven by a woman and almost overturned it before she gunned her way through to the Zone, where she collapsed in hysteria.

From the start of the Balboa High incident, the radio broadcasters accompanying the Panamanian students poured out a barrage of hate to the effect that the Aemricans had "invaded" Panama, were murdering great numbers of innocent students, and had torn and trampled Panama's flag. Invariably the Panamanian rioters were referred to as "heroes." For example, at 7:55 p.m. Onda Popular aired this piece of "news":

"A total of 400 University students are retaliating for action of the Balboa High School demonstrators who stepped on and tore apart a Panamanian flag earlier this evening. The Panamanian students are now burning an American flag. They have joined a demonstration of 15,000 people in Panama City in protest against Canal Zone treatment of the national emblem."[10]

The announcers, not only according the rioters the nation's blessings for their depradations, repeatedly provided assurance that they were immune from the law. Radio Aeropuerto at 7:30 broadcast, "The National Guard has remained aloof from all the incidents." As the violence reached high pitch, fellow traveler Thelma King's Radio Tribuna blared, "The National Guard reportedly is siding with the Panamanians to defend our sovereignty." A short while later the same station proclaimed, "The National Guard is helping the Panamanians."

Not one station appealed to the people to keep the peace, move out of the streets, get into their homes and stay away from trouble. That was left for Canal Zone authorities; they sent a small single-engine plane up with a loudspeaker to fly along the border for more than an hour appealing to people in Spanish and English to stay calm and go home. The appeals were clearly audible on the ground, but no one heeded them. By 7:15 to 7:30, a crowd of several thousand milled along the mile of Canal Zone border adjacent to downtown Panama City, on Fourth of July Avenue and Kennedy Avenue between Balboa Road and the Ancon Railroad Station. The violence, sustained by the inflammatory broadcasts, was fissioning.

The tiny Canal Zone police force was overwhelmed. Captain Wall had nineteen officers on duty when the trouble started at 4:40 p.m. By 7:30 his entire force of eighty-five men was deployed, trying to police the border and turn back marauding, rock-hurling, firebomb-throwing mobs. Between 6:30 and 8 p.m. Zone authorities, following set procedures, made eight desperate pleas to Panama's efficient U.S.-trained *Guardia Nacional* for help. Finally they appealed directly to President Chiari through the U.S. Embassy. But when at last the *Guardia* radios crackled, U.S. monitors in the Zone could hardly believe their ears: they said that President Chiari had personally given strict orders for the *Guardia* to stay in its barracks!

Meantime, there was chaos on the border. In the triangular Shaler Plaza the crowds numbered well over a thousand. From the transistor radios many carried, and from agitators running among the crowd, they heard wild tales that Canal Zone police had shot down several "defenseless students." Waves of people crossed the plaza throwing rocks and firebombs, and attacked the Tivoli Hotel, both areas being completely inside the Zone. One officer caught two men behind the large wooden hotel, trying to set it afire. Flying rocks and Molotov cocktails by 8 p.m. had caused ten casualties among the police. Rioters stoned and mobbed cars with Canal Zone license plates all along the border, dragging out passengers and beating them with sticks, pipes, stones and machetes. Bobby Sander, a twenty-one-year-old American who had been born in the Zone, lost an eye from a rock thrown through his windshield as he was driving his fiancée home after a movie.

THE BATTLE OF ANCON LAUNDRY

By 7:30 a mob of 2,000 was attacking cars and beating people in the vicinity of the Ancon Laundry and Railroad Station, a quarter of a mile from Shaler Triangle. Defending the boundary were a police sergeant and eight men, positioned between the laundry and a housing area where U.S. civilians lived. Part of the mob surged forward, throwing rocks and firebombs at the police and at windows in the laundry. The police fell back toward the residences, then used tear gas. The crowd retreated and set fire to the station and some railroad coaches, looting

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freight packages as they went. Ten rioters wheeled a burning automobile into the laundry, which began to burn. The police heard gunfire behind the mob and one officer saw bullets richochet off the pavement in his direction.[11]

After the police exhausted their meager tear gas supply the sergeant called a retreat until their backs were to the residential area and told his men, "We can't retreat beyond this point. We've got to hold here." Then he had them pull their service revolvers and fire in unison, by command. Following their training in riot drills, they fired at the pavement in front of the rioters. Such fire normally ricochets low, into the legs of the crowd, but may hit higher. About 7:45, a student of the National Institute, Ascanio Arosamena, twenty, was hit in the shoulder by a bullet from a police revolver; he died half an hour later. The Panamanian radio stations began to broadcast hysterical accounts of his death about 8:30.

A few minutes after the first firing, eleven policemen arrived to reinforce the nine, and together they began firing into the air over the rioters' heads.

At the other end of the riot zone, more than a mile away, a horde 1,500 to 1,800 strong rushed over the boundary, forcing police back into the Zone. The police fired two volleys, shooting over the rioters' heads. At each volley the crowd fell back, without apparent casualties. On the third round, when the police sergeant gave the standard preparatory command, "Ready on the firing line," the crowd broke and ran. Meantime, tear gas was delivered and the police were able to hold until relieved by troops.

At about 7:40 Thursday evening, a crowd of rioters moved from Fourth of July Avenue down Kennedy Avenue toward the uproar in Shaler Plaza. As it surged along, hundreds of people reinforced it from side streets in Panama City, smashing store windows, turning over cars and breaking street lights as they went. At the Pan American Building intersection another large crowd joined in, bringing the total in the Tivoli Hotel-Shaler Plaza area to about 3,000. They swarmed over the low border fence between the Tivoli and the Legislative Palace. Canal Zone police fired tear gas canisters, whereupon the mob moved out into Shaler Plaza and the Canal Zone Bus Terminal. At the terminal, rioters ripped the roofing loose, broke windows and doors, and set the inside afire.

Agitators urged the milling people on and formed small groups into assault waves to storm the fence in front of the Tivoli. Police drove wave after wave back with tear gas. Some people noted that most male agitators who were inciting the mobs to burn, destroy and pillage seemed to wear predominantly red sport shirts. Women agitators carried a unique identification insignia: each had a zebra-skin handbag.[12]

THE U.S. ARMY TAKES OVER

Governor Fleming having left on a routine trip, Lieutenant Governor Parker made a reconnaissance along the border at 7:45. He found that a crowd he estimated at 3,000 was storming along Kennedy Avenue and in many places had overrun the tiny Canal Zone police contingents. Four *Guardia* pickup trucks had been seen driving along Kennedy Avenue, the officers paying no attention to the rioters. The bus terminal in Shaler Plaza was already in flames. At 7:59, as Acting Governor, he asked General Andrew P. O'Meara to take command.

The first company of 110 U.S. troops arrived in trucks at the Tivoli Hotel at 8:35. Before them, Shaler Plaza was a battleground. The few Canal Zone police, having exhausted their tear gas, were firing service revolvers and shotguns loaded with birdshot to ward off the mobs. The troops' orders were to use the minimum force necessary to secure the Zone's borders. They deployed along the fence in riot formation, confronting some 500 rioters who were hurling stones and Molotov cocktails. There was close contact, and many of the soldiers were burned or hurt by rocks. The first to arrive began firing riot-control shotguns, but before a dozen rounds were fired the officers stopped them and they then used their rifles as prods to move the crowds out with wedge and close formations. Two or three dozen soldiers were wounded by flying sticks, stones and bottles.[13]

About 10 p.m. twenty-four-year-old Private Donald C. Hronek, watching the mobs on Fourth of July Avenue, noticed one particular man carrying a camera. He saw the man drop the camera on the pavement, pull a pistol and fire two shots into the mob. Another man fifteen to twenty feet away fell. "The crowd sort of fell back away from him," Hronek testified. "Then several people came back up, took the man up by the arms off the pavement, and carried him across the avenue into Panama. Shortly thereafter an ambulance showed up. . . . The man that did the shooting walked back over into Panama too." This was the first of several such shootings of Panamanians *by Panamanians* observed by Americans, both soldiers and civilians. A number of sworn affidavits were later collected.

Meanwhile, in Panama City itself, the communist shock squads were busy. As soon as it became dark, they led mobs in attacking and burning key American properties. A National Guard detail surrounded the U.S. Embassy, and the American diplomats praised the Guardsmen for "a fantastic job" of protecting the embassy offices from the threatening throngs. Nevertheless, the Americans burned secret records and evacuated all but two employees from the building. The U.S. Information Service office was burned out. About 11 p.m. activists pushed two automobiles through the Pan American Building's windows and fired shots into the gas tanks. The building went up in flames. Later seven bodies of suffocated and burned victims were found, either looters or deliberately manufactured martyrs trapped in the structure.

The sign painters' work on Shaler Plaza and along Kennedy Avenue—"Get out Yankee!" "Down with the Yankee Murderers!"—was assiduous. They also renamed Kennedy Avenue "Avenue of the Assassins." One obviously got carried away. At the base of the Shaler Plaza flagpoles he painted, "Down with the Government!" But this gaucherie was painted out after President Chiari at 11:10 p.m. announced via radio a diplomatic break with the United States and ordered a state funeral for the Panamanian "martyrs."

THE SNIPERS

At 10:30 p.m. snipers began shooting at U.S. troops standing guard in front of the Tivoli Hotel. Within twenty minutes, one U.S. civilian and two soldiers were wounded. The snipers were shooting from the Legislative Palace and the vicinity of the Pan American Building. General O'Meara's chief of staff asked permission to return fire. O'Meara refused; instead, he tried by phone to get the *Guardia Nacional* to stop the shooting. A U.S. Army liaison officer stationed in the National Guard headquarters delivered the general's request, but nothing happened. So at 10:50 O'Meara authorized his units at the Tivoli Hotel to use directed and controlled shotgun fire to suppress identified shooting from the Legislative Palace. The fire was limited to No. 4 and No. 7½ shot, the sizes used to kill ducks and doves. At the 100-yard distance separating the hotel and the Legislative Palace, neither dove nor duck would be greatly annoyed, much less snipers.

At 11:15, O'Meara got Panama's Foreign Minister Galileo Solis on the phone to tell him that U.S. troops were being wounded by sniper fire from the Republic of Panama. "Under the circumstances I've authorized the use of controlled shotgun counterfire," the general said. "Mr. Minister, I'll cease fire immediately if the National Guard will stop the sniping." Solis replied that he would see that the National Guard got immediate orders to seize all snipers, and O'Meara ordered a cease-fire. Nevertheless, the sniping did not stop, and by half past midnight, four more soldiers were wounded.

The Southern Command's special Marksmanship Unit prepared to begin counterfiring when the order should come. The men in this unit had marksmanship shooting as a full-time duty; they staff the U.S. Army team that competes in the yearly Pan-American matches. Shortly after midnight the snipers began coordinated automatic weapons fire. One, on top of the palace, would pop up over the wall, spray the area with about twenty-five submachine gun rounds, and duck. A minute or two later another would cut loose from a second-floor window with a submachine gun. Another on top would fire with a .22 caliber rifle. Still another, using a .30 caliber high-powered hunting rifle, would fire a few rounds, while on the ground three or four men fired with pistols. This coordinated firing continued for six hours, until dawn.[15]

At 12:30 a.m., with six U.S. soldiers in the Tivoli area wounded, General O'Meara again authorized controlled counterfire. The American marksmen, using high-powered scopes, were closely supervised by their first sergeant to shoot not to kill but to near-miss the snipers for psychological effect. Some snipers persisted until the marksmen shot back to kill—and as best they could tell in the darkness, they succeeded.[16] But the counterfiring was strictly limited; O'Meara stopped it completely after about ninety minutes in the Friday pre-dawn.

THE ATLANTIC SIDE

In Colon, forty miles away at the Canal's Atlantic entrance, transistor radios and identified communist crowd-leaders spread the rioting. Three U.S. Army soldiers deployed to guard the Zone border were killed by snipers during the night. A young second lieutenant, instructed to close off Bolivar Avenue boundary and unaware that the border runs down the middle of the street, marched one squad to the far side. For about fifteen minutes he occupied ten feet of the Republic of Panama, until the battalion executive officer came by and moved the line back. The International Commission of Jurists found this to be the only real border violation by the Americans in the four-day "flag war." [17]

The agitators would address American troops directly through their loudspeakers. "Puerto Ricans, you should drop your weapons and come over to our side. You have no flag!" they would say. (Ironically, the second U.S. Army soldier killed was a Puerto Rican sergeant who was directing his men toward protected positions.) Similar appeals were addressed to the Negro soldiers.[18] These tactics were right out of the Bolshevik handbooks for revolutionary fraternization and penetration, now taught in communist propaganda schools. Later, communists spread the rumor that the Puerto Rican sergeant had been shot by his own officers for refusing to fire on his fellow Latins.[19]

THE VIOLENCE SPUTTERS ON

As Friday dawned sniping sputtered spasmodically over deserted streets. As the morning wore on, a crowd began to gather opposite the Tivoli. Red agitators collected crowds, harangued them, and then tried to lead them in storming the Zone. (Dozens of the communists were photographed and lated identified by American intelligence officers.) Sergeant Clark, the Marksmanship Unit's first sergeant, provided revealing eyewitness testimony to the ICJ:

Footnotes at end of article.

"On Friday morning when this mob started there wasn't 35 people there. First they started with a—scattered up and down here (pointing to a map)—they were going in and prowling around the Pam Am Building. From a small group. I estimate about 200. It just started with eight.

"There were several gentlemen in this crowd when it started that were acting like sideshow barkers in a circus; they were talking under control at this time. I don't think anybody would have ever gotten hurt. These deaths, as a result of all the action out here, could have been avoided. One platoon of soldiers or policemen could have policed these people up and stopped this nonsense, without causing unnecessary deaths. I don't believe you would have had to use tear gas." [20]

The communists brought up a sound truck to urge new attacks. General O'Meara watched them operate and told newsmen in disgust: "Those people were trained operators. They were not students. We could see one fellow. If he hadn't been through Mister Castro's school on how to handle such situations, then he's been through someone's, and I daresay it was Mr. Castro's." [21]

For the crowds collected by these techniques, storming the Zone became a game. All day long, every time a score or so got together, they would charge the border, and American soldiers concealed from the snipers behind various cover would hurl tear gas grenades to drive them back.

In mid-morning, two more U.S. soldiers were wounded, and counterfiring was renewed for four more hours, and again for five minutes at 7:10 p.m. U.S. forces fired an estimated 400 to 500 rounds,[22] and also used shotguns intermittently. About noon on Friday, an eleven-year-old girl was killed in an apartment building near the Legislative Palace. Medical evidence indicated that the bullet was not of U.S. Army caliber. Still, the ICJ concluded that "in all probability" she was hit by a marksman shooting at a sniper in the same building.[23] A taxi driver died of a .30 caliber wound received on Friday near the Legislative Palace, probably shot by U.S. marksmen. The sergeant commanding the Tivoli marksmen estimated that his men killed or wounded twenty snipers.[24]

The only time the Panama National Guard troops appeared on Friday was to remove three of the bodies burned in the Pan American Building. On Saturday, five or six Guardsmen strolled by and mingled with the crowds as they were rallying to storm the Zone and stone the U.S. military police.

On Friday night snipers poured more than 800 rounds into the U.S. positions in the Panama City end. On Saturday night the firing was most intense and accurate. One sniper with a .22 rifle and telescopic sight was a crack shot. In one twenty-minute period more than 500 rounds came in. By telephone the Americans were told, "Tell us the locations of the snipers exactly, and we will call the *Guardia* and they will arrest them." All Friday night Sergeant Avery phoned in locations—but no one ever saw the *Guardia*. Repeatedly on Saturday night he asked permission to shoot back, and was denied every time.

On both nights, Panamanians generally knew that the Americans were not shooting back. Molotov cocktail throwers went to work on the Tivoli Hotel and the Maryknoll Convent nearby. The Americans watched them light the wicks of their firebombs, dash across the street, and throw them into cars or onto the hotel. Once they used a sling device, hit high up and nearly burned the hotel. The firebugs had an audience that laughed and applauded. One got himself a bow and arrow, soaked the end in gasoline, and lit it. But as he drew back to fire, he pulled the bow too far back, and burned his hand, and dropped the bow while the Americans laughted and applauded for a change.

The sergeant finally asked permission to have his marksmen break the bottles in the firebombers' hands as they were running across the street to bomb the hotel. Again permission was denied. The sergeant's sardonic comment: "I have never been in a position where I had to sit there and watch somebody try to burn a building up from under me without taking any action to protect myself. I think this is more than should be asked of any man." But it was asked—and obeyed.

The Americans also noted additional instances of Panamanians shooting each other. On Saturday afternoon a Panamanian standing by the Boyd Building fired a pistol twice toward his countrymen in front of an apartment building, pocketed his pistol and walked down the street. Ten minutes later he reappeared from the Legislative Palace, firing this time back toward the Boyd Building. It seemed to the American sharpshooters watching through high-powered lenses that he wanted to shoot somebody and blame it on the U.S. Army. Again about 3 p.m. on Saturday or Sunday (sleepless and fatigued, the G.I. witness could not recall which) a *Guardia* trooper fired toward a man standing along a wall lining Fourth of July Avenue. The man jumped back. After a second shot, he slumped down against the wall. The crowd shied back a minute, and then several people, including the trooper who did the shooting, walked over to the body.[25]

After three and a half days, at 5 a.m. on Monday, January 13, by prior arrangement with the U.S. Army, the *Guardia Nacional* moved into Colon by truck. Until this hour the sniping and firebombing had continued there along the entire eight-block front. The Guardsmen searched the buildings across the street from the Canal Zone from top to bottom. Not another shot was fired or firebomb thrown. The same thing happened along the tortured Panama City border. The ICJ report concluded: "The Investigating Committee feels satisfied that, if the *Guardia Nacional* had taken charge of the situation early on the evening of the 9th or soon thereafter, the violence and the damage to property and the tragic casualties would not, in all probability, have taken place." [26]

EPILOGUE TO AN OPERATIONAL TRIUMPH

To serve their own ends, many noncommunist or even professedly anti-communist governments may actually cooperate with their local communists in staging anti-Western riots or other operations. In Lima in 1958 before Vice President Richard Nixon arrived many Peruvians felt that a little Red disturbance would help the foreign aid income, and hence police winked at communist plans. After a military junta in 1963 overthrew Juan Bosch, the Dominican Republic's first elected president in thirty years, the United States withdrew recognition. Members of the government, to encourage U.S. recognition, purposedly set up and armed (ironically, with U.S. weapons furnished under a police aid program) a band of communist guerillas As soon as the gambit succeeded, the sixteen hard-core leaders were rounded up and shot. Sometimes dictators will use the communists because they are expert in organizational skills. Cuba's Batista allowed the communists to run many labor unions and the Reds, in return, behaved docilely. Indonesia's Sukarno used the organizational and agitational talents and mob-management expertise of his local communists to attack and gut the British Embassy in his feud over Malaysian independence.

Something of this kind seems to have been what occurred in Panama. Government leaders eager for a little anti-American "pogrom" to benefit their domestic political purposes, and were content to acquiesce in known communist planning. Perhaps Chiari was persuaded by secret communists within his palace guard. The legal adviser in his Foreign Ministry, Eloy Benedetti, and his Minister of Education, Solis Palma, were identified communists and were close to the President in the Presidential Palace much of the time. Indeed, Chiari even appeared on the balcony of the Presidential Palace at the height of the rioting with two professional communist agitators, Victor Avila and Floyd Britton, and looked approvingly while Avila urged the crowds to new "vengeance" attacks against the Canal Zone.

The OAS rushed a special peace commission to Panama to try to stop the violence. It arrived on Saturday, and immediately American diplomats complained bitterly to the Panamanian government representatives, in the presence of the OAS Commission, about the known communist agitators trained in Cuba, the Soviet Union and China who were out haranguing and leading the crowds to invade the Zone. "Give us their names, and we will arrest them," the Panamanians replied. That evening U.S. authorities gave them ten names. Despite this, the next morning, Sunday, January 12, six of the ten named agitators turned up leading the state funeral procession for the "martyrs of Yankee aggression" that marched through Panama City.

The Panama tradegy proved nothing so dramatically as the power of the instantaneous communications media and the effectiveness of a handful of trained social demolitionists who know how to exploit and manipulate this electronics marvel. The staged Balboa incident gave communist agents and collaborators in the broadcasting stations the opportunity to call out the crowds. The subsequent rioting followed a classic pattern, except that the communist hand became obvious a little sooner and more clearly than usual, and, thanks to the OAS and ICJ, was more thoroughly documented. Communist infiltrators, fellow travelers and Yanqui-haters were sufficiently embedded in the radio stations and governmental machinery to provide an initial wave of crowds to screen the paramilitary apparatus. The ordinary ruffians who come out of the woodwork of any community at the first sign of free loot and unpoliced fighting quickly reinforced the roving communist shock squads. These rioters who stoned, overturned and burned automobiles, and wounded Americans, shot their own people and committed other crimes won praise without distinction as heroes and patriots, and many ordinary Panamanians, especially youth, joined the glory.

Yet after the first mad excitement wore off, most of the ordinary citizens quickly retired, depriving the communists of the crowd shield and leaving them inconveniently exposed for all to see. At no time on Thursday evening did the crowd total exceed 15,000 [27] in Panama City and Colon combined although this was sufficient cover for the initial dirty work. The ICJ investigators found that on Friday and Saturday the crowd in Panama City diminished dramatically, leaving only about a thousand in the streets. Movies on these days show that the Red cadres had trouble raising crowds for their "mass" invasions of the Zone; there were no great "masses" to be found. The American sergeant who declared that a single platoon of soldiers could have cleaned up the trouble in a few minutes was undoubtedly right, and the ICJ agreed.

Certainly even 100 people milling, shouting, throwing rocks and firebombs can create considerable havoc—especially if trained agitators and paramilitary squads are operating in their midst to egg them on. But it is no difficult trick to raise a crowd of 15,000 when one considers that a three-alarm fire in

Footnotes at end of article.

any city in the world can raise that many in no time. Considering Panama City's population of 271,000 and Colon's of 59,000, in a nation of 1,067,000, the crowd is shown to be a small minority and the communist accomplishment seems less impressive. In this perspective the facts would seem to indicate that the Panamanians are a far more decent and peace-loving people than the behavior of some of their politicians and the professional communist wreckers implied.

The casualty figures corroborate the conclusion that, except for the first wave of mass hysteria, the pattern of managed violence became so obvious that most Panamanians backed off and stayed home. By 6 p.m. Friday, the U.S. Army had suffered three killed and ten wounded by sniper fire, and fifty-one wounded by rocks, firebombs, sticks and bottles. One Panamanian student was killed in the vicinity of the Ancon Laundry battle, and another nineteen-year-old boy was shot down sometime during the night and died two days later of wounds from an undetermined type of firearm. One Panamanian was killed by an automobile driven by another, and an old fruit peddler was shot while lying or resting in the Avenida Central. He may have been a victim of one of several reported instances of apparently wanton shooting of Panamanians by Panamanians. The ICJ speculated that other deaths occurred as shopkeepers defended their shops from looters.[28] In addition, seven Panamanians burned to death in the Pan American Building. The total of dead Panamanians resulting from the first night of rioting was at least ten, with no allowance for snipers hit by U.S. Army sharpshooters, while the injured numbered in hundreds. Clearly, most of the deaths and injuries occurred in the first night's violence.

By Sunday the vanishing crowds left the communists so naked that even Panama's President felt compelled to grumble about them. Nudging him were the OAS emergency mission and President Johnson's personal emissaries, Assistant Secretary of State Thomas Mann and Secretary of the Army Cyrus Vance, who had arrived from Washington at 6 p.m. Saturday and complained bitterly about the communist agitation. Chiari, obviously shocked by the bloodshed and furor of the genie he had uncorked, began trying to recork it while simultaneously maintaining the nationlist emotion for his own political goals. He told a press conference: "For the past 24 hours there has been infiltrated and is active within the popular movement alien influence of pro-Castro and pro-communist tendency, but this is apart, and not necessarily identified with, the purely civic movement in which the overwhelming majority of Panamanians are engaged."[29] Considering that Chiari had stood on the Presidential Palace balcony touching elbows with two Cuba-trained communist professionals the afternoon before, his perceptiveness left a little to be desired.

The communist-Panamanian diplomatic offensive against Washington was so effective, however, that those engaged in it became overconfident, and on January 21 they made a serious blunder. The Panamanian Bar Association with its government's nod asked the UN-recognized International Commission of Jurists of Geneva, Switzerland, to investigate, charging the United States with violating the Universal Declaration of Human Rights. The ICJ sent an Amsterdam University law professor, a Swedish judge, and a distinguished Bombay lawyer. Before this panel the United States paraded witness after witness—participants, Canal Zone officials, experts—and the U.S. attorney virtually dared the Panamanian Foreign Ministry and Bar Association representatives to put their own responsible government officials on the stand. (They did not.) Once U.S. officials even caught the Panamanians trying to slip in fake evidence; a picture showing street lampposts of the kind used at the time of the 1959 disturbances but since removed. At one point the Indian lawyer, who chaired the ICJ Committee, spoke sharply to the Panama Bar delegate: "Dr. Illueca, I will be quite frank with you, my colleagues and I are not very impressed with this witness. We do not think that he is very reliable. . . We would strongly urge you that when you bring the other witness you tell them to answer directly and truthfully."[30]

In their findings, the jurists rejected point by point the Panamanian charges:

"Considering all the grave acts of violence and the threat to life and security involved, we have come to the conclusion that, even if the force used by the Canal Zone authorities and the United States Army may have been at certain stages somewhat in excess of what was absolutely necessary at the time, the force used seems to have been justified; taking into account such rapidly moving, critical, and violent conditions, it is impossible to lay down a fine distinguishing line of what should have been the absolute minimum necessary."[31]

The jurists reported that they found indications of "some degree of premeditation and planning."[32] And then they delivered this stinging rebuke—which, added to the one declaring that prompt Panamanian police action could have prevented the tragic deaths and violence, makes a shocking indictment of President Chiari's regime:

"We regret deeply that the Panamanian authorities made no attempt during the critical early hours, as well as for almost three days thereafter, to curb and control the violent activities of the milling crowds. On the contrary, there is considerable evidence to indicate that broadcasts over radio, television and loud-speakers, newspapers, and other means were adopted to incite and misinform the Panamanian public without any action by the Panamanian authorities to curtail or moderate such activities."[33]

Nevertheless, from the communist standpoint the Panama "flag war" was a glowing success, strategically and tactically. The OAS was diverted from single-minded concentration on Castro's attempt to topple Venezuela's constitutional regime. The world press was totally taken in. Not until the third day did the public begin to get the slightest hint of communist participation. Not until months later did some of the basic data begin to come to light. The propaganda damage was done.

FOOTNOTES

[1] On one side, Secretary of State Dean Rusk and other "don't-rock-the-boat" diplomatists argued to keep the data secret. On the other side were the new Assistant Secretary of State for Latin America, Thomas Mann, an appointee of President Johnson; Central Intelligence Agency Director John McCone, and a minority of other action-minded individuals. Rusk and his allies won—throwing away a tremendous advantage an outstanding intelligence performance has provided.

[2] Jules Dubois, *Danger Over Panama* (Indianapolis: Bobbs-Merrill, 1964), pp. 294–295.

[3] *Guerra*, January 9, 1964.

[4] U.S. Presentation on February 14 and 15, 1964, to the Committee established under resolution of the OAS, February 6, 1964, Exhibit B, p. 1.

[5] Dubois, *op. cit.*, p. 310.

[6] *Report on the Events in Panama, January 9–12, 1964*, prepared by the Investigating Committee appointed by the International Commission of Jurists (Geneva: International Commission of Jurists, 1964), p. 15. (Hereafter cited as *ICJ Report*.)

[7] Unpublished transcript of testimony before the Investigating Committee of the International Commission of Jurists, March 10, 1964, pp. 61–62. (Hereafter cited as ICJ testimony.)

[8] *Ibid.*, p. 24,

[9] *ICJ Report*, p. 20.

[10] U.S. Presentation to the Committee established under resolution of the OAS, February 6, 1964, "Background and Chronology of the Events in Panama and the Canal Zone on the Ninth, Tenth and Subsequent Days in January 1964," p. 79.

[11] ICJ testimony, March 10, 1964, p. 24.

[12] Dubois, *op. cit.*, p. 290.

[13] Transcript of press conference by General O'Meara held on January 12, 1964.

[14] ICJ testimony, March 11, 1964, p. 118.

[15] *Ibid.*, pp. 84–87.

[16] *Ibid.*, pp. 42–43.

[17] *ICJ Report*, p. 30; ICJ testimony, March 12, 1964, p. 39.

[18] ICJ testimony, March 12, 1964, p. 56.

[19] *Ibid.*

[20] ICJ testimony, March 11, 1964, p. 103.

[21] *Washington Post*, January 12, 1964.

[22] *ICJ Report*, p. 26.

[23] *Ibid.*, p. 27. Cf. medical testimony, March 13, 1964, p. 3.

[24] ICJ testimony, March 11, 1964, p. 101.

[25] *Ibid.*, pp. 112, 120.

[26] *Ibid.*, pp. 20, 28.

[27] This estimate is based on a careful study and comparison of all crowd estimates in all locations along the riot zones in both cities contained in the ICJ hearings and OAS documents. The only overall estimate in Panama City made by a competent observer on the scene was by Captain Gaddis Wall. A veteran of twenty-four years of police work with much experience at estimating crowds, in 1958 he had attended the University of Louisville (Kentucky) police training program and had a course in "flash recognition." As a part of this course pictures of crowds flash momentarily on a screen, after which students make estimates and compare them with the known count. Wall used the technique of block-uniting a group of 100, then multiplying for the total area in view. He estimated a total of 8,000 people strung out along the mile and a quarter of Canal Zone boundary in Panama City, from Frangipani Street intersection in the Ancon area to Balboa Road intersection at the opposite end of town. (ICJ testimony, March 10, 1964, p. 33.) The largest crowd estimate in Colon was 1,500 in the flag-raising ceremony at the Administrative Building. When all other estimates in the pertinent documents are considered, 15,000 seems a highly generous total for the number of people taking part throughout the night.

[28] *ICJ Report*, p. 26.

[29] *Washington Post*, January 13, 1964.

[30] ICJ testimony, March 7, 1964, p. 55.

[31] *ICJ Report*, pp. 37–38.

[32] *Ibid.*, p. 21.

[33] Cf. Dubois, *op. cit.*, p. 297; also OAS chronology (see note 10, *supra*), p. 74.

SPEAKER McCORMACK IS HONORED BY THE REPUBLIC OF ITALY

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New Jersey (Mr. RODINO) is recognized for 15 minutes.

Mr. RODINO. Mr. Speaker, it is with warmth and affection that I congratulate you upon the receipt of the Republic of Italy's highest honor, the "Cavaliere di Gran Croce" of the Order "Al Merito della Repubblica." And, I cannot help feeling a special sense of pride in sharing this award with such distinguished company.

But you, Mr. Speaker, have much more often been a giver than a receiver. You—who has done so much toward fulfilling the dream of a life of dignity, health, and happiness—have endowed us with a legacy of selfless dedication.

As a man who cares deeply for his fellow man, your example will always live in the minds of those who have known and have had the privilege, as I have had, to work with you. Your lofty ideals have provided me with a great source of inspiration; your wise counsel was gratefully taken. And your keen direction has guided the course of countless pieces of legislation which have affected the lives of virtually every American.

I feel especially fortunate to have been touched by your compassion, warmed by your generosity. Our long and close association has been one of my most valued and I shall always carry the treasured touch of your friendship.

Mr. Speaker, it is with the deepest affection and admiration that I congratulate you and wish you the continued enjoyment of life's blessings.

SENSE OF CONGRESS: REAFFIRM TRADITIONAL U.S. POLICY FOR REFUGEES

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

Mr. RODINO. Mr. Speaker, I have introduced a "sense of Congress" resolution calling upon the United States to reaffirm its traditional concern for refugees and for the individual human being and to reaffirm the policy of the United States to offer asylum to all escapees and refugees from totalitarian persecution and tyranny.

I never anticipated, Mr. Speaker, that I would ever feel compelled to introduce this resolution. This great country of ours, throughout history, has maintained a world image of humanity and the land of the free and a free land for those who escape from persecution and oppression.

But, the recent fiasco aboard a U.S. Coast Guard vessel and the forced return to a Russian vessel of a young Lithuanian, Simas Kudirka, seeking cherished freedom has shocked the conscience of the United States.

The United States has never ceased to recognize those Baltic States of Estonia, Lithuania, and Latvia as separate sovereign nations, notwithstanding their subrogation and subjection by the Communist Soviet Union. Thus, it is particularly tragic that asylum was denied to this native of Lithuania.

Much has been said and much will be said concerning the facts surrounding the attempted escape of this young Lithuanian and his seeking of political asylum. If there is anything to come out of this tragic misfortune, it should be the rededication and reaffirmation to the basic tenets of our way of life and our tradition as a land of asylum for the oppressed and the persecuted.

In revewing just the recent legislative history of the United States since World War II in the refugee field, the Congress and the executive have consistently taken action to effectuate in a fast and effective manner measures to insure the escapees and refugees were offered a chance for asylum in the United States. During this period we had a succession of laws including the Displaced Persons Act, the Refugee Relief Act, Hungarian Refugee Act, the Fair Share Refugee Act in recognition of World Refugee Year, as well as U.S. participation in the United Nations High Commissioner for Refugees, and the Intergovernmental Committee for European Migration. Special programs for Chinese refugees from Hong Kong, Dutch refugees from Indonesia, Old Believers from Asia were undertaken; a continued alertness to assist refugees from Eastern Europe was never forgotten. More than 1 million refugees have been accepted in the United States since 1945.

The United States is a signatory to the United Nations Protocol Relating to Refugees. This protocol adopted the definition of refugees from the 1951 Convention Relating to the Status of Refugees as persons who are outside of and are unwilling to return to their respective countries of nationality or habitual residence because of well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. By becoming a signatory to this protocol, the United States is automatically bound to the basic provisions of the 1951 convention prohibiting the expulsion or return of refugees to territories where life or freedom would be threatened.

The protocol and the refugee provisions of the Immigration and Nationality Act are the foundation of our current policy toward refugees.

The Immigration and Nationality Act provides that 10,200 defined refugees may enter the United States each year. Additionally, this act provides that the Attorney General can parole persons into the United States for emergent reasons or for reasons deemed strictly in the public interest.

Only a few months ago, when it became evident that numbers for refugee admissions would be exhausted prior to the end of the fiscal year, the members of the Judiciary Committee suggested to the Attorney General, who readily agreed, that refugees be paroled until members became available so that the United States would not have to turn its back on persons seeking freedom.

The decades of good works and good services dedicated to helping the oppressed should not be forgotten because of the tragic incident involving this young Lithuanian freedom seeker. Therefore, I call upon the Congress to approve this sense of Congress resolution reaffirming the traditional concern of the United States for refugees and for the individual human being.

THE NUCLEAR THREAT INSIDE AMERICA

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

Mr. SAYLOR. Mr. Speaker, in the December 15 issue of Look magazine, our colleagues will find a fascinating article entitled "The Nuclear Threat Inside America" by Mr. Jack Shepherd. The article adds to the growing literature on nuclear reassessment and is particularly worthy of the close attention from all Members of Congress.

Considering that the circulation of the magazine is over 7,800,000, it is not unlikely that the article could create the impetus for a truly national, grassroots movement which would force the Congress to reexamine the statutory underpinnings of the nuclear-Government-industrial complex. I have been calling for such a review for almost 15 years; such a reevaluation of nuclear policy is long overdue.

It is my hope that the public, and the conservation and environment organizations throughout the country will make nuclear review the No. 1 issue of 1971. I make a fair warning that I will be doing everything in my power to make this the primary environment issue of the next session of Congress.

The political clout of the AEC-industrial complex is well known and well documented; nevertheless, there is real hope that the public can regain control over the "nuke pushers," The AEC–industrial complex is already reeling from the onslaught of two, just two, scientists. Scattered here and there across the Nation, various ad hoc groups have been able to slow down the headlong rush to nuclearize the countryside. Consider now, the prospects for the future safety of the whole of the population if a majority of the Members of Congress, plus the conservation groups in concert, demanded a rational, safe, national policy on future nuclear development. It is, in a word, quite a vision. It is, in another word, obtainable.

Mr. Shepherd's article from Look magazine follows:

[From Look Magazine, Dec. 15, 1970]

THE NUCLEAR THREAT INSIDE AMERICA

For 24 years the Atomic Energy Commission has grown up fat, powerful, unquestioned. Its vast, loyal band of scientists, functionaries, businessmen and politicians talk about "nuclear enhancement," nuclear events," and "nuclear landscaping," license and run atomic-power generators and weapons factories that dump "radwaste," which will bubble for thousands of years—lasting longer than governments, records, perhaps man himself. AEC has spent $49 billion. It's got friends.

Now AEC is under attack. More than 112 nuclear power plants are promised by 1980. Private citizens have blocked six in 1970. University of Nevada researchers checking the buildup of iodine-131 in cattle thyroids across the West conclude: "The principal known source of I–131 is exhaust gases from nuclear reactors and associated fuel-processing plants."

Scientists argue that our underground blasts for research—more than 23 so far this year versus two in Russia—are expensive, repetitive and careless. Radioactive plutonium now covers 250 square miles of the Nevada Test Site. AEC admits the desert is contaminated. "It's going to be contaminated a long, long time," says a spokesman. "That's why we're testing here. That's the kind of thing we have to do."

Many AEC officials are working hard to overcome their reputation. Others are skating fastest where the ice is thinnest. Critics bristle at a nuclear policy run by insiders impatient with environmental questions and want a voice in safety and radiation standards used by the AEC. They argue against AEC's dual role of promoter and regulator of atomic energy. "That," says a critic, "is like letting the fox guard the hen house."

AEC sees its mission as a crusade. Howard B. Brown, Jr., assistant general manager, says: "We have circumnavigated the globe many times over, spreading the gospel about the peaceful atom." Opponents are heretics.

Two of them, Drs. John Gofman and Arthur Tamplin of AEC's Lawrence Radiation Laboratory (Livermore, Calif.), argue that AEC's "safe radiation dose" is unsafe. If everyone got AEC's safe dose, they claim, there would be 16,000 to 24,000 more cancer and leukemia deaths a year in the U.S. They demand an immediate reduction to a tenth of the AEC level.

AEC fumes. "Gofman, Tamplin and their allies are . . . trying their case in the press and other public forums," said James T. Ramey, an AEC commissioner. "We used to call such characters 'Opera Stars.'"

Dr. Gofman has rebutted: "There is no morality . . . not a shred of honesty in any one of them—none. I can assure you, from every bit of dealing I've had . . . there is absolute duplicity, guaranteed duplicity, lies at every turn, falsehood in every way, about you personally and about your motives."

Any exposure to radiation may be cumulative; the damage is irreversible. There are five dangers: cancer, leukemia, genetic defects, fetal and neonatal deaths. They may take generations to show up.

Radioactivity tends to accumulate in specific tissues and organs. Iodine-131 seeks the thyroid; strontium-90 builds into bones and teeth, Cesium-137, muscle. Krypton-85 is already concentrating in our fatty tissues, and this accumulation could exhaust two-thirds of AEC's "radiation budget" for man for the coming century.

Critics charge that the present standards don't consider concentration, or accumulation, that all radiation damages cells, that there is no safe limit or threshold. AEC standards come from two groups of scientists and the Federal Radiation Council, which also balances risk versus benefits.

Dr. Gofman believes: "Citizens . . . will be puzzled by benefit versus risk calculations, where the benefits are expressed in corporate profits and the risks expressed in cancer, leukemia and genetic diseases to themselves and their children."

On Sunday, May 11, 1969, the most expensive fire in American industrial history burned through building 776–777 at the AEC's Rocky Flats plant near Denver. That $45 million fire tells much, good and bad, about the AEC.

The fire alarm that rang at 2:27 p.m. had a familiar sound: Over 200 fires have occurred at Rocky Flats since 1953. The plant, run under contract by Dow Chemical Company, makes plutonium triggers for hydrogen bombs and missiles. An AEC press release brags: "Rocky Flats ranks first in AEC facilities for safety and holds the fourth best all-time mark in American industry. . . ."

Plutonium discs—3" x 1"—burned in uncovered cans in Glovebox 134–24 and spread to cellulose laminate storage cabinets. The fire went uncontrolled for more than four hours. Some $20 million of plutonium burned, enough to build 77 Nagasaki-size atom bombs. AEC assured Coloradans: "No appreciable amount of plutonium escaped from the building and no off-site contamination resulted from the fire."

That was a lie.

Dr. Edward A. Martell is a West Point graduate, a former program director for the Armed Forces Special Weapons Project, and now a biophysicist at the National Center for Atomspheric Research in Boulder. Martell asked Dow for soil samples to check if plutonium had carried beyond the plant. Dow and AEC did nothing. Martell and an aide circled the plant and took 20 soil and seven water samples.

They found: Two to four miles east of the plant, plutonium "of Dow Rocky Flats origin"; that was "five to 300 times" normal readings of plutonium fallout from all nuclear testing. "The estimated total plutonium deposited in off-site areas which we have examined so far is in the range from curies to tens of curies. Depending on the amounts deposited nearer the plant and in other areas, the total could be much greater. Stack effluent data furnished by Dow Rocky Flats indicate that the total stack release during the past year . . . was less than one millicurie. The actual off-site accumulation of plutonium is at least one thousand times greater."

An AEC commissioner has called plutonium a "fiendishly toxic" substance. Its radiation destroys lung tissue and may cause cancer.

Winds at Rocky Flats sometimes reach 120 mph and kick up dust clouds. Almost half of Colorado's population lives within 25 miles of the plant. Denver is 16 miles downwind. So are the suburbs of Westminster, Broomfield Heights and Arvada. Broomfield draws its water from the Great Western Reservoir. Martell found the highest plutonium concentrations at the reservoir.

A 1965 fire exposed 400 Rocky Flats workers to high concentrations of plutonium in the air; 25 workers got up to 17 times the permissible level. In one 18-month period, there were 24 fires, explosions, plutonium spills and contamination incidents. Some 325 workers have been contaminated by the radiation since 1953. Fifty-six workers got cancer; 14 have died. Still, says Lloyd Joshel, general manager of Rocky Flats, "Radiation may very well be good for you."

Martell discovered one other plutonium source. Since 1958, Dow had stored machine cutting oil with high plutonium concentrations outside in 1,400 55-gallon drums. Some drums were buried. The drums corroded, the oil contaminated the soil and the winds blew plutonium dust toward Denver. In March, 1967, air-filter samples in Denver showed ten times more plutonium than anywhere else in the U.S. Last year, Dow covered the contaminated two-acre area with a four-inch slab of asphalt. Coloradans want Dow to dig it all up and truck it to an AEC burial site. Last spring, Dow began digging up some barrels. Not all the pits have been located. Company records are vague about the locations.

Such short-term disposal doesn't work with plutonium. It takes 24,360 years for only half of plutonium's radio-activity to decay.

In discussions last April 10, at the Joint Committee on Atomic Energy offices in Washington, Rep. Chet Holifield, chairman, met with members of the Rocky Flats union, AEC and others. Holifield complained about "these professors who have been scratching around in the sand trying to find something wrong within the radius of 50 miles" of Rocky Flats. He was worried about the drums of "hot waste": ". . . You know the problems this sort of thing can create from a public-relations standpoint. It can be magnified many times by these sensationalists." Capt. Edward Bauser of the Committee spoke up: "Mr. Chairman, I don't think we know right now whether it was an authorized burial or not. It was a very poorly supervised thing."

Holifield then replied: ". . . This would be a very serious thing if Dow was taking upon itself the burial of plutonium waste without going through established procedures. I would assume if this is low-level waste that there would be probably a prohibition against this convenient burial and that it should have been put in some permanent high level waste burial ground like we have at Hanford."

Capt. Bauser: "I don't know, but I doubt if that site is an authorized burial site for any level waste." Someone thought barrels had been buried outside the plant's fence. Holifield: "Then they had better build a new fence. . . ."

The AEC can't fence its mistakes in western Colorado. Vast uranium deposits were discovered by the early 1950's, and, by 1960, there were 1,000 uranium mines across the West. AEC published its first price schedule in 1948. But it wasn't until July, 1967 that any safety standard was enforced for uranium miners. Then it was too late.

By the end of 1966, 98 uranium miners had lung cancer. A report projects 1,150 cases by 1985.

About 90 million tons of waste ore, or tailings, piled up outside 35 uranium mills from Texas to Oregon. The tailings emit gamma radiation. Excessive exposure can result in leukemia. Radium from tailings decays into radon gas and its daughter products, which cause lung cancer.

Of 26 mills still operating in 1963, ten discharged liquid effluent into streams. In 1958–59, the Animas River below uranium mills in Durango, Colo., contained almost "300 percent" of the maximum daily intake for radium. Crops raised on farms irrigated by the Animas River had twice as much radium-226 as crops irrigated with clean water.

By 1960, the radium downstream was still 20 times higher. It didn't reach acceptable limits for 60 miles. Radium from tributaries of the Colorado mixed with sediment and moved downstream to Lake Mead. Studies of Lake Mead—with its tributaries, a major drinking- and irrigation-water source for seven states—showed radium concentrations in bottom sediments three times the normal level.

By 1966, the U.S. Public Health Service was checking tailings piles. El Paso Natural Gas Company's uranium tailings in Tuba City, Ariz., on Navajo land, showed radium radiation levels up to 1,000 times the average background. Gamma radiation was 12 times the level. El Paso came in and covered the pile. Tailings at the empty A–Z Minerals Corporation mill in Mexican Hat, Utah, in May, 1968, also Navajo land, had radon-gas concentrations around the pile up to five times the maximum level.

Things were worse in Grand Junction, Colo. For 15 years, builders removed 300,000 tons of tailings from the American Metal Climax mill's pile. The gray sand-like material was used to level ground for concrete slabs, as back fill around basements, and underneath the Main Street mall and in children's sandboxes.

The Colorado Health Department first warned residents in 1966 against radon-gas seepage. Some basement walls glowed. G. A. Franz III, the state health physicist in Grand Junction, started sampling the air in the homes. This fall, ten teams are checking all 6,500 buildings in town. So far, of 534 buildings checked, 95 have excessive gamma radiation or radon gas. One has 180 times the acceptable level.

Colorado and other states are doing an excellent job stabilizing the tailings piles by leveling and covering. AEC says of the mill tailing: "We aren't responsible for them."

Elsewhere, AEC's Nevada Test Site is riddled with fractures wide enough for a man to stand in. An internal AEC study recommended in 1968 that underground nuclear blasts above one megaton not be made at the Nevada site because of the chance of radioactive leakage through the fissures. A 1969 report by the U.S. Geological Survey said that all large tests in Nevada had been followed by earthquakes. One shot caused earth quakes out to 387 miles for 18 hours. Another created 10,000 earthquakes for nearly four months.

Operation Plowshare is AEC's idea of peaceful development of nuclear energy. There have been 14 ventings of radioactivity from underground tests since the 1963 Nuclear Test Ban Treaty. These ventings have blown 200 to one million curies into the air per explosion—equal to a Hiroshima bomb. These shots violate the National Environmental Policy Act. Project Schooner was a 1968 chain

explosion of nuclear devices in an excavation test. It violated the Nuclear Test Ban Treaty. Radioactivity from Schooner was measured in Mexico and Canada.

In fact, Plowshare has found the treaty a bit of a damper. In 1969, Reps. Craig Hosmer and Chet Holifield sponsored an amendment to the Atomic Energy Act, to excuse Plowshare from Test Ban Treaty restrictions. The "Plowshare Amendment" still sits in the Joint Committee.

Project Rulison was a 40-kiloton Plowshare shot September 10, 1969, 8,431 feet below Grand Valley, Colo. It combined private enterprise with the AEC. Austral Oil Co., Inc. footed 90 percent of the bill. CER Geonuclear Corp. advised. Rulison was a test to see how much gas can be freed from the Mesa Verde rock. If Rulison succeeds, it may lead to a series of 100 kiloton shots, two a year, for perhaps ten years. Rulison was based on the argument that we are short on natural gas. Yet we export 50,000 million cubic feet of it a year to Japan alone.

Coloradans brought four lawsuits against AEC over Rulison; AEC was forced to make public daily radioactivity readings from the flaring (burning off of gas). Dr. John Emerson of the Colorado State Health Department says, "We may have picked up radioactivity two-three times the background for tritium at the site. . . . We don't expect to find any increases elsewhere. But, of course, we haven't reached the high level of flaring yet." That level comes this winter.

Strontium-90, iodine-131, krypton-85 and tritium might enter water and plants. David Evans, a geologist at Colorado School of Mines worries about radioactivity getting into the groundwater, flowing into the Colorado River and the Southwest.

Ruth Kiesler, mayor of Grand Valley, is also uneasy: "I've always felt pretty secure by what the AEC said about safeguards. . . . Now, I'm not sure. They seemed more concerned about the dollars and cents than people."

Dollars play a big role in nuclear reactors. AEC licenses nuclear reactors. (Interestingly, there are no physicians, biologists or geneticists on AEC's Safety and Licensing Boards.)

Nuclear power plants provide only 1.2 percent of the country's total electric power. But the demand for electricity is doubling every ten years. AEC estimates that nuclear power plants will furnish 25 percent in ten years, almost 60 percent by 2000.

To meet this demand, AEC has spent $2.3 billion to make nuclear power plants safe, profitable and competitive. In fact, nuclear reactors discharge low-level radioactive gas and liquids into the air and water. Highly radioactive wastes must be shipped for reprocessing or permanent burial. David E. Lilienthal, former AEC chairman, says ". . . You cannot have an atomic power plant unless you produce large quantities of radiation."

A 1957 AEC study, WASH–740, shows what would happen to a hypothetical reactor of 100–200 megawatts, near a large body of water and about 30 miles from a major city of about 1,000,000 if it became super-critical and all safety devices failed.

WASH–740 predicted an explosion that would kill 3,400 people up to 15 miles away, injure 43,000 up to 45 miles, contaminate up to 150,000 square miles—about the size of California—and damage property to $7 billion. Such a catastrophe, says AEC, is unlikely.

But plants of 1,000 megawatts—five times the WASH–740 plant—are planned for Illinois, Michigan, California, Alabama, New Jersey and Pennsylvania. By 1990, most nuclear power plants will be 1,000-4,000 megawatts, a few up to 10,000.

How safe will these plants be?

In 1966, there were 42 accidents at nuclear plants around the world, 37 in the U.S. Six U.S. plants had more than one accident. These included fuel-rod leaks, control-rod failures, explosions in beam tubes, fission gas release, fuel meltdown and plugged cores.

*On October 10, 1957, the Number One Pile (reactor at the Windscale Works in England malfunctioned, spewing radioactivity and contaminating milk and vegetables over a 400-square-mile area. All the reactor's safety features failed.

*In 1961, an accident at the SL–1 reactor in Idaho killed three workers.

*In 1966, the Enrico Fermi plant, within 20 miles of Detroit, nearly had a WASH–740 runaway. A piece of metal blocked the liquid-sodium coolant, causing fuel to heat up dangerously. Fermi was broken down for four years.

Sloppiness, error and surprises abound. At the Big Rock Point Nuclear Plant, a reactor near Charlevoix, Mich., control rods stuck in position, studs failed or cracked, screws jostled out of place and into machinery, a valve malfunctioned, foreign material lodged in critical moving parts, welds cracked at 16 points. At Humboldt Bay in California, fuel tubes cracked because cheaper stainless steel had been used instead of a more reliable alloy. Workers repaired the cracks, and the plant broke down again. AEC files show error elsewhere: 3,844 pounds of uranium hexafluoride lost owing to a mistake in opening a cylinder; a $220,000 fire in a reactor because of accidental tripping of valves by electricians.

In Illinois, the Advanced TRIGA Reactor was humming along at 1.5 million watts last spring. Someone flushed a toilet, which dropped the main water pressure, which stopped a pump that stopped another pump, which triggered a safety device, which shut down the reactor.

"Once a bright hope, shared by all mankind, including myself," Lilienthal said, "the vast proliferation of atomic power plants has become one of the ugliest clouds overhanging America."

Nuclear reactors require enormous amounts of cooling water. A 1,000 megawatt nuclear plant needs 850,000 gallons of cool water a minute. In one day, 1.2 billion gallons will be sucked in and spewed out 10-30 degrees hotter. By 2000, tower plants will cool themselves with about one-third of the daily U.S. freshwater runoff. In low-water periods it will be 100 percent. The hot water, called "thermal enrichment" by AEC friends, decreases dissolved oxygen, increases the toxicity of pollutants, cuts off sunlight to water plants, spurs the growth of noxious blue-green algae, changes the metabolic rates, behavior, reproductive cycles, defense mechanisms and eating habits of fish and other organisms.

Sixteen nuclear plants are operating or ordered for the shores of the Great Lakes. Lake Michigan gets ten. This fall, the Federal Water Quality Administration made a decisive attack on thermal pollution: It wants "no significant discharge" into Lake Michigan. The study of Lake Michigan said heat addition was cumulative and would lead to the death of all fish and plant life within 30 days.

There are choices. Power plants could use cooling towers, ponds or canals instead of lakes and rivers.

Nuclear plants may run out of fuel. Dr. Dean E. Abrahamson, in a pamphlet *The Environmental Cost of Electric Power*, says: "Because the reserves of natural uranium in commercially recoverable deposits are extremely limited, today's reactors cannot operate for more than a very few decades without exhausting the total world reserves of uranium-235. . . ." Uranium demands will be about one million tons in 2000. Counting all uranium reserves and AEC estimates of undiscovered resources, there will be just 1,020,000 tons available that year. Then it's gone.

AEC, which has grabbed 84 percent of the Federal energy-research dollar for the past 20 years, is spending more than $2 billion on fast-breeder reactors that could extend the nuclear supply. Little research is being done on solar power, tidal energy, geothermal power, magneto-hydrodynamics (MHD), fuel-cell generation, gas turbines, even garbage incineration for power. The areas of most promise, fuel cells, solar power, MHD, will get just $300,000 for research this year.

All nuclear plants and nuclear-weapons making produce waste. Fuel assemblies must be removed from reactors and shipped to reprocessing plants where contaminants are separated from the salvageable fuel. Liquid residue is highly radioactive, and must be stored until safe.

Some low-level waste is diluted and discharged into the environment. This waste, says an AEC pamphlet, can "have no more than about 1,000 times the concentrations considered safe for direct release." Some 650,000 cubic feet of low-level junk was buried at AEC-licensed plants in 1969. There will be one million cubic feet this year, three by 1980.

High-level waste contains hundreds to thousands of curies per gallon from the chemical processing of nuclear fuels. This waste, says AEC, poses "the most severe potential hazard. . . ." AEC stored 100,000 gallons this year. By 1980, commercial nuclear reactors will produce some 3.5 million gallons of high-level waste a year. AEC already has 80 million gallons of high-level waste stored in 194 underground tanks. It may boil for ten centuries.

By 1963, AEC had reported 47 accidents in waste shipments by public transport: 18 spills; 15 "severe impact accidents." Eleven storage tanks at the Hanford Atomic Products Operation have leaked "some liquid into the dry soil under the tanks." Only 180 feet separates the tanks from underground water. Hanford also dumps diluted waste into the Columbia River, where river plankton now average 2,000 times the radioactivity in the water; fish, 15,000; ducks feeding in the river, 40,000 times; young swallows fed on river insects, 500,000 times. Four ducks recovered by AEC at Hanford had radioactive phosphorus-32.

A report by the National Academy of Sciences, which AEC requested and sat on for four years, advises against dumping high-level wastes at its Savannah River Plant (SRP). Still, AEC has gone ahead with $1.3 million for a 2,000 foot shaft into the bedrock below the plant.

The NAS report warned AEC about escape of radioactivity from the bedrock and recommended that the bedrock studies be stopped. "At the same time," it said, "the entire Committee urges against any thought of permanent storage or disposal of high-level wastes above or in any of the freshwater aquifers at the SRP site. . . . Apparently the only safe disposal for high-level wastes would be an off-site disposal, presumably involving solidification, before transportation."

Also: "None of the major sites at which radioactive wastes are being stored or disposed of is geologically suited for safe disposal of any manner of radioactive wastes other than . . . very low-level liquids. . . ."

AEC is trying to get permission to bury these wastes in a Lyons, Kan., salt mine. The Kansas Geological Survey has refused to endorse the AEC plans until completing a two-year study on the area's geological safety.

And the NAS committee? "AEC's concerns over the report were not resolved before the decision to dissolve the committee and replace it with one having a broader spectrum of scientific discipline." Like obedience.

If the AEC is lax in handling radioactive wastes, what will be the record of commercial firms?

Nuclear Fuel Services, Inc., of West Valley, N.Y., is the only private company now reprocessing irradiated nuclear-reactor fuel. It's on a 3,300-acre, state-owned site 30 miles from

Buffalo. Most nuclear reactors in the Northeast ship to NFS. Every 404 days, for example, the Yankee Atomic Power Reactor in Rowe, Mass., puts 8,000 to 10,000 highly radioactive 12-foot fuel rods on a special flatcar with its own cooling system. The Boston & Maine Railroad hauls it to NFS. But B&M has its difficulties. In April, 1969, there were three accidents in a week on the line.

NFS dissolves the reactor rods in a solution and processes this nuclear soup—to reclaim the fuel-through chemicals. There's waste. "The cheapest thing to do," says the AEC, "is pour it down the nearest stream." That's Buttermilk Creek.

In 1968, scientists from Cornell went, AEC reports, "under the fence." They got samples from the holding ponds and Buttermilk Creek with 36,000 to 100,000 times the maximum permissible radioactivity.

AEC warned NFS in a letter May 31, 1968: ". . . release from the NFS plant should be significantly reduced. . . ." NFS, on July 9, 1969, applied to AEC for permission to drill a 6,000-foot well for discharge of radioactive wastes. On May 27, 1970, AEC responded by urging that NFS put in more chemical cleaning processes. NFS still has its proposals to make.

The New York State Bureau of Nuclear Engineering, formerly the Radiological Bureau, has checked NFS: "Our surveillance program has detected a reconcentration of radionuclides, such as strontium-90 and cesium-37 . . . in fish and wildlife around the facility."

There are 389 dairy herds within ten miles of NFS. About 240 square miles of the nearby land is used as a source of public-water supply. One public system is within five miles, six more within ten. The New York State Public Health Department's *Radioactivity Bulletin* lists water radiation levels near NFS at ten times the AEC limit.

How serious are all these wastes? Dr. L. P. Hatch of the Brookhaven National Laboratory says: "If we were to go on for fifty years in the atomic power industry, and find that we had reached an impasse, that we had been doing the wrong thing with wastes and we would like to reconsider the disposal methods, it would be entirely too late, because the problem would exist and nothing could be done to change that fact for the next six hundred or a thousand years."

Now we must all ask: Should ecologists be added to safety and licensing boards? Should underground weapons testing continue? Should any further blasts for gas be made? Is the state of the art advanced enough so that under highest possible safety standards, utilities can go ahead with nuclear power?

PROPHECY THAT DETERGENT CHEMICAL WILL PROVE DANGEROUS COMES TRUE

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

Mr. VANIK. Mr. Speaker, this morning's newspapers carried another horror story about untested chemicals being brought into the marketplace and that now these chemicals prove to be dangerous to life.

The chemical in question is the complex acid NTA, nitrilotriacetric acid, being used by a number of detergent manufacturers to replace phosphates in detergents. While it is commendable to try to replace phosphates in the Nation's washday products since phosphates contribute to the eutrophication and destruction of the waters into which they flow, we must not be so shortsighted as to replace them with a more dangerous product.

According to press reports, the Surgeon General of the United States, in secret meetings, has described Government studies that seemed to bear out recent warnings that NTA could prove even more dangerous than phosphates. The tests reportedly have shown that a natural byproduct of NTA is said to have caused birth defects in a significant number of animal offspring as well as a marked increase in cadmium toxicity.

Mr. Speaker, I first warned the Congress about the terrible dangers inherent in NTA in a speech of October 5. Since that time, apparently little has been done to discourage the giant detergent manufacturers from moving into the production of this unknown and dangerous chemical. There are reports that these companies will soon be manufacturing and dumping into the waterways of the Nation 2 billion pounds per year of this chemical.

For some time now I have been working to develop legislation to prevent the interstate sale of any new chemical compound—such as NTA—which ultimately find their way into our systems of water supply and which have not been thoroughly tested and approved by the Public Health Service.

The urgency for such legislation has now been confirmed.

I will introduce this legislation on the first day of the 92d Congress. I will ask for cosponsors, and it will be my hope that the new Congress will make this legislation a matter of the highest priority.

Our environment—and the health and life of each one of us—depends on such action.

The Washington Post article of today more fully discusses the problem:

DETERGENT CHEMICAL CAUSES DEFECTS IN RATS

(By Victor Cohn)

Federal health officials told leading detergent makers yesterday that NTA—the chemical some firms are using to replace troublesome phosphate—has caused grave birth defects in animals.

At a closed, high-level meeting at the Department of Health, Education, and Welfare, Surgeon General Jesse L. Steinfeld described government studies that seemed to bear out recent warnings that NTA could prove even more dangerous than phosphates.

HEW officials would confirm only that such a meeting was held, and said there "could be an announcement" today.

The warnings about NTA have come from worried environmental scientists. Some have complained that "nothing is known yet" about possible NTA effects on human cells, genes or fetuses.

Despite such doubts, one firm alone—Procter & Gamble—has committed itself to replacing 25 per cent of the phosphates in its detergents with NTA, and has already made the switch in much of its products. It has called NTA safe "for use at the levels contemplated."

P&G has made a $6.8 million capital investment in NTA, and contracted with chemical firms for $167 million more, according to a severely critical report to be released by the Senate Public Works Committee this week. Some other detergent and chemical firms have also made large investments and started plant expansions.

The extent of these, said one observer, "made faces long" yesterday as Steinfeld and the detergent makers—and observer William D. Ruckelshaus, director of the new Environmental Protection Agency—heard details of the new experiments.

The studies were made at the National Institute of Environmental Health Sciences at Research Triangle, N.C., by Drs. Diane Courtney and Neil Chernoff.

They were also present—to tell of two complicated effects.

Both, according to an informed source, were caused not by NTA directly but by one of its breakdown products, a chemically tight blend of NTA (nitrilotriacetic acid) and cadmium. Chemically, this is called cadmium chelate (pronounced "kee-late").

In both rats and mice, both orally and by injection, the chelate is said to have caused birth defects in a significant number of offspring.

In both, too, it caused what was described as "a marked increase" in cadmium toxicity.

Cadmium is commonly present in water supplies. It comes from the metal in pipes, for example.

Some detergent makers have claimed NTA is completely "degraded" or broken down when it enters lakes and streams. "But much of the time it does not, and then it chelates with cadmium and other metals," says the report to the Senate by Dr. Samuel D. Epstein of Children's Cancer Research Foundation, Boston.

Epstein calls NTA "a serious health hazard." Prof. G. Fred Lee of the University of Wisconsin last month called it "a serious potential problem," and advised detergent makers to continue to use what you're using until more research is done.

Phosphates help cause water pollution and kill lakes by stimulating overgrowth of algae. Environmentalists propose two other possible solutions to the phosphate problem. (1) eliminate it in sewage treatment; or (2) go back to soap.

THE SOUNDS OF CHILDREN AS INTERPRETED BY MISS KATHERINE DUNHAM

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, the White House Conference on Children featured a 90-minute program depicting the story of the music of American kids. Sponsored by the Music Educators National Conference at the Sheraton Park Hotel the program entitled "The Sounds of Children" included a group of talented youngsters from East St. Louis, Ill., trained at the Performing Arts Training Center under the direction of the center's founder, Miss Katherine Dunham. The center is part of Southern Illinois University, Edwardsville, Ill.

In its review of the program the Washington Evening Star called the group downright brilliant, a strong echo in dance and music of Miss Dunham's own tremendous intensity and vitality. In sum the group was the best to appear.

This is not unexpected. Miss Dunham, one of the foremost ladies of dance, an internationally famed choreographer and writer, has shared her tremendous talents with the youngsters of East St. Louis, imbuing them with the discipline and spontaneity which culminated in their stunning performance at the Sheraton.

It has been my pleasure to know Miss Dunham and to work with her on behalf of the people of East St. Louis. I feel

especially fortunate to have such a great lady as Miss Dunham working with our young people.

So that my colleagues might share some of the pride I hold for having such a fine constituent as Miss Dunham, I include in the RECORD the cited article in the December 16 Evening Star:

THE SOUNDS OF CHILDREN: KIDS TURN THE MUSIC ON, LIKE IT IS

(By Irving Lowens)

Some time ago, the planners of the White House Conference on Children (now in session all over town) came to the Music Educators National Conference with an interesting proposition.

"We'll give you 90 minutes of time and a large audience of opinion-makers interested in children," they told the 65,000-member professional organization which represents the country's music teachers. "You give us the story of music as it really is among America's kids today."

The MENC accepted the challenge and appointed an eight-member committee headed by Louis G. Wersen, director of music education in the Philadelphia public schools, to plan such a program.

Last night at the Sheraton-Park Hotel, the MENC told its story to the White House Conference, and the show they put on probably will generate quite a bit of talk across the land, both pro and con, for some time to come.

If you think music in American schools is still hopelessly stuck in the genteel tradition, take another guess. Wild things are going on in classrooms these days. That former enemy of high culture, pop, has been revealed as its staunch ally. And that veritable devil in music, rock, has been transformed by our teachers into art's avenging angel.

NO SURPRISE

"The Sounds of Children" was produced and directed for MENC by committee-member Edward M. Greenberg, newly appointed executive producer of the St. Louis Municipal Opera. Since Greenberg has put on more than 200 musicals during his career, it came as no surprise that "The Sounds of Children" was designed as a fast-paced, loosely-knit string of production numbers.

As well as could be, the hotel's International Ballroom was transformed into a multilevel theater, complete with three screens for visuals, different size stages and acting areas, and pretty good sound amplification.

As you entered the ballroom, you discovered the Lawton Elementary School Handbell Choir from Philadelphia in the lobby prettily playing music from Tchaikovsky's "Nutcracker Suite." Shortly after you sat down, the East Atlanta (Ga.) Elementary Band's brass section tried to stir your blood with a series of shaky fanfares and flourishes from the rear of the hall.

Lights down. Spot on Ruth McLain, right stage, a pretty miss from Hindman, Ky., prettily singing an Appalachian ballad and accompanying herself on a dulcimer. Enter Marge Champion, the Los Angeles Times 1969 "Woman of the Year" (for her work with children in Watts) and the evening's M.C.

CENTER STAGE

Sudden switch to center stage where three very young teen-agers from the King Philip School in West Hartford are putting the Electreconn, a miniature electronic music laboratory, through its paces.

A 3-year-old scene-stealer, left stage, throws herself into a violin performance of "Baa, Baa, Black Sheep" with such infectious elan that she takes the spotlight away from the other performers in the demonstration from Dorothy's Maynor's Harlem School of the Arts, where they believe deeply in getting the parents involved in their children's music making activities.

More fiddling youngsters from a string research project at the University of Illinois have lots of fun, a la Shinichi Suzuki and Emile Jaques-Dalcroze, with Bach and Bartok.

The parade continued at a fast trot.

Some groups, I regret to say, were pretty awful.

The smartly costumed All-Philadelphia Boys Choir provided me with 10 of the worst minutes in my long listening career by singing some incredibly tasteless versions of patriotic songs and other pap with astonishing virtuosity.

A large, elaborately costumed company from Philadelphia's Conwell Middle School mounted a gaudy, pretentious, singularly claptrappy production number.

Blame for such horror should be placed squarely on the shoulders of the adults who foist such trash, masquerading as art, on defenseless kids.

To my great relief, there weren't many catastrophies.

Much more respectable was the Dalton School's charming New York Pro Musica version of an elementary rhythm band, complete with krummhorns, rebecs and even a Carl Orff marimba.

THE BEST IS LAST

The best came last, however.

Out in the slums of East St. Louis, rumor has it, Katherine Dunham has been accomplishing near-miracles with her Performing Arts Training Center. That rumor is plainly erroneous—she has accomplished not near but full miracles.

What she demonstrated yesterday was downright brilliant, a strong echo in dance and music of Miss Dunham's own tremendous intensity and vitality.

Everything Miss Dunham's kids did was absolutely right, absolutely spontaneous.

The Dunham presentation was climaxed with a miniature jam session to the beat of the New Borns, a stunningly musical teenaged rock group which even used microphone feedback in artistic fashion. Ultimately, everybody joined the act, including Miss Dunham herself and members of groups who had performed earlier, and the joy went on long after the formal end of the show.

Watching the free-and-easy happiness generated by the New Borns and their dancing fans, I couldn't help feeling that here, for the first time during the evening, were some very genuine "sounds of children."

Most of what had preceded it may have been nice, but it was pretty much a matter of "the sounds of adults" imposed on kids.

The MENC is organizationally committed to the use of rock (which it prefers to call "youth music") in the schools. It teaches its teachers that it isn't whether it's rock or Rachmaninoff that matters—it's what's genuine and good.

It could just be that this was the real conclusion the MENC hoped its large audience of opinion-makers would draw from experiencing "The Sounds of Children."

VISTA AND OEO GUTTED

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

Mr. RYAN. Mr. Speaker, were the administration's actions taken to be an accurate reflection of the state of the Nation, one would have to conclude that there are no more poor people in America. The fact is, however, that poverty is still very much an aspect of the American scene, and ignoring it is just not going to make it go away.

The administration's latest plans—to slash the budget of the Office of Economic Opportunity and to abolish VISTA—are only the latest, but certainly among the most outrageous, examples of its refutation of the disadvantaged. According to a just revealed OEO internal memorandum, the White House's Office of Budget and Management proposes to cut OEO's budget for fiscal year 1972 by 23 percent. In addition, it proposes to abolish VISTA.

This same memorandum records the breakdown of the proposed cuts—41 percent for research and development, 17 percent for community action, 18 percent for health and nutrition, and total elimination of the rural loan program, as well as VISTA.

This latest revelation follows the recent attempts of the Office of Economic Opportunity to gut the Legal Services program by regionalizing it and, thereby, expose it to untoward political pressures. Contemporaneous with that attempt was the firing of the Director and Deputy Director of the Legal Services program—Terry Lenzner and Frank Jones, respectively.

The disclosure of the proposed OEO cuts and the abolition of VISTA follows only by days the President's veto of the manpower bill, a well-reasoned, progressive legislative measure aimed at alleviating the massive unemployment which afflicts the country because of the administration's economic policies, and aimed at revamping the manpower programs so that they can effectively—finally—provide the job training so many youths and adults desperately need and want.

The list of refutations of the poor by this administration could go on: Head-start crippled by a 13.5 percent funding cut; 59 Job Corps Centers closed, and the promise to open 20 new ones by this past July broken; cuts in community action funding under the Economic Opportunity Act; restrictive regulations interpreting the Brooke amendment, which aimed at easing the fiscal difficulties of public housing. These are some of the other actions to add to the list.

This administration must wake up. The disadvantaged citizens of this country are not going to be abandoned; they cannot be abandoned. We will continue to resist and to override these efforts to break faith with the poor. Their voice will be heard.

RALPH NADER AND THE CORVAIR

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, on several recent occasions I placed in the RECORD September 16, 1970, at page 32253 and October 14, 1970, at page 36635, copies of the major documents, discussing the controversy over the Corvair automobile's safety. These documents have been exchanged between Ralph Nader, Senator ABRAHAM RIBICOFF, public officials in the Department of Transportation, and officials of the General Motors Corp.

I have learned that a new and significant aspect has been added to this controversy by an open letter from Ralph Nader to Senator RIBICOFF. The text of this letter analyzes in detail some of the oral and written testimony given to the Senate Government Operations Subcommittee on Executive Reorganization on March 22, 1966. Because I believe that this letter, the response of Senator RIBICOFF's committee, and a Wall Street Journal article quoting the Director of the National Highway Safety Bureau on this matter have certainly not been reviewed in detail by any significant number of the 600,000 Americans who are most seriously affected by this controversy because they still drive these 1960–63 Corvairs, I submit the text of these letters and the relevant portion of the newspaper article for the RECORD:

OCTOBER 23, 1970.

Hon. ABRAHAM A. RIBICOFF,
Chairman, Senate Committee on Government Operations, Subcommittee on Government Reorganization, U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: In response to your letter of September 12, 1970, I have now compiled the following analysis of certain documents and issues concerning the safety of the Corvair automobiles manufactured and sold by General Motors from 1960 through 1969. This analysis summarizes the relationship and contradictions between documents suppressed by GM and GM's March 1966 testimony before your Subcommittee. I believe the now emerging record shows that much of that GM testimony was inaccurate, dishonest or both with regard to many matters, and particularly the stability and safety of the 1960 through 1965 Corvairs.

The examples below are illustrative of this massive conspiracy:

MISREPRESENTATION NO. 1: THE CONTINUING FRAUD IN GM'S LEGAL DEFENSE OF THE CORVAIR

Background facts and GM's statements to the U.S. Senate

During your March 22, 1966 hearings in Washington, D.C. you questioned the General Counsel of GM as to the reasons for GM's investigation of me. In his response, Mr. Aloysius Power testified that GM had investigated my charges of an "unsafe and inherently improper and unsafe design" since GM's "own people, engineers, have advised us that it [the Corvair] isn't unsafe."

The exact testimony, at page 1447, was:

Senator RIBICOFF. Do you investigate everybody who writes an article about a General Motors car?

Mr. POWER. No. We don't find many people doing it on the scale that this was done, and we don't find anybody writing where they are saying that it is unsafe and inherently improper and unsafe design. That is a pretty serious charge.

Senator RIBICOFF. Well, it is.

Mr. POWER. But if someone else writes an article on that, we will check into that one, too. Now, we have got the question of whether or not we are going to stand for disparagement of a product where our own people, *engineers have advised us that it isn't unsafe, and they have testified in two cases already in court and a jury has accepted their testimony.* [Emphasis added.]

Senator RIBICOFF. Couldn't you write a book or an article saying that the Corvair was safe?

Mr. POWER. Well, I know it is—

In addition, the March 22, 1966 hearing record contained large amounts of material involving the safety and stability of the Corvair. Indeed, this was the underlying issue which had instigated most of the actions by all parties. I specifically brought this issue to the Committee's attention at pp. 1469–1501.

At the conclusion of my testimony, Mr. James Roche, then President of GM, asked for and received permission to insert, as part of the record at page 1554, GM's testimony by Mr. Louis H. Bridenstine, Assistant General Counsel of GM, and Mr. Frank Winchell, Chevrolet Chief Enginer for Research and Development, before the Michigan Senate Committee on Highways on February 21, 1966. This testimony ridicules court challenges by plaintiffs injured in Corvairs. Mr. Bridenstine's purpose was in his own words "to assure that [the Michigan] Committee is not misled" as to the issues involved. His intent was to deter the enactment of Michigan auto safety legislation. Mr. Bridenstine purported to show that juries, with the best first-hand access to facts, had all exonerated GM after examining a complete record of Corvair driving performance. The implication of Mr. Roche's insertion in your hearing record was clear—that since all the evidence had been fairly studied and the assertions of plaintiffs had been deemed by juries to be unsubstantiated, the U.S. Senate Committee need not examine the safety of the Corvair's handling characteristics.

Mr. Bridenstine's remarks, a part of the Ribicoff Committee record at page 1555, were:

"Therefore, consistent with our policy and practice, we have not included in this statement to your committee evidence establishing the safe design of the 1960–63 Corvair.

"However, *to assure that your committee is not misled,* we can advise you regarding litigation already terminated. In the only two cases in which this claim that the Corvair is defectively designed has been tried and decided, the juries in both instances returned verdicts in favor of General Motors. The first case involved a trial of ten weeks in San Jose, California. The second case, in which Mr. Philo and his law firm participated, involved a six weeks' trial in Clearwater, Florida. In his statement before your committee, Mr. Philo named Dr. Thomas Manos an authority for Mr. Philo's assertions. It is interesting that Dr. Manos testified at length for the plaintiff and was cross-examined in both trials regarding his tests and conclusions on the Corvair design.

"In these two trials we, of course, presented evidence and our witnesses were cross-examined regarding the development, design and performance of the Corvair. *In both cases and under proper rules of procedure and evidence,* the juries disagreed with plaintiffs' counsel and agreed with out position." [Emphasis added.]

EFFECT OF THESE MISREPRESENTATIONS

GM's insinuations that several litigated law suits had conclusively determined the safety of the Corvair were persuasive. No further examination of Corvair design defects was made by the U.S. Senate. More important, the entire Congress was deceived as is evident from the auto safety legislation enacted later in 1966. Had it been realized that a vehicle marketed for six years and sold by the million was secretly known by the manufacturer to be susceptible to rollover at low speeds under normal operating conditions, surely the Congress would not have hesitated to legislatively require mandatory recall and criminal penalties for willful neglect by the manufacturer. It is anguishing to speculate how many millions of Americans have perished or been maimed since 1966 because of the absence of these necessary deterrents in the basic auto safety law.

GM's testimony in February and March 1966 necessarily was both an assertion by GM that they had testified accurately before the courts, and that they knew of no existing evidence which would rebut their testimony. To that extent, this testimony directly conflicted with GM's own internal documents, such as PG 17103, which were being withheld from courts across the country, from the Michigan Senate Committee and from your U.S. Senate Subcommittee.

DETAILS OF GM'S MISREPRESENTATION

Mr. Carl Thelin, a former GM engineer, has now publicly stated that at the time Mr. Power was testifying before your Subcommittee in 1966, Mr. Thelin was discovering a macabre scheme, originating inside GM before 1966, to hide from the courts and even from some of their own defense witnesses the existence and contents of reports critical of the Corvair's safety. This scheme was a deliberate frustration of an injured person's basic right, embodied in the rules of evidence of state and Federal law, to receive in a law suit the product maker's data about the safety tests of his product without having first to identify the information itself.

The suppressed documents included the now renowned PG 17103, which showed that the 1962 Corvair would, if subjected at a speed of less than 30 mph to a simple J-turn (essentially the situation any car experiences if it hits a wet patch or rought spot in the road or if it makes a sudden turn while passing another car), roll over on a level surface. Also suppressed were other test reports, such as PG 15699, where the Corvair, in nine out of ten tests, rolled over while the Chevrolet sedan did not roll over under the same test conditions. These documents provide substantial evidence of the defects in the suspension system of the 1960–64 Corvairs. Mr. Thelin's statements and referenced documents make it clear that the GM conspiracy was known to, if not directed by, Mr. Power's legal staff.

The essence of the GM plan was to keep any damaging relevant information from potential witnesses, including some witnesses for GM. Thus, the testimony of these witnesses could reflect only what they knew, which was necessarily less than the complete truth or clear untruths. This scheme was therefore a deliberate, premediated attempt first to mislead injured plaintiffs and the courts, and then the Michigan and U.S. Senate Committees, and finally the public, as to the safety of the Corvair. Mr. Power's assertions that he knew the Corvair was a safe car could have been repeatedly contradicted by the release of the evidence requested by plaintiffs, but suppressed by Mr. Power's staff inside General Motors.

As a further example of the misrepresentation by GM as to the safety of the Corvair, the public record shows that the data which GM supplied to the courts in the two completed trial cases (*Anderson* v. *General Motors Corporation* and *Collins* v. *General Motors Corporation*) was purposefully inaccurate and incomplete. GM's boasting to the Michigan Senate and your Subcommittee about these cases compounded the fraud.

For example, in the Anderson case in Clearwater, Florida, GM in the person of Mr. Frank J. Winchell, then Chevrolet Chief Research and Development Engineer, was grossly misleading in its response to plaintiff's questions about whether written records were kept of the proving ground tests on 12 to 24 Corvair automobiles of the model years 1960, 1961 and 1962.

Despite the existence of PG Reports 17103, 15699 and other tests of a similar nature, pages 4802–4806 of the transcript (Law No. 17,013) shows that Mr. Winchell asserted the following under oath:

VOIR DIRE EXAMINATION

By Mr. Masterson:

Question. Mr. Winchell, were there Corvair automobiles involved in this testing?

Answer. Yes, sir.

Question. How many?

Answer. Well, I tried to estimate that a moment ago. I think I—I couldn't say it very precisely, 12 to 24, in that area.

Question. Does it include 1960, '61 and 1962 models?

Answer. Yes, sir.

Question. And were the results of your testing reduced to writing?

Answer. No. Our—our testing was a development, exploratory kind of work where we are seeking fundamental facts.

Question. And the results of these tests were not reduced to writing?

Answer. Not formal reports with——

Question. Well, was any of the data preserved?

Answer. Well, when you say "any of the data," I—I would be hard pressed to say. Our custom in this thing, I have to explain to you, Mr. Masterson, is—

Question. Well, my question was: Is any of the data preserved?

Answer. I can't—I can't say positively whether there was any or not. I presume there was some.

Question. Where would it be if it was preserved?

Answer. Probably in our Research and Development files.

Question. Of which you are the head?

Answer. Yes sir.

Question. Do you know whether it was preserved or not?

Answer. I can't really say, Mr. Masterson. It was—

The COURT. Are you telling us that you do a great deal of research and keep no records of what you find out?

Answer. Well, we don't—what I said is we don't issue any formal reports. When you are—when you are in the exploratory range of this thing you are not in a position to come to any conclusions.

The COURT. But do you keep any written records of what you find out each day or do you just try to keep that in your mind?

The WITNESS. No, we do note our results, and we meet and discuss them, and they are held for some period of time, but I couldn't tell you whether they are still in existence or not.

The COURT. All right, sir.

FURTHER DIRECT EXAMINATION

By Mr. Nunez:

Question. Mr. Winchell in that connection what is the—what is the usual procedure for—that is set in motion at Chevrolet—for doing something to or with an automobile that will result in a formal test report?

Answer. Well, the procedure is—originates with the—what we call the product engineer, the man who is responsible for releasing this component to production. He is called the Production Engineer. He writes a test order or a build order or a design order. If it is a test order, the test order goes to the laboratory head or the proving ground head. He assigns certain people to the conduct of the test, they meet and discuss what they are going to do. The test is conducted, and the produce [sic] engineer gets the—gets the facts from the test immediately, verbally, and then as a matter of record, if we think that that—that test has any use to us in future design work, or as a reference, a formal report is written by report writers under the direction of the test engineer.

The COURT. Do you keep any record of the tests that were made that you decided had no use to you so that you don't repeat that test the next month or next year?

The WITNESS. Well, our Research and Development Group, sir, is rather small, and we don't run that——

Mr. NUNEZ. Excuse me, Mr. Winchell, I think the Judge can hear you quite clearly, but I would——

The COURT. You face the Jury——

Mr. NUNEZ. Address your answers to me.

The COURT. So everyone can hear, then.

The WITNESS. We have—as I say, in this particular program I had about two engineers to start with, and I don't run the hazard of this thing being repeated by that personnel.

By Mr. Nunez:

Question. Well, you were telling me about a particular device that makes a record on a—on a running piece of graph paper, some kind of paper.

Answer. Well, Mr. Masterson asked me specifically——

Mr. MASTERSON. May I ask that the witness respond to the Judge's question? The Judge asked you if you preserve data so that you don't repeat the test which was not useful to you.

The WITNESS. Well, I can't give just a yes or no answer on that. Sometimes we do, and sometimes we don't. I say, if—if, in our opinion, we think it has some influence on our future conduct we keep it for some period of time. If we don't think so, we don't keep it.

The COURT. Proceed, Mr. Nunez.

The WITNESS. Could I say something by way of explanation here?

The COURT. Yes, sir.

The WITNESS. In writing a report that is going to be useful to engineers of, say, three or four or five years hence, it has to be a very comprehensive report. Just to—to supply him with a data sheet of some measurements you've taken doesn't necessarily do him any good. And what I'm trying to say is the composition of a very comprehensive report that an engineer some five or six years hence or farther can make use of, requires a good deal of effort by the reporting engineer. And so we don't bother with things that we don't think have that kind of value in research and development.

By Mr. Nunez:

Question. All right. Did any of the—the data that you gathered in your testing and evaluation of vehicle handling back in the 1960 through 1962 era, was any of it resulted into any sort of formal form or written form or a form which would preserve the information that you derived from those tests?

Answer. Not to my recollection.

Thus, by these untruthful answers, GM withheld significant GM proving ground test reports and records from the plaintiff which were essential to her case. Just as misleading is the fact that GM's suppressed test reports, such as PG 17103, tend to rebut and discredit the limited test results which GM did produce as evidence.

The depositions of other key GM employees were equally inaccurate as to the existence of past records of proving ground tests. The transcript of the case of *Collins* v. *General Motors Corporation* (Superior Court of the State of California, Santa Clara County) partially reveals the contents of depositions of GM Vice President Harry Barr and GM Chassis Design Chief Kai Hansen.

In the questioning, the plaintiff's attorney was attempting to establish the existence of written records of proving ground and other Corvair tests. The transcript in that case, Docket No. 149317, shows at page 3264:

By Mr. Harney:

Question. As of 1962 is it correct that practically everything that had to do with testing the Corvair had been destroyed by General Motors?

Answer. Not to my knowledge.

Question. Have you read the deposition of Harry Barr in which he said that was true?

Answer. No. I did not read that.

Question. Did you read the deposition of Kai Hansen in which he said that was true?

Answer. I did not.

Question. You only read the portion of Kai Hansen's deposition on the subject of whether he was against the location of the engine in the rear?

Answer. I believe Kai Hansen had his deposition taken a number of times and I didn't read them all.

Question. Which one did you read?

Answer. It has been more than a year ago and I don't know which one I read, Mr. Harney.

Question. Who asked you to read the deposition?

Answer. I think Mr. Gilliland of our legal staff at that time asked me.

I believe that as your Subcommittee examines the records it will find numerous similar examples. But this will not be easy. Recognizing the treachery of its activities, General Motors has, as a matter of corporate policy, attempted to destroy the public and private records of all litigation. For example, we have been told that GM has purchased the court's only file copy of the *Collins* transcript from the court reporter. Luckily, parts of that transcript were previously secured by various plaintiffs. This partial transcript alone reveals the enormity of the fraud perpetrated by General Motors. In the *Collins* transcript at pages 3213–15, Mr. Winchell denied the existence of lateral acceleration tests on a 1960 Corvair, although skid pad rollover tests revealing lateral acceleration information are detailed in PG Report 11106 of 6/10/59, in PG Report 11285 of 8/25/59, and PG Report 12207 of 5/5/60, and were actually available but hidden in GM files.

By Mr. Harney:

Question. These tests that you have told the jury about were not in any way connected with the decision to put the Corvair on the American market, were they?

Mr. WHITNEY. Which tests are we referring to?

Your Honor, I object to it. He said these tests. Mr. Winchell has been on the stand for time after time and he has testified to many tests.

By Mr. Harney:

Question. Each and every test you talked about in this case was never ever done in connection with the original decision to put the Corvair on the market, correct?

Mr. COSTANZO. I object to that upon the ground counsel has already referred to certain tests that were shown to the jury. When he follows that up with another question about this, obviously it leaves the impression he is talking about the tests that were shown to the jury. I object to that question, Your Honor.

The COURT. Will you repeat your question?

Mr. HARNEY. Yes.

Question. With respect to each and every test that you as a witness have participated in in connection with showing to the jury, each and every test was done in connection with litigation and not in connection with the decision to put the Corvair on the market?

Answer. The decision to put the Corvair on the market was made in 1957 or 1958.

Question. Can you answer my question?

Answer. Are you talking about the 1960 or 1965 Corvair?

Question. I am talking about all the tests you have talked about in this trial in front of these twelve ladies and gentlemen plus the alternatives.

Answer. Some of the tests that were run [sic] were certainly related to the 1964 and 1965 Corvair. The 1960 Corvair, no.

Question. Like this set you brought in here, did you have that set?

Answer. Not that particular one, but that is not a novel demonstration of lateral acceleration.

Question. Did you have such a thing to demonstrate the lateral acceleration of a 1960 Corvair?

Answer. No, sir.

Question. No, sir. How about this table here?

Answer. No, sir.

Question. How about that chart behind you?

Answer. Well, this is a reproduction of a very ordinary chart that we use.

To reestablish the record for the benefit of your Subcommittee's review and the public file, I strongly recommend that you procure the entire *Collins* transcript from General Motors. We would, of course, appreciate the opportunity to study it, and to assist your Subcommittee with further comments.

The GM statement to the public on September 26, 1970 said: "Test Report 17103 has not been produced because, in the opinion of our counsel, it has not been called for."

No objective analysis can fail to discredit this statement. In fact, GM suppressed Test Report 17103 inside the company and deliberately withheld it in several court cases I have checked already—even where the plaintiff had requested all the relevant tests of the Corvair.

For example, in the *Collins* case in California on June 11, 1965, the plaintiff had requested and received a valid Superior Court order for GM to produce . . . all tests, studies, reports, movies, photographs and other documents pertaining to Milford, Michigan or Mesa, Arizona or other General Motors Proving Ground Tests of stability and handling characteristics of Corvair prototype, Corvair pre-production and 1960 Corvair automobiles and such Proving Ground tests of other rear engine cars used as a comparison to or model for the design of the said Corvair automobile.

In response to this court order, GM simply never produced or acknowledged the existence of many essential proving ground tests some of which are identified in this letter. Thus, the plaintiff who requested such tests from GM in *Collins* was denied his legal rights.

Although the films GM suppressed in the *Collins* case clearly would have changed the character of the trial, the plaintiff was forced, by his own ignorance, to accept GM's statement that there was only *one* proving ground test for which film existed from all the Corvair testing up to that time. The plaintiff did subpoena that short film of a 1961 Corvair which went out of control and was allowed to show it to the jury on June 30, 1965; however, GM weakened its effect by not producing any precise details or data for the film and no films or data of existing GM comparison tests run with other U.S. cars. As a result, the test showed the jury just as little as GM had intended.

There were essential proving ground tests such as PG 11245 of August 7, 1959 and PG 11285 of August 25, 1959, which were never admitted by GM even to exist. Mr. Carl Thelin has already made a public statement that these omissions were familiar to him, were the result of a corporate policy consciously to withhold this evidence from injured parties and even to mislabel film to implement its difficult retrieval. Other GM employees will confirm this conspiracy and allow you to identify the persons responsible for the creation of this monstrous scheme.

A primary agent in the GM plot was Mr. Winchell. For example, he testified to the *Collins* jury on July 12, 1965, at the time he was serving in a key executive position with responsibilities for the legal defense of the Corvair, that he knew of no written records that were kept of the testing of the Corvair before it was released to the public in late 1959. His testimony at page 2690 was:

VOIR DIRE EXAMINATION

(By Mr. Harney)

Question. Were you present when any stability or handling tests were done on the Corvair before it was released to the public?

Answer. Yes, sir.

Question. Where was that, sir?

Answer. At the proving ground and at our Manitou proving grounds in Colorado. We have a Pike's Peak proving ground in Colorado. It was located in Manitou Springs.

Question. What year was that, sir?

Answer. That was '58.

Question. You were personally present?

Answer. Yes. I was in the car. I was not during the testing period; I was a passenger in the car.

Question. Were written reports made?

Answer. Not to my knowledge.

Mr. HARNEY. All right. Thank you.

The above testimony, under oath, should be compared with the contents of PG Reports such as PG 11245 of August 7, 1959, which is a tire blowout comparison at 60 mph, or PG 11106 of June 10, 1959, which was a skid pad roll test on the then soon to be released Corvair, so that the Committee can ask itself whether such test results could even possibly have been unknown to Mr. Winchell.

Two other examples illustrate the utter depravity and insolence with which GM conducted its legal defense of the Corvair in courts and before your Subcommittee. Despite the existence of over one dozen fully documented rollover test reports involving hundreds of trial runs of Corvairs, completed from 1959 through May 1965, with uncounted numbers of rollovers and other examples of instability of these cars, Mr. Winchell told the jury in the *Collins* case that "I have never seen the Corvair rolled over on the GM skid pad." (P. 3855.)

In addition, despite the fact that GM had made at least several movies of Corvair rollovers by 1964, Mr. Winchell testified to the California court in 1965 that the only skid pad test for which movies existed was the rollover test at one and one half miles per hour, a movie which had been shown to the jury there. In summary, Mr. Winchell's assertions of ignorance about the rollovers on film in PG 17103 and PG 15699 are totally implausible in light of his position at GM at that time. Mr. Winchell's exact testimony was:

Mr. Harney:

Question. Do you know who the man at General Motors is who developed a method of turning cars over?

[Mr. Winchell]. No, Sir.

Question. Do you know whether or not it is extremely difficult to make a modern car roll over except for the Corvair?

Answer. I wouldn't agree to that.

Question. Isn't it true that at General Motors in order to get non-Corvairs to turn over, they had to build tremendous ramps that practically turned the thing over in the air or run them into soft dirt off an embankment?

Answer. No, I don't think that is true.

Question. Have you ever at General Motors seen a car turned over on the skid pad except for a Corvair?

Answer. Yes, sir.

Question. What kind?

Answer. Renault.

Question. A Renault, any others?

Answer. Volkswagen.

Question. Any others?

Answer. I can't recall of any others.

Question. Each and every one was a rear engine car?

Answer. Those two are rear engine cars.

Question. And Corvair is a rear engine car?

Answer. Yes.

Question. You have seen the Corvair roll over on the skid pad?

Answer. I have never seen the Corvair rolled over on the skid pad.

Question. Didn't you see the movies that were presented?

Answer. I saw those. When you said skid pad, I thought you were referring to our skid pad.

Question. General Motors' skid pad.

Answer. I thought you were referring to Dr. Manos' test.

Question. No, there is another film that was shown to the jury in this case at the General Motors skid pad where a Corvair automobile comes out from the right going to the left and the driver jerks the wheel and then he jerks it back and it rolled over.

Answer. I remember that. I am sorry.

Question. Who was driving the car?

Answer. I don't know the man's name.

By Mr. Harney:

Question. Mr. Winchell, since you have been here in San Jose, have you seen any General Motors test on the lateral stability or the directional stability with instrumentation of the Corvair automobile?

Answer. Since I have been in San Jose? That would be tests conducted here in San Jose?

Question. No, the physical presence of any such report in San Jose since you have been here?

Answer. Yes, I think so.

Question. And you know where such test reports would be located?

Answer. I was shown a stack of material that I understood had been submitted to the plaintiff in this case and was asked was I familiar with these tests. I said I couldn't say. Some of them I had some familiarity with, some I did not.

Answer. I am asking, Mr. Winchell, about lateral stability and directional stability tests on the Corvair with instrumentation. Do you understand my question?

Answer. Yes, sir.

Question. And you have seen such reports?

Answer. There were quite a few reports there. Some of this test, I seem to recall having seen several roadability tests.

Question. With instrumentation?

Answer. Yes, sir, all the roadability tests are with instrumentation.

Question. What type of instrumentation?

Answer. I don't know precisely what type, but I know the data they get. What particular instruments they used in getting it, I can't testify to that.

Question. Would it be correct that the only instrumentation in any test of what you are aware of was in the one mile an hour test?

Answer. If I understand your question correctly, absolutely not.

Question. Then you have seen other test reports pertaining to the lateral stability and the directional stability of the Corvair with instrumentation, true?

Answer. If I understand your question correctly, yes, sir.

Question. You have seen it here in San Jose?

Answer. I saw the reports that I spoke of. I saw the data that I read to you in evidence. I saw the photographs that were submitted in evidence. I saw the film that was submitted in evidence of this one and a half mile an hour test. That is all I can recall at the moment.

Question. Any movies you have seen of any lateral stability or directional stability test is the one mile an hour test, correct?

Answer. I believe that's correct, yes, sir.

Mr. COSTANZO. Are you referring only to the Corvair automobile, Counsel?

Mr. HARNEY. Yes, sir.

By Mr. Harney:

Question. On exhibit——

Answer. Excuse me. Just a moment. I saw Dr. Manos' movie.

Question. I am talking about emanating from General Motors.

Answer. I don't believe so, Mr. Harney.

This testimony shows how GM has been able to obtain untold numbers of fraudulent judgments or settlements across the country. To document the size of this injustice for your Subcommittee and the public record, I urge you to request from GM a summary of the number and location of all payments made by General Motors in settlement to injured Corvair plaintiffs or potential plaintiffs, and to find out from GM what they plan to do to give justice to those people (like Mr. Anderson and Miss Collins) who have been injured at least twice by GM's avarice.

MISREPRESENTATION NO. 2: THE CORVAIR'S INSTABILITY COMPARED TO OTHER AMERICAN CARS

Background facts and GM statements

During your 1966 Subcommittee hearings, then GM President Roche presented the history of GM's continuous addition of safety features to GM cars since 1910. In the course of that presentation, Mr. Roche discussed the improvements made in the stability of GM cars. As proof of that assertion Mr. Roche cited the difference in rollover capacity of today's automobiles with their 1935 predecessors. Mr. Roche's exact words, at pages 660 and 661, were:

"The center of gravity of vehicles has been lowered substantially over the years, improving vehicle stability.

"Since 1935, on a regular Chevrolet the center of gravity, the point at which the car's weight will balance, has been lowered from 24.8 to 19.6 inches. This is a reduction of over 5 inches—or more than 26 percent—in center of gravity during the past 30 years. Similar lowering of the center of gravity has been achieved on the other General Motors car lines. These changes have made our cars less top heavy and more sure footed, decreasing the possibility of rollovers.

"We have film footage and data concerning earlier destructive tests run with cars on what we now call the J-turn. A 1935 car traveling at about 50 miles per hour on a grass field would roll over when put into a severe J-turn. *Today's automobile, even at higher speeds, is almost impossible to turn over in the same type of sharp turn unless the outside wheels strike an obstacle.* This J-turn test is included in the GSA specifications for testing the ability of tires to remain inflated during such a turn at 50 miles per hour on a concrete surface.

"Our modern frames, which are much sturdier, have also contributed to this increased stability. New design concepts have allowed us to lower the side rails for a lower car and these rails are integrated more closely with the body than those of earlier years. This provides greater rigidity and strength for the overall body structure." [Emphasis added.]

Mr. Edward N. Cole, in a letter of September 7, 1970 to Secretary of Transportation John Volpe, said that the test reports to which Mr. Nader referred were "reports of engineering development tests in which Corvairs, specially equipped with experimental parts, were intentionally overturned by experienced test drivers using violent maneuvers designed to overturn them."

The conflict between GM's statements and its own proving ground tests

If Mr. Roche's 1935 model car rolled over at 50 mph, then "one of today's automobiles", such as a 1963 Corvair, is revealed in the suppressed PG Report 17103 (in test run #120) to have rolled over on its roof, a roll of 180°, when taken into "a simple J-turn" at 28 mph—or at less than 60% of the 50 mph speed. Moreover, there were other separate test runs in PG 17103, such as the 18 test runs from 115–119 and 121–133, which indicate that the few changes made there in the shock absorber design and configuration were GM attempts to stabilize that production model system. In test runs 135 and 136, where 1962 shock absorbers were used with slight shimming to limit the rear rebound angles slightly, which would tend to increase stability, the test report results in both cases said that the car "exhibit[ed] unstable characteristics."

In summary, the actual words of test run No. 120, as a "'63 production" vehicle, totally conflict with both Mr. Cole's explanation that the only Corvairs tested were "experimental", and Mr. Roche's testimony that GM had done so much to increase the stability of its cars since 1935.

The actual text of the results and conclusions of PG Report 17103 are even more damning of the Corvair. At page 1 that document says:

"These tests showed that the dynamic stability of the current production 1963 Corvair was not substantially improved through practical modifications to the shock absorber design and configuration . . . A 1964 prototype suspension installed in the car made the dynamic stability characteristics acceptable for several different test conditions."

Conclusions

Test run No. 120 of PG 17103, together with PG 15699, illustrates that GM has clearly misrepresented the stability of the 1960–63 Corvairs both in 1966 and again in 1970. In short, GM's own proving ground reports on the performance of their Corvairs refute Mr. Roche's statements before your Subcommittee, and Mr. Cole's statement last month.

Although Mr. Roche did not define where "today's automobile" would be "almost impossible" to roll over, Mr. Roche could only have been referring either to a grass surface or to the proving ground surface.

If Mr. Roche has testified that the 1960–63 Corvairs would be "practically impossible" to roll over on a grass field at 50 mph, then he must be asked to document this to your Subcommittee since engineering authorities appear to agree that a grass field would have (in comparison to the proving ground) several factors that would make a rollover *easier* than at the proving ground. (These factors are the variable surface and a greater likelihood of a "plowing" effect, which would probably more than offset the grass field's lower coefficient of friction.)

Alternatively, if Mr. Roche has assumed or stated that the 1960, 1961, 1962 and 1963 Corvairs would be very difficult to roll over on the proving ground, while a 1935 car would not, then he has clearly told the Subcommittee a tale which is directly and specifically contradicted by his proving ground report 17103, which documents that the 1963 production model Corvair rolled over at speeds of 28 and 30 mph. Indeed, the suppressed PG Reports, particularly PG 17103, illustrate that despite the improved, less roll-inducing surface of concrete, the 1960–63 Corvairs would, and did, roll over at speeds of 26, 28 and 30 mph. In fact, this 1962 PG test 17103 may suggest that if these Corvairs had a 1935-type suspension system the rollover night have been averted. In short, if Mr. Roche was saying that GM's 1966 suspension systems would prevent rollover except at speeds far above 50 mph because GM has improved them so much, the 28 mph rollover in PG 17103 indicates that he is not only totally inaccurate, but also that the 1935 suspension may actually have been more stable than the 1960–63 Corvair suspension.

The overall significance of PG 17103 is also made explicit in the text of that document. The summary of test run 136 on page 8 of PG 17103, after the conclusion of over 24 test runs, says:

"The decision was made by the Chevrolet Motor Division engineers to discontinue testing on this shock absorber and suspension system configuration since it was quite obvious that the car could be rolled."

The additional significance of this test with 1962 shock absorbers is its applicability to 1960 and 1961 Corvairs. The testimony of Chief of Chevrolet Chassis Design, Mr. Kal Hansen, in the Anderson court transcript at page 975, has affirmed that there is no significant difference between the 1960 through 1962 Corvairs in regard to their suspension and shock absorber systems.

MISREPRESENTATION NO. 3: THE LIKELIHOOD OF CORVAIR WHEEL RIM HITTING ROAD COMPARED TO OTHER CARS

General Motors' statements in 1966

Prior to 1966, plaintiff's attorneys and safety engineers had all suggested that there was an unusually high likelihood that the rim of the 1960–63 Corvair wheel would hit the pavement when the Corvair went into maneuvers like the J-turn. The essence of their argument was that such a touching of the rim of the wheel was more likely in the Corvair than with other autos, and that this was additional evidence of the unusual lack of stability in the Corvair. (If the wheel rim firmly hits the pavement, even GM's experts have agreed that a rollover of the Corvair is imminent, if not inevitable; but GM has insisted that this is only an effect of a rollover already underway from other very unusual circumstances.)

Mr. Winchell's 1966 testimony to the Michigan State Senate, which Mr. Roche inserted in your hearing record of March 22, 1966, stated that the tire distortions of the Corvair were not significantly different from "any other automobile" in the "proximity of the rim to the pavement". This testimony was offered as the essential part of his conclusion that the Corvair was as stable as other American cars. Mr. Winchell also offered the misleading explanation that Corvairs may roll over, but that this was because rollovers occur in any car which strikes an embankment, obstacles, or goes off the road. Mr. Winchell's exact statement, at page 1561, was:

"Photographs of tire distortions with a car sliding sideways will show no significant difference between the proximity of the rim to the pavement of the Corvair and any other automobile."

The conflicting evidence in PG Report 17103

The tests for PG Report 17103 were performed at the GM proving ground in late 1962 and early 1963. Over 30 test runs were made during these tests which involved either an exact production model Corvair, Corvairs with insignificant variations from production models, or Corvairs with modifications which increased (or were intended to increase) stability over the 1960–63 production models. Indeed, Mr. Winchell acknowledged to your Senate Government Operations Subcommittee staff in September 1970 his awareness of PG Report 17103 about the time it was performed; however, both the text and the photos of PG 17103 contradict his assertions as to tire distortion given to the Ribicoff Subcommittee in 1966.

For example, in the first *12 out of 12* tests of PG 17103 (before the stabler 1964 type suspension was tried), the paint on the Corvair tires was scraped off every time at least way up to the rim, and in five test runs *all the way up to the rim* itself (see pp. 4, 5 and 6 of PG 17103). This scraping of the tire illustrates that even in the test runs without a rollover result, a rollover was most certainly only narrowly avoided. Moreover, the scraping was greater (was higher on the tire) on these 1962 and 1963 production Corvairs than on the Corvairs with the 1964 suspension system, which were tested in runs 137 through 146, where no tire scraping was mentioned. In test 118, the Corvair was actually described as "quite unstable" by the engineers, even where the changes in the suspension system (from production standards) were those designed to increase stability beyond that of the 1960–63 models (see pp. 4, 5 and 6 of PG 17103).[1]

This illustration of the instability of the Corvair was also known to GM from PG 15699. The photographs of the tires in the tests in PG 15699 also show the difference in tire scraping on the 1962 Corvair used in this test compared to the virtual absence of this phenomenon on the standard 1961

[1] The use of the word "unstable" and other similar potentially damaging words probably have been removed from most now existing versions of GM proving ground reports. It was part of Mr. Thelin's job to substitute softer phrases for or totally eliminate such language.

Chevrolet, even though these vehicles experienced identical maneuvers. Thus, much of the significance of the first 12 tests of PG 17103 (compared to the last five tests, where a 1965 type suspension system was used) was shown by the difference in the scraped paint phenomenon. This paint phenomenon indicates that large portions of the sides of the tires touched the road—even in the cases where the Corvair did not actually roll over.

Conclusion

Although Mr. Winchell has acknowledged that he was aware of PG 17103 at the time of his 1966 testimony, its conclusions are omitted from his testimony. This omission is significant because those test conclusions (from 1963 tests) about Corvair tires are in direct conflict with his own proving ground reports, particularly PG 17103 and PG 15699. In particular, Mr. Winchell's 1966 testimony is rebutted by the photos and tests of the last 11 tests of PG 15699. In summary, he misled the Subcommittee into the belief that (1) no evidence existed which would illustrate the radical difference between the Corvair and other automobiles and (2) he made no mention of the significant increases in the stability of the Corvair and the reduced tire scraping when the suspension changes were adopted for the 1964 Corvair.

Final conclusion

I am sending a copy of this letter to Senator Warren Magnuson, Chairman, Senate Committee on Commerce and Senator Vance Hartke, Chairman, Senate Commerce Subcommittee on Surface Transportation, in view of the fact that GM's conduct now clearly involves matters of great public safety for Corvair owners and thus falls within the purview of the National Traffic and Motor Vehicle Act of 1966. I would be happy to sit down with you and your staff or Senator Magnuson and his staff to discuss further or amplify any of the statements in this letter.

In view of the seriousness of the above findings, I strongly urge you or Senator Magnuson thoroughly to examine GM's conduct and to convene a public hearing to determine:

(1) Precisely who is responsible for these misrepresentations to your Subcommittee;

(2) Whether your Subcommittee should proceed to request the Department of Justice to undertake an investigation to determine the nature of possible violations of Title 18, § 1001. This section of the U.S. Code provides for the fine and imprisonment of individuals who are determined to have engaged in fraud, false statements or misrepresentations to an agency of the U.S. Government;

(3) Whether other action should be recommended to any other U.S. or State District Attorneys who were engaged in earlier litigation regarding the Corvair in which GM's representatives were inaccurate and incomplete. At a minimum, I believe you or Senator Magnuson should obtain from the state records and from GM a summary of how many past cases they have defended in a manner like the *Anderson* and *Collins* cases, in the light of their General Counsel's statement to you in 1966 that there were over 106 lawsuits in 23 states attacking the design of the Corvair; and

(4) Whether to recommend to the Department of Justice that General Motors Corporation be assessed the maximum penalty under Sections 108 and 109 of the National Traffic and Motor Vehicle Safety Act of 1966 for failure to effect Safety Defect Notification to all owners of 1960–63 Corvairs under § 113.

Sincerely,

RALPH NADER.

U.S. SENATE,
Washington, D.C., November 17, 1970.

Mr. RALPH NADER,
Washington, D.C.

DEAR MR. NADER: As you know, I was out of the country for two weeks in October and November. Accordingly, it is appropriate on my return to acknowledge receipt of your letter to Senator Ribicoff concerning the Corvair and certain additional documents relating thereto.

The Subcommittee is now engaged in reviewing your material and that submitted by General Motors. I understand that certain additional documents regarding this matter remain in your possession. I hope that you will provide them to the Subcommittee shortly so that we may conclude this investigation as rapidly as possible.

Sincerely,

ROBERT J. WAGER.

[From the Wall Street Journal, Nov. 25, 1970]

HIGHWAY SAFETY CHIEF BACKS SOME CHARGES BY NADER ON CORVAIRS

DETROIT.—Douglas W. Toms, director of the National Highway Safety Bureau, said auto-safety crusader Ralph Nader "does have some merit in his charges" of defects in Corvairs made by General Motors Corp.

"We know Corvairs do tip over" and "data does suggest" that carbon monoxide in the passenger compartment "is a problem in the Corvair" Mr. Toms told a news conference. He said his remarks were based on preliminary investigation.

Mr. Nader asserted recently that GM has continually suppressed company test reports and films he says prove clearly that the Corvair is "uniquely unstable with unprecedented roll-over capability." He also urged the Senate Commerce Committee or Government Reorganization subcommittee to hold a hearing that might lead to a recommendation to the Justice Department that GM be assessed the maximum penalty under the auto-safety law for failing to notify owners of 1960–63 Corvairs of a safety defect.

General Motors has denied Mr. Nader's charges. A spokesman said GM would have no comment on Mr. Toms' remarks. "It (the Corvair) has been defended successfully in court," the spokesman said. "The Corvair is a safe automobile."

GM discontinued the Corvair in May 1969 because of lagging sales.

Mr. Toms said it was his opinion that the 1962–63 Corvairs, even though they were prone to tip over, were no worse than other rear-engine, rear-drive cars of the same vintage that, like the Corvair, tended to oversteer.

SECURITIES INVESTOR PROTECTION ACT OF 1970—CONFERENCE REPORT

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 19333) to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges:

CONFERENCE REPORT (H. REPT. No. 91–1788)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19333) to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE; TABLE OF CONTENTS.—This Act, with the following table of contents, may be cited as the "Securities Investor Protection Act of 1970".

TABLE OF CONTENTS

(b) SECTION HEADINGS.—Headings for sections and subsections, and the table of contents, are included only for convenience, and shall be given no legal effect.

SEC. 2. APPLICATION OF SECURITIES EXCHANGE ACT OF 1934.

Except as otherwise provided in this Act, the provisions of the Securities Exchange Act of 1934 (15 U.S.C., sec. 78a and fol.; hereinafter referred to as the "1934 Act") apply as if this Act constituted an amendment to, and was included as a section of, such Act.

SEC. 3. SECURITIES INVESTOR PROTECTION CORPORATION.

(a) CREATION.—There is hereby established a body corporate to be known as "Securities Investor Protection Corporation" (hereafter in this Act referred to as "SIPC"). SIPC shall be a nonprofit corporation and shall have successsion until dissolved by act of the Congress. SIPC shall—

(1) not be an agency or establishment of the United States Government;

(2) be a membership corporation the members of which shall be—

(A) all persons registered as brokers or dealers under section 15(b) of the 1934 Act, and

(B) all persons who are members of a national securities exchange,

other than persons whose business as a broker or dealer consists exclusively of (i) the distribution of shares of registered open end investment companies or unit investment trusts, (ii) the sale of variable annuities, (iii) the business of insurance, or (iv) the business of rendering investment advisory services to one or more registered investment companies or insurance company separate accounts; and

(3) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by, the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–1001 and fol.).

(b) POWERS.—In addition to the powers granted to SIPC elsewhere in this Act, SIPC shall have the power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel, in any court, State or Federal;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) subject to the provisions of this Act, to adopt, amend, and repeal, by its Board of Directors, bylaws and rules relating to the conduct of its business and the exercise of all other rights and powers granted to it by this Act;

(4) to conduct its business (including the carrying on of operations and the maintenance of offices) and to exercise all other rights and powers granted to it by this Act in any State or other jurisdiction without regard to any qualification, licensing, or other statute in such State or other jurisdiction;

(5) to lease, purchase, accept gifts or donations of or otherwise acquire, to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange or otherwise dispose of, any property, real, personal or mixed, or any interest therein, wherever situated;

(6) subject to the provisions of subsection (c), to elect or appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof;

(7) to enter into contracts, to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to SIPC by this Act; and

(8) by bylaw, to establish its fiscal year.

(c) BOARD OF DIRECTORS.—

(1) FUNCTIONS.—SIPC shall have a Board of Directors which, subject to the provisions of this Act, shall determine the policies which shall govern the operations of SIPC.

(2) NUMBER AND APPOINTMENT.—The Board of Directors shall consist of seven persons as follows:

(A) One director shall be appointed by the Secretary of the Treasury from among the officers and employees of the Department of the Treasury.

(B) One director shall be appointed by the Federal Reserve Board from among the officers and employees of the Federal Reserve Board.

(C) Five directors shall be appointed by the President, by and with the advice and consent of the Senate, as follows—

(i) three such directors shall be selected from among persons who are associated with, and representative of different aspects of, the securities industry, not all of whom shall be from the same geographical area of the United States, and

(ii) two such directors shall be selected from the general public from among persons who are not associated with any broker or dealer, within the meaning of paragraph (18) of section 3(a) of the 1934 Act, or similarly associated with a national securities exchange or other securities industry group and who have not had any such association during the two years preceding appointment.

(3) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate a Chairman and Vice Chairman from among those directors appointed under paragraph (2) (C) (ii) of this subsection.

(4) TERMS.—

(A) Except as provided in subparagraphs (B) and (C), each director shall be appointed for a term of three years.

(B) Of the directors first appointed under paragraph (2)—

(i) two shall hold office for a term expiring on December 31, 1971,

(ii) two shall hold office for a term expiring on December 31, 1972, and

(iii) three shall hold office for a term expiring on December 31, 1973,

as designated by the President at the time they take office. Such designation shall be made in a manner which will assure that no two persons appointed under the authority of the same clause of paragraph (2) (C) shall have terms which expire simultaneously.

(C) A vacancy in the Board shall be filled in the same manner as the original appointment was made. Any director appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A director may serve after the expiration of his term until his successor has taken office.

(5) COMPENSATION, ETC.—All matters relating to compensation of directors and the determination of dollar volume of trading on exchanges shall be as provided in the bylaws of SIPC.

(d) MEETINGS OF BOARD.—The Board of Directors shall meet at the call of its Chairman, or as otherwise provided by the bylaws of SIPC.

(e) BYLAWS.—

(1) As soon as practicable but not later than forty-five days after the date of enactment of this Act, the Board of Directors shall adopt initial bylaws and rules relating to the conduct of the business of SIPC and the exercise of the rights and powers granted to it by this Act, and shall file a copy thereof with the Commission. Thereafter, the Board of Directors may alter, supplement, or repeal any existing bylaw or rule and may adopt additional bylaws and rules, and in each such case shall file a copy thereof with the Commission.

(2) Each such initial bylaw or rule, alteration, supplement, or repeal, and additional bylaw or rule shall take effect upon the thirtieth day (or such later date as SIPC may designate) after the filing of the copy thereof with the Commission or upon such earlier date as the Commission may determine, unless the Commission shall, by notice to SIPC setting forth the reasons therefor, disapprove the same, in whole or in part, as being contrary to the public interest or contrary to the purposes of this Act.

(3) The Commission may, by such rules or regulations as it determines to be necessary or appropriate in the public interest or to effectuate the purposes of this Act, require the adoption, amendment, alteration of, supplement to or rescission of any bylaw or rule by SIPC, whenever adopted.

(f) OTHER MEMBERS.—

(1) Any person who is a broker, dealer, or member of a national securities exchange and who is excluded from membership in SIPC under subsection (a) may become a member of SIPC under such conditions and upon such terms as SIPC shall require.

(2) Notwithstanding anything contained in subsections (c) and (d) of section 4, any person who becomes a member of the corporation under this subsection shall be subject to such assessments as SIPC determines to be equitable

SEC. 4. SIPC FUND.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF FUND.—SIPC shall establish a "SIPC Fund" (hereinafter in this Act referred to as the "fund"). All amounts received by SIPC (other than amounts paid directly to any lender pursuant to any pledge securing a borrowing by SIPC) shall be deposited in the fund, and all expenditures made by SIPC shall be made out of the fund.

(2) BALANCE OF THE FUND.—The balance of the fund at any time shall consist of the aggregate at such time of the following items:

(A) Cash on hand or on deposit.

(B) Amounts invested in United States Government or agency securities.

(C) Confirmed lines of credit.

(3) CONFIRMED LINES OF CREDIT.—For purposes of this section, the amount of confirmed lines of credit as of any time is the aggregate amount which SIPC at such time has the right to borrow from banks and other financial institutions under confirmed lines of credit or other written agreements which provide that moneys so borrowed are to be repayable by SIPC not less than one year from the time of such borrowings (including, for purposes of determining when such moneys are repayable, all rights of extension, refunding, or renewal at the election of SIPC).

(b) INITIAL REQUIRED BALANCE FOR FUND.—Within one hundred and twenty days from the date of enactment of this Act, the balance of the fund shall aggregate not less than $75,000,000, less any amounts expended from the fund within that period.

(c) ASSESSMENTS.—

(1) INITIAL ASSESSMENTS.—Each member of SIPC shall pay to SIPC, or the collection agent for SIPC specified in section 9(a), on or before the one hundred and twentieth day following the date of enactment of this Act, an assessment equal to one-eighth of 1 per centum of the gross revenues from the securities business of such member during the calendar year 1969, or if the Commission shall determine that, for purposes of assessment pursuant to this paragraph, a lesser percentage of gross revenues from the securities business is appropriate for any class or classes of members (taking into account relevant factors, including but not limited to types of business done and nature of securities sold), such lesser percentages as the Commission, by rule or regulation, shall establish for such class or classes, but in no event less than one-sixteenth of 1 per centum for any such class. In no event shall any assessment upon a member pursuant to this paragraph be less than $150.

(2) GENERAL ASSESSMENT AUTHORITY.—SIPC shall, by bylaw or rule, impose upon its members such assessments as, after con-

sultation with self-regulatory organizations, SIPC may deem necessary and appropriate to establish and maintain the fund and to repay any borrowings by SIPC. Any assessments so made shall be in conformity with contractual obligations made by SIPC in connection with any borrowing incurred by SIPC. Subject to paragraph (3) and subsection (d)(1)(A), any such assessment upon the members, or any one or more classes thereof, may, in whole or in part, be based upon or measured by (A) the amount of their gross revenues from the securities business, or (B) all or any of the following factors: the amount or composition of their gross revenues from the securities business, the number or dollar volume of transactions effected by them, the number of customer accounts maintained by them or the amounts of cash and securities in such accounts, their net capital, the nature of their activities (whether in the securities business or otherwise) and the consequent risks, or other relevant factors.

(3) LIMITATIONS.—Notwithstanding any other provision of this Act (other than section 3(f))—

(A) no assessment shall be made upon a member otherwise than pursuant to paragraph (1) or (2) of this subsection,

(B) an assessment may be made under paragraph (2) of this subsection at a rate in excess of one half of one percentum during any twelve-month period if SIPC determines, in accordance with a bylaw or rule, that such rate of assessment during such period will not have a material adverse effect on the financial condition of its members or their customers, except that no assessments shall be made pursuant to such paragraph upon a member which require payments during any such period which exceed in the aggregate one per centum of such member's gross revenues from the securities business for such period, and

(C) no assessment shall include any charge based upon the member's activities (i) in the distribution of shares of registered open end investment companies or unit investment trusts, (ii) in the sale of variable annuities, (iii) in the business of insurance, or (iv) in the business of rendering investment advisory services to one or more registered investment companies or insurance company separate accounts.

(d) REQUIREMENTS RESPECTING ASSESSMENTS AND LINES OF CREDIT.—

(1) ASSESSMENTS.—

(A) ½ OF 1 PERCENT ASSESSMENT.—Subject to subsection (c)(3), SIPC shall impose upon each of its members an assessment at a rate of not less than one-half of 1 per centum per annum of the gross revenues from the securities business of such member—

(i) until the balance of the fund aggregates not less than $150,000,000 (or such other amount as the Commission may determine in the public interest),

(ii) during any period when there is outstanding borrowing by SIPC pursuant to subsection (f) or subsection (g) of this section, and

(iii) whenever the balance of the fund (exclusive of confirmed lines of credit) is below $100,000,000 (or such other amount as the Commission may determine in the public interest).

(B) ¼ OF 1 PERCENT ASSESSMENT.—During any period during which—

(i) the balance of the fund (exclusive of confirmed lines of credit) aggregates less than $150,000,000 (or such other amount as the Commission has determined under paragraph (2)(B)), or

(ii) SIPC is required under paragraph (2)(B) to phase out of the fund all confirmed lines of credit,

SIPC shall endeavor to make assessments in such a manner that the aggregate assessments payable by its members during such period shall not be less than one-fourth of 1 per centum per annum of the aggregate gross revenues from the securities business for such members during such period.

(2) LINES OF CREDIT.—

(A) $50,000,000 LIMIT AFTER 1973.—After December 31, 1973, confirmed lines of credit shall not constitute more than $50,000,000 of the balance of the fund.

(B) PHASEOUT REQUIREMENT.—When the balance of the fund aggregates $150,000,000 (or such other amount as the Commission may determine in the public interest) SIPC shall phase out of the fund all confirmed lines of credit.

(e) PRIOR TRUSTS; OVERPAYMENTS AND UNDERPAYMENTS.—

(1) PRIOR TRUSTS.—There may be contributed and transferred at any time to SIPC any funds held by any trust established by a self-regulatory organization prior to January 1, 1970, and the amounts so contributed and transferred shall be applied, as may be determined by SIPC with approval of the Commission, as a reduction in the amounts payable pursuant to assessments made or to be made by SIPC upon members of such self-regulatory organization pursuant to subsection (c)(2). No such reduction shall be made at any time when there is outstanding any borrowing by SIPC pursuant to subsection (g) of this section or any borrowings under confirmed lines of credit.

(2) OVERPAYMENTS.—To the extent that any payment by a member exceeds the maximum rate permitted by subsection (c) of this section, the excess shall not be recoverable except against future payments by such member in accordance with a bylaw or rule of SIPC.

(3) UNDERPAYMENTS.—If a member fails to pay when due all or any part of an assessment made upon such member, the unpaid portion thereof shall bear interest at such rate as may be determined by SIPC by bylaw or rule.

(f) BORROWING AUTHORITY.—SIPC shall have the power to borrow moneys and to evidence such borrowed moneys by the issuance of bonds, notes, or other evidences of indebtedness, all upon such terms and conditions as the Board of Directors may determine in the case of a borrowing other than pursuant to subsection (g) of this section, or as may be prescribed by the Commission in the case of a borrowing pursuant to subsection (g). The interest payable on a borrowing pursuant to subsection (g) shall be equal to the interest payable on the related notes or other obligations issued by the Commission to the Secretary of the Treasury. To secure the payment of the principal of, and interest and premium, if any, on, all bonds, notes, or other evidences of indebtedness so issued, SIPC may make agreements with respect to the amount of future assessments to be made upon members and may pledge all or any part of the assets of SIPC and of the assessments made or to be made upon members. Any such pledge of future assessments shall (subject to any prior pledge) be valid and binding from the time that it is made, and the assessments so pledged and thereafter received by SIPC, or any examining authority as collection agent for SIPC, shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind against SIPC or such collection agent whether pursuant to this Act, in tort, contract or otherwise, irrespective of whether such parties have notice thereof. During any period when a borrowing by SIPC pursuant to subsection (g) of this section is outstanding, no pledge of any assessment upon a member to secure any bonds, notes, or other evidences of indebtedness issued other than pursuant to subsection (g) of this section shall be effective as to the excess of the payments under the assessment on such member during any twelve-month period over one-fourth of 1 per centum of such member's gross revenues from the securities business for such period. Neither the instrument by which a pledge is authorized or created, nor any statement or other document relative thereto, need be filed or recorded in any State or other jurisdiction. The Commission may by rule or regulation provide for the filing of any instrument by which a pledge or borrowing is authorized or created, but the failure to make or any defect in any such filing shall not affect the validity of such pledge or borrowing.

(g) SEC LOANS TO SIPC.—In the event that the fund is or may reasonably appear to be insufficient for the purposes of this Act, the Commission is authorized to make loans to SIPC. At the time of application for, and as a condition to, any such loan, SIPC shall file with the Commission a statement with respect to the anticipated use of the proceeds of the loan. If the Commission determines that such loan is necessary for the protection of customers of brokers or dealers and the maintenance of confidence in the United States securities markets and that SIPC has submitted a plan which provides as reasonable an assurance of prompt repayment as may be feasible under the circumstances, then the Commission shall so certify to the Secretary of the Treasury, and issue notes or other obligations to the Secretary of the Treasury pursuant to subsection (h). If the Commission determines that the amount or time for payment of the assessments pursuant to such plan would not satisfactorily provide for the repayment of such loan, it may, by rules and regulations, impose upon the purchasers of equity securities in transactions on national securities exchanges and in the over-the-counter markets a transaction fee in such amount as at any time or from time to time it may determine to be appropriate, but not exceeding one-fiftieth of 1 per centum of the purchase price of the securities. No such fee shall be imposed on a transaction (as defined by rules or regulations of the Commission) of less than $5,000. For the purposes of the next preceding sentence, (A) the fee shall be based upon the total dollar amount of each purchase; (B) the fee shall not apply to any purchase on a national securities exchange or in an over-the-counter market by or for the account of a broker or dealer registered under section 15(b) of the 1934 Act or a member of a national securities exchange unless such purchase is for an investment account of such broker, dealer, or member (and for this purpose any transfer from a trading account to an investment account shall be deemed a purchase at fair market value); and (C) the Commission by rules and regulations may exempt any transaction in the over-the-counter markets in order to provide for the assessment of fees on purchasers in transactions in those markets on a basis comparable to the assessment of fees on purchasers in transactions on national securities exchanges. Such fee shall be collected by the broker or dealer effecting the transaction for or with the purchaser and shall be paid to SIPC in the same manner as assessments imposed pursuant to subsection (c).

(h) SEC NOTES ISSUED TO TREASURY.—To enable the Commission to make loans under subsection (g), the Commission is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not to exceed $1,000,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States

of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may reduce the interest rate if he determines such reduction to be in the national interest. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(i) "GROSS REVENUES" DEFINED.—

(1) IN GENERAL.—For purposes of this Act, the term "gross revenues from the securities business" means the sum of (but without duplication):

(A) commissions earned in connection with transactions in securities effected for customers as agent (net of commissions paid to other brokers and dealers in connection with such transactions) and markups in respect of purchases or sales of securities as principal,

(B) charges for executing or clearing transactions in securities for other brokers and dealers,

(C) the net realized gain, if any, from principal transactions in securities in trading accounts,

(D) the net profit, if any, from the management of or participation in the underwriting or distribution of securities,

(E) interest earned on customers' securities accounts,

(F) fees for investment advisory services (except when rendered to one or more registered investment companies or insurance company separate accounts) or account supervision in respect of securities,

(G) fees for the solicitation of proxies with respect to, or tenders or exchanges of, securities,

(H) income from service charges or other surcharges in respect of securities,

(I) except as otherwise provided by rule or regulation of the Commission, dividends and interest received on securities in investment accounts of the broker or dealer,

(J) fees in connection with put, call, and other option transactions in securities, and

(K) fees and other income for all other investment banking services.

Such term does not include revenues received by a broker or dealer in connection with the distribution of shares of a registered open end investment company or unit investment trust or revenues derived by a broker or dealer from the sale of variable annuities or from the conduct of the business of insurance.

(2) CONSOLIDATED GROUP.—Except as otherwise provided by SIPC by bylaw or rule, gross revenues from the securities business of a broker or dealer shall be computed on a consolidated basis for such broker or dealer and all its subsidiaries, and the operations of a broker or dealer shall include those of any business to which such broker or dealer has succeeded.

(3) MEANING OF TERMS NOT DEFINED.—SIPC may by bylaw or rule define all terms used in this subsection insofar as such definitions are not inconsistent with the provisions of this subsection.

SEC. 5. PROTECTION OF CUSTOMERS.

(a) DETERMINATION OF NEED OF PROTECTION.—

(1) NOTICE TO SIPC.—If the Commission or any self-regulatory organization is aware of facts which lead it to believe that any broker or dealer subject to its regulation is in or is approaching financial difficulty, it shall immediately notify SIPC, and, if such notification is by a self-regulatory organization, the Commission.

(2) ACTION BY SIPC.—If SIPC determines that any member has failed or is in danger of failing to meet its obligations to customers and that there exists one or more of the conditions specified in subsection (b)(1)(A), SIPC, upon notice to such member, may apply to any court of competent jurisdiction specified in section 27 or 21(e) of the 1934 Act for a decree adjudicating that customers of such member are in need of the protection provided by this Act.

(3) EFFECT OF OTHER PENDING ACTIONS.—An application under paragraph (2)—

(A) with the consent of the Commission, may be combined with any action brought by the Commission including an action by it for a temporary receiver pending an appointment of a trustee under subsection (b)(3), and

(B) may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding or any proceeding to reorganize, conserve, or liquidate such member or its property, or any proceeding to enforce a lien against property of such member.

(b) COURT ACTION.—

(1) ISSUANCE OF DECREE.—

(A) FINDINGS BY COURT.—A court to which application is made pursuant to subsection (a)(2) shall grant the application and issue a decree adjudicating that customers of the member named in the application are in need of protection under this Act if it finds that such member—

(i) is insolvent within the meaning of section 1(19) of the Bankruptcy Act, or is unable to meet its obligations as they mature, or

(ii) has committed an act of bankruptcy within the meaning of section 3 of the Bankruptcy Act, or

(iii) is the subject of a proceeding pending in any court or before any agency of the United States or any State in which a receiver, trustee, or liquidator for such member has been appointed, or

(iv) is not in compliance with applicable requirements under the 1934 Act or rules or regulations of the Commisison or any self-regulatory organization with respect to financial responsibility or hypothecation of customers' securities, or

(v) is unable to make such computations as may be necessary to establish compliance with such financial responsibility or hypothecation rules or regulations.

(B) UNCONTESTED, ETC., APPLICATIONS.—If within three business days after the filing of an application pursuant to subsection (a)(2), or such other period as the court may order, the debtor shall consent to or fail to contest such application or shall fail to show facts sufficient to controvert any material allegation of such application, the court shall forthwith grant the application and issue a decree adjudicating that customers of the member named in the application are in need of protection under this Act.

(2) EXCLUSIVE JURISDICTION OVER DEBTOR.—Upon the filing of an application pursuant to subsection (a)(2), the court to which application is made shall have exclusive jurisdiction of the debtor involved and its property wherever located with the powers, to the extent consistent with the purposes of this Act, of a court of bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act. Pending an adjudication under paragraph (1) such court shall stay, and upon appointment by it of a trustee as provided in paragraph (3) such court shall continue the stay of, any pending bankruptcy, mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the debtor or its property and any other suit against any receiver, conservator, or trustee of the debtor or its property. Pending such adjudication and upon the appointment by it of such trustee, the court may stay any proceeding to enforce a lien against property of the debtor or any other suit against the debtor. Pending such adjudication, such court may appoint a temporary receiver.

(3) APPOINTMENT OF TRUSTEE.—If the court grants an application and makes an adjudication under paragraph (1), the court shall forthwith appoint as trustee for the liquidation of the business of the debtor in accordance with section 6, and as attorney for such trustee, such persons as SIPC shall specify. No person shall be appointed as such trustee or attorney if such person is not "disinterested" within the meaning of section 158 of the Bankruptcy Act.

(4) DEBTOR AND FILING DATE DEFINED.—For purposes of this Act—

(A) DEBTOR.—The term "debter" means a member of SIPC in respect of whom an application has been filed pursuant to subsection (a)(2).

(B) FILING DATE.—The term "filing date" means the date on which an application with respect to any debtor is filed under subsection (a)(2); except that if—

(i) a petition was filed before such date by or against the debtor under the Bankruptcy Act, or

(ii) the debtor is the subject of a proceeding pending in any court or before any agency of the United States or any State in which a receiver, trustee, or liquidator for such debtor was appointed which proceeding was commenced before the date on which such application was filed,

then the term "filing date" means the date on which such petition was filed or such proceeding commenced.

(c) SEC PARTICIPATION IN PROCEEDINGS.—The Commission may, on its own motion, file notice of its appearance in any proceeding under this Act and may thereafter participate as a party.

SEC. 6. LIQUIDATION PROCEEDINGS.

(a) General Purposes of Liquidation Proceeding.—The purposes of any proceeding in which a trustee has been appointed under section 5(b)(3) (hereafter in this section referred to as a "liquidation proceeding") shall be:

(1) as promptly as possible after such appointment and in accordance with the provisions of this section—

(A) to return specifically identifiable property to the customers of the debtor entitled thereto;

(B) to distribute the single and separate fund, and (in advance thereof or concurrently therewith) pay to customers moneys advanced by SIPC, as provided in subsection (f);

(2) to operate the business of the debtor in order to complete open contractual commitments of the debtor pursuant to subsection (d);

(3) to enforce rights of subrogation as provided in this Act; and

(4) to liquidate the business of the debtor.

(b) Powers and Duties of Trustee.—

(1) Trustee powers.—A trustee appointed under section 5(b)(3) (hereinafter referred to as "trustee") shall be vested with the same powers and title with respect to the debtor and the property of the debtor, and the same rights to avoid preferences, as a trustee in bankruptcy and a trustee under chapter X of the Bankruptcy Act have with respect to a bankrupt and a chapter X debtor. In addition, a trustee shall have the right—

(A) with the approval of SIPC, to hire and fix the compensation of all personnel (including officers and employees of the debtor and of its examining authority) and other persons (including but not limited to ac-

countants) that are deemed by such trustee necessary for all or any purposes of the liquidation proceeding, and

(B) to operate the business of the debtor in order to complete open contractual commitments pursuant to subsection (d),

and no approval of the court shall be required therefor.

(2) Trustee duties.—Except as inconsistent with the provisions of this Act or otherwise ordered by the court, a trustee shall be subject to the same duties as a trustee appointed under section 44 of the Bankruptcy Act, except that a trustee may, but shall have no duty to, reduce to money any securities in the single and separate fund (provided under subsection (c) (2) (B)) or in the general estate of the debtor.

(c) Application of Bankruptcy Act.—

(1) General provisions applicable.—Except as inconsistent with the provisions of this Act and except that in no event shall a plan of reorganization be formulated, a liquidation proceeding shall be conducted in accordance with, and as though it were being conducted under, the provisions of chapter X and such of the provisions (other than section 60e) of chapters I to VII, inclusive, of the Bankruptcy Act as section 102 of chapter X would make applicable if an order of the court had been entered directing that bankruptcy be proceeded with pursuant to the provisions of such chapters I to VII, inclusive; except that the court may, for such period as may be appropriate, stay enforcement of, but shall not abrogate, the rights provided in section 68 of the Bankruptcy Act and the right to enforce a valid, non-preferential lien or pledge against the property of the debtor. For purposes of applying the Bankruptcy Act in carrying out this section, any reference in the Bankruptcy Act to the date of commencement of proceedings under the Bankruptcy Act shall be deemed to be a reference to the filing date (as defined in section 5(b) (4) (B)).

(2) Special provisions.—The following subparagraphs of this paragraph shall apply to a liquidation proceeding in lieu of section 60e of the Bankruptcy Act:

(A) Definitions.—Except as otherwise expressly provided in this section, for purposes of this section and the application of the Bankruptcy Act to a liquidation proceeding—

(i) "property" includes cash and securities, whether or not negotiable and all property of a similar character;

(ii) "customers" of a debtor means persons (including persons with whom the debtor deals as principal or agent) who have claims on account of securities received, acquired, or held by the debtor from or for the account of such persons (I) for safekeeping, or (II) with a view to sale, or (III) to cover consummated sales, or (IV) pursuant to purchases, or (V) as collateral security, or (VI) by way of loans of securities by such persons to the debtor, and shall include persons who have claims against the debtor arising out of sales or conversions of such securities, and shall include any person who has deposited cash with the debtor for the purpose of purchasing securities, but shall not include any person to the extent that such person has a claim for property which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor or is subordinated to the claims of creditors of the debtor;

(iii) "cash customer" means, with respect to any securities or cash, customers entitled to immediate possession of such securities or cash without the payment of any sum to the debtor, and for purposes of this clause, the same person may be a cash customer with reference to certain securities or cash and not a cash customer with reference to other securities or cash;

(iv) "net equity" of a customer's account or accounts means the dollar amount thereof determined by giving effect to open contractual commitments completed as provided in subsection (d), by excluding any specifically identifiable property reclaimable by the customer, and by subtracting the indebtedness, if any, of the customer to the debtor from the sum which would have been owing by the debtor to the customer had the debtor liquidated, by sale or purchase on the filing date, all other securities and contractual commitments of the customer, and for purposes of this definition, accounts held by a customer in separate capacities shall be deemed to be accounts of separate customers; and

(v) "securities" has the same meaning as such term has under section 60e of the Bankruptcy Act.

(B) Single and separate fund.—All property at any time received, acquired, or held by or for the account of a debtor from or for the account of customers except cash customers who are able to identify specifically their property in the manner prescribed in subparagraph (C), and the proceeds of all customers' property transferred by the debtor, including property unlawfully converted, shall constitute a single and separate fund; and all customers except such cash customers shall constitute a single and separate class of creditors, entitled to share ratably in such fund on the basis of their respective net equities as of the filing date and in priority to all other payments, except that (i) there shall be repaid to SIPC, in priority to all other claims payable from such single and separate fund, the amount of all advances made by SIPC to the trustee to permit the completion of open contractual commitments pursuant to subsection (d), and (ii) to the extent that any other assets of the debtor may be available therefor or as otherwise ordered by the court, all costs and expenses specified in clauses (1) and (2) of section 64a of the Bankruptcy Act shall be paid from such single and separate fund in priority to the claims of such single and separate class of creditors, and any moneys advanced by SIPC for such costs and expenses shall be recouped as such. If such single and separate fund shall not be sufficient to pay in full the claims of such single and separate class of creditors, the creditors of such class shall be entitled, to the extent only of their respective unpaid balances, to share in the general estate with general creditors. In, or for the purpose of, distributing such fund, all property other than cash shall be valued as of the close of business on the filing date. To the greatest extent considered practicable by the trustee, the trustee shall deliver in payment of claims of customers for their net equities based upon securities held on the filing date in their accounts (after giving effect to open contractual commitments completed as hereinafter provided), securities of the same class and series of an issuer ratably up to the respective amounts which were so held in such accounts. Any property remaining after the liquidation of a lien or pledge made by a debtor shall be apportioned between his general estate and the single and separate fund in the proportion in which the general property of the debtor and the property of his customers contributed to such lien or pledge.

(C) Specifically identifiable property.—The trustee shall return specifically identifiable property to the customers of the debtor entitled thereto. No cash or securities at any time received, acquired, or held by or for the account of a debtor from or for the accounts of customers shall for the purposes of this paragraph be deemed to be specifically identified, unless such property remained in its identical form in the debtor's possession until the filing date, or unless such property was allocated to or physically set aside for such customers, it shall be sufficient that on the filing date:

(i) securities are segregated individually, or in bulk for customers collectively;

(ii) in the case of securities held for the account of the debtor as part of any central certificate service of any clearing corporation or any similar depositary—

(I) the records of the debtor show or there is otherwise established to the satisfaction of the trustee that all or a specified part of the securities held by such clearing corporation or other similar depositary are held for specified customers, or for customers collectively, and

(II) such records of the debtor also show or there is otherwise established to the satisfaction of the trustee the identities of the particular customers entitled to receive specified numbers or units of such securities so held for customers collectively; or

(iii) such property is held for the account of customers of the debtor in such other manner as the Commission, for the protection of customers and other creditors on a fair and equitable basis, by rule or regulation shall have determined to be sufficiently identifiable as the property of such customers.

If there is any shortage in securities of the same class and series of an issuer so segregated in bulk or otherwise held for customers pursuant to this subparagraph, as compared to the aggregate rights of particular customers to receive securities of such class and series, the respective interests of such customers in such securities of such class and series shall be prorated, without prejudice, however, to the satisfaction of any claim for deficiencies as otherwise provided in this section.

(D) Where such single and separate fund is not sufficient to pay in full the claims of such single and separate class of creditors, a transfer by a debtor of any property which, except for such transfer, would have been a part of such fund may be recovered by the trustee for the benefit of such fund, if such transfer is voidable or void under the provisions of the Bankruptcy Act. For the purpose of such recovery, the property so transferred shall be deemed to have been the property of the debtor and, if such transfer was made to a customer or for his benefit, such customer shall be deemed to have been a creditor, the laws of any State to the contrary notwithstanding. Subject to the provisions of paragraph (D), if any securities received or acquired by a debtor from a cash customer are transferred by the debtor, such customer shall not have any specific interest in or specific right to any securities of like kind on hand on the filing date, but such securities of like kind or the proceeds thereof shall become part of such single and separate fund.

(d) Completion of Open Contractual Commitments.—The trustee shall complete those contractual commitments of the debtor relating to transactions in securities which were made in the ordinary course of debtor's business and which were outstanding on the filing date—

(1) in which a customer had an interest, except those commitments the completion of which the Commission shall have determined by rule or regulation not to be in the public interest, or

(2) in which a customer did not have an interest, to the extent that the Commission shall by rule or regulation have determined the completion of such commitments to be in the public interest.

For purposes of this subsection (but not for any other purpose of this Act) (i) the term "customer" means any person other than a broker or dealer, and (ii) a customer shall be deemed to have had an interest in a transaction if a broker participating in the transaction was acting as agent for a customer,

or if a dealer participating in the transaction held a customer's order which was to be executed as a part of the transaction. All property at any time received, acquired, or held by or for the account of the debtor (except for cash or securities that are specifically identifiable as the property of particular customers and are not the subject of an open contractual commitment), and all property in the single and separate fund, shall be available to complete open contractual commitments pursuant to this subsection. Securities purchased or cash received by the trustee upon completion of any such commitment shall constitute specifically identifiable property of a customer to the extent that such commitment was completed with property which constituted specifically identifiable property of such customer on the filing date, or was paid or delivered by or for the account of such customer to the debtor or the trustee after the filing date.

(e) Notice.—Promptly after his appointment, the trustee shall cause notice of the commencement of proceedings under this section to be published in accordance with a designation of the court, made in accordance with the requirements of section 28 of the Bankruptcy Act, and at the same time shall cause to be mailed a copy of such notice to each of the customers of the debtor as their addresses shall appear from the debtor's books and records. Except as the trustee may otherwise permit, claims for specifically identifiable property (other than securities registered in the name of the claimant or segregated for him in his individual name) or claims payable from property in the single and separate fund or payable with moneys advanced by SIPC, shall not be paid other than from the general estate of the debtor unless filed within such period of time (not exceeding sixty days after such publication) as may be fixed by the court, and no claim shall be allowed after the time specified in section 57 of the Bankruptcy Act. Subject to the foregoing, and without limiting the powers and duties of the trustee to discharge promptly obligations as specified in this section, the court may make appropriate provision for proof and enforcement of all claims against the debtor including those of any subrogee.

(f) SIPC Advances to Trustee.—

(1) Advances For Customers' Claims.—In order to provide for prompt payment and satisfaction of the net equities of customers of debtor, SIPC shall advance to the trustee such moneys as may be required to pay or otherwise satisfy claims in full of each customer, but not to exceed $50,000 for such customer; except that—

(A) insofar as all or any portion of the net equity of a customer is a claim for cash, as distinct from securities, the amount advanced by reason of such claim to cash shall not exceed $20,000;

(B) a customer who holds accounts with the debtor in separate capacities shall be deemed to be a different customer in each capacity;

(C) no such advance shall be made by SIPC to the trustee to pay or otherwise satisfy, directly or indirectly, any claims of any customer who is a general partner, officer, or director of the debtor, the beneficial owner of 5 per centum or more of any class of equity security of the debtor (other than a nonconvertible stock having fixed preferential dividend and liquidation rights) or limited partner with a participation of 5 per centum or more in the net assets or net profits of the debtor; and

(D) no such advance shall be made by SIPC to the trustee to pay or otherwise satisfy claims of any customer who is a broker or dealer or bank other than to the extent that it shall be established to the satisfaction of the trustee, from the books and records of the debtor or from the books and records of a broker or dealer or bank or otherwise, that claims of such broker or dealer or bank against the debtor arise out of transactions for customers of such broker or dealer or bank, in which event, each such customer of such broker or dealer or bank shall be deemed a separate customer of the debtor.

To the extent that moneys are advanced by SIPC to the trustee to pay the claims of customers, SIPC shall be subrogated to the claims of such customers with the rights and priorities provided in this section.

(2) Other Advances—SIPC may advance to the trustee such moneys as may be required to effectuate subsection (b)(1)(A). SIPC shall advance to the trustee such moneys as (with those available pursuant to subsection (d) may be required to effectuate subsection (d).

(g) Payments to Customers; No Proof of Claim Required.—It shall be the duty of the trustee to discharge promptly, in accordance with the provisions of this section, all obligations of the debtor to each of its customers relating to, or net equities based upon, securities or cash by the delivery of securities or the effecting of payments to such customer (subject to subsection (f)(1), to the extent that such payments are made out of advances from SIPC under such subsection) insofar as such obligations are ascertainable from the books and records of the debtor or are otherwise established to the satisfaction of the trustee, whether or not such customer shall have filed formal proof of such claim. For that purpose the court among other things shall—

(1) in respect of claims relating to securities or cash, authorize the trustee to make payment out of moneys made available to the trustee by SIPC notwithstanding the fact that there shall not have been any showing or determination that there are sufficient funds of the debtor available to make such payment; and

(2) in respect of claims relating to, or net equities based upon, securities of a class and series of an issuer, which are ascertainable from the books and records of the debtor or are otherwise established to the satisfaction of the trustee, authorize the trustee to deliver securities of such class and series if and to the extent available to satisfy such claims in whole or in part, with partial deliveries to be made pro rata to the greatest extent considered practicable by the trustee.

Any payment or delivery of property pursuant to this subsection may be conditioned upon the trustee requiring claimants to execute in a form to be determined by the trustee, appropriate receipts, supporting affidavits, and assignments, but shall be without prejudice to the right of any claimant to file formal proof of claim within the period specified in subsection (e) for any balance of securities or cash to which he may deem himself entitled.

(h) Proof of Claim by Associates and Others.—The provisions of this section permitting discharge of obligations of the debtor to pay cash or to deliver securities without formal proof of claim shall not apply to any person "associated" with the debtor as defined in section 3(a)(18) of the 1934 Act, to any beneficial owner of 5 per centum or more of the voting stock of the debtor, or to any member of the immediate family of any of the foregoing.

(i) Reports by Trustee to Court.—All reports to the court by a trustee (other than reports required to be filed pursuant to section 167(3) of the Bankruptcy Act) shall be in such form and detail as, having due regard to the requirements of section 17 of the 1934 Act and the rules and regulations thereunder and the magnitude of items and transactions involved in connection with the operations of a broker or dealer, the Commission shall determine by rules and regulations to present fairly the results of such proceeding as at the dates or for the periods covered by such reports.

(j) Effect of Act on Claims.—Except as otherwise provided in this section, nothing in this section shall limit the right of any person to establish by formal proof such claims as such person may have to payment, or to delivery of specific securities, without resort to moneys advanced by SIPC to the trustee.

SEC. 7. SEC FUNCTIONS.

(a) ADMINISTRATIVE PROCEDURE.—Determinations of the Commission, for purposes of making rules or regulations pursuant to section 3(e) and section 9(f) shall be after appropriate notice and opportunity for a hearing, and for submission of views of interested persons, in accordance with the rulemaking procedures specified in section 553 of title 5, United States Code, but the holding of a hearing shall not prevent adoption of any such rule or regulation upon expiration of the notice period specified in subsection (d) of such section and shall not be required to be on a record within the meaning of subchapter II of chapter 5 of such title.

(b) ENFORCEMENT OF ACTIONS.—In the event of the refusal of SIPC to commit its funds or otherwise to act for the protection of customers of any member of SIPC, the Commission may apply to the district court of the United States in which the principal office of SIPC is located for an order requiring SIPC to discharge its obligations under this Act and for other relief as the court may deem appropriate to carry out the purposes of this Act.

(c) EXAMINATIONS AND REPORTS.—

(1) EXAMINATION OF SIPC, ETC.—The Commission may make such examinations and inspections of SIPC and require SIPC to furnish it with such reports and records or copies thereof as the Commission may consider necessary or appropriate in the public interest or to effectuate the purposes of this Act.

(2) REPORTS FROM SIPC.—As soon as practicable after the close of each fiscal year, SIPC shall submit to the Commission a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this Act, during such fiscal year. Such report shall include financial statements setting forth the financial position of SIPC at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The financial statements so included shall be examined by an independent public accountant or firm of independent public accountants, selected by SIPC and satisfactory to the Commission, and shall be accompanied by the report thereon of such accountant or firm. The Commission shall transmit such report to the President and the Congress with such comment thereon as the Commission may deem appropriate.

(d) FINANCIAL RESPONSIBILITY.—Section 15(c)(3) of the Securities Exchange Act of 1934 is amended to read as follows:

"(3) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors to provide safeguards with respect to the financial responsibility and related practices of brokers and dealers including, but not limited to, the acceptance of custody and use of customers' securities, and the carrying and use of customers' deposits or credit balances. Such rules and regulations shall require the maintenance of reserves with respect to customers' deposits or credit bal-

ances, as determined by such rules and regulations."

SEC. 8. EXAMINING AUTHORITY FUNCTIONS.

Each member of SIPC shall file with such member's examining authority such information (including reports of, and information with respect to, the gross revenues from the securities business of such member, including the composition thereof, transactions in securities effected by such member, and other information with respect to such member's activities, whether in the securities business or otherwise, including customer accounts maintained, net capital employed, and activities conducted) as SIPC may determine to be necessary or appropriate for the purpose of making assessments under section 4. The examining authority shall file with SIPC all or such part of such information (and such compilations and analyses thereof) as SIPC, by bylaw or rule, shall prescribe. No application, report, or document filed pursuant to this section shall be deemed to be filed pursuant to section 18 of the 1934 Act.

SEC. 9. FUNCTIONS OF SELF-REGULATORY ORGANIZATIONS.

(a) COLLECTING AGENTS.—Each self-regulatory organization shall act as collection agent for SIPC to collect the assessments payable by all members of SIPC for whom such self-regulatory organization is the examining authority, and members of SIPC who are not members of any self-regulatory organization shall make payment direct to SIPC. An examining authority shall be obligated to remit to SIPC assessments made under section 4 only to the extent that payments of such assessments are received by such examining authority.

(b) IMMUNITY.—No self-regulatory organization shall have any liability to any person for any action taken or omitted in good faith pursuant to section 5(a)(1).

(c) INSPECTIONS.—The self-regulatory organization of which a member of SIPC is a member shall inspect or examine such member for compliance with applicable financial responsibility rules, except that if a member of SIPC is a member of more than one self-regulatory organization, SIPC shall designate one of such self-regulatory organizations to inspect or examine such member of SIPC for compliance with applicable financial responsibility rules. Such self-regulatory organization shall be selected by SIPC on the basis of regulatory procedures employed, availability of staff, convenience of location, and such other factors as SIPC may consider appropriate for the protection of customers of its members.

(d) REPORTS.—There shall be filed with SIPC by the self-regulatory organizations such reports of inspections or examinations of the members of SIPC (or copies thereof) as may be designated by SIPC by bylaw or rule.

(e) CONSULTATION.—SIPC shall consult and cooperate with the self-regulatory organizations toward the end:

(1) that there may be developed and carried into effect procedures reasonably designed to detect approaching financial difficulty upon the part of any member of SIPC;

(2) that, as nearly as may be practicable, examinations to ascertain whether members of SIPC are in compliance with applicable financial responsibility rules will be conducted by the self-regulatory organizations under appropriate standards (both as to method and scope) and reports of such examinations will, where appropriate, be standard in form; and

(3) that, as frequently as may be practicable under the circumstances, each member of SIPC will file financial information with, and be examined by, the self-regulatory organization which is the examining authority for such member.

(f) FINANCIAL CONDITION OF MEMBERS.—Notwithstanding the limitations contained in sections 15A and 19 of the 1934 Act and without limiting its powers under those or other sections of the 1934 Act, the Commission may by such rules or regulations as it determines to be necessary or appropriate in the public interest and to effectuate the purposes of this Act—

(1) require any self-regulatory organization to adopt any specified alteration of or supplement to its rules, practices, and procedures with respect to the frequency and scope of inspections and examinations relating to the financial condition of members of such self-regulatory organization and the selection and qualification of examiners;

(2) require any self-regulatory organization to furnish SIPC and the Commission with reports and records or copies thereof relating to the financial condition of members of such self-regulatory organization; and

(3) require any self-regulatory organization to inspect or examine any members of such self-regulatory organization in relation to the financial condition of such members. In the case of a broker or dealer who is a member of more than one self-regulatory organization the Commission, to the extent practicable, shall avoid requiring duplication of examinations, inspections, and reports.

SEC. 10. PROHIBITED ACTS.

(a) FAILURE TO PAY ASSESSMENT, ETC.—If a member of SIPC shall fail to file any report or information required pursuant to this Act, or shall fail to pay when due all or any part of an assessment made upon such member pursuant to this Act, and such failure shall not have been cured, by the filing of such report or information or by the making of such payment, together with interest thereon, within five days after receipt by such member of written notice of such failure given by or on behalf of SIPC, it shall be unlawful for such member, unless specifically authorized by the Commission, to engage in business as a broker or dealer. If such member denies that he owes all or any part of the amount specified in such notice, he may after payment of the full amount so specified commence an action against SIPC in the appropriate United States district court to recover the amount he denies owing.

(b) ENGAGING IN BUSINESS AFTER APPOINTMENT OF TRUSTEE.—It shall be unlawful for any broker or dealer for whom a trustee has been appointed pursuant to this Act to engage thereafter in business as a broker or dealer, unless the Commission otherwise determines in the public interest. The Commission may by order bar or suspend for any period, any officer, director, general partner, owner of 10 per centum or more of the voting securities, or controlling person of any broker or dealer for whom a trustee has been appointed pursuant to this Act from being or becoming associated with a broker or dealer, if after appropriate notice and opportunity for hearing, the Commission shall determine such bar or suspension to be in the public interest.

(c) EMBEZZLEMENT, ETC., OF ASSETS OF SIPC.—Whoever steals, unlawfully abstracts, unlawfully and willfully converts to his own use or to the use of another, or embezzles any of the moneys, securities, or other assets of SIPC shall be fined not more than $50,000 or imprisoned not more than five years or both.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) PUBLIC INSPECTION OF REPORTS.—Any notice, report, or other document filed with SIPC pursuant to this Act shall be available for public inspection unless SIPC or the Commission shall determine that disclosure thereof is not in the public interest. Nothing herein shall act to deny documents or information to the Congress of the United States or the committees of either House having jurisdiction over financial institutions, securities regulation, or related matters under the rules of each body. Nor shall the Commission be denied any document or information which the Commission, in its judgment, needs.

(b) APPLICATION OF ACT TO FOREIGN MEMBERS.—Except as otherwise provided by rule or regulation of the Commission, if the head office of a member is located, and the member's principal business is conducted, outside the United States, the provisions of this Act shall apply to such member only in respect of the business of such member conducted in the United States.

(c) LIABILITY OF MEMBERS OF SIPC.—Except for such assessments as may be made upon such member pursuant to the provisions of section 4, no member of SIPC shall have any liability under this Act as a member of SIPC for, or in connection with, any act or omission of any other broker or dealer whether in connection with the conduct of the business or affairs of such broker or dealer or otherwise and, without limiting the generality of the foregoing, no member shall have any liability for or in respect of any indebtedness or other liability of SIPC.

(d) LIABILITY OF SIPC AND DIRECTORS.—Neither SIPC nor any of its Directors shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter contemplated by this Act.

(e) ADVERTISING.—SIPC shall by bylaw or rule prescribe the manner in which a member of SIPC may display any sign or signs (or include in any advertisement a statement) relating to the protection to customers and their accounts, or any other protections, afforded under this Act. No member may display any such sign, or include in an advertisement any such statement, except in accordance with such bylaws and rules.

(f) SIPC EXEMPT FROM TAXATION.—SIPC, its property, its franchise, capital, reserves, surplus, and its income, shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of SIPC shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed. Assessments made upon a member of SIPC shall constitute ordinary and necessary expenses in carrying on the business of such member for the purpose of section 162(a) of the Internal Revenue Code of 1954. The contribution and transfer to SIPC of funds or securities held by any trust established by a national securities exchange prior to January 1, 1970, for the purpose of providing assistance to customers of members of such exchange, shall not result in any taxable gain to such trust or give rise to any taxable income to any member of SIPC under any provision of the Internal Revenue Code of 1954, nor shall such contribution or transfer, or any reduction in assessments made pursuant to this Act, in any way affect the status, as ordinary and necessary expenses under section 162(a) of the Internal Revenue Code of 1954, of any contributions made to such trust by such exchange at any time prior to such transfer. Upon dissolution of SIPC, none of its net assets shall inure to the benefit of any of its members.

(g) SECTION 20(a) OF 1934 ACT NOT TO APPLY.—The provisions of subsection (a) of section 20 of the 1934 Act shall not apply to any liability under or in connection with this Act.

(h) SEC STUDY OF UNSAFE OR UNSOUND PRACTICES.—Not later than twelve months after the date of enactment of this Act, the Commission shall compile a list of unsafe or

unsound practices by members of SIPC in conducting their business and report to the Congress (1) the steps being taken under the authority of existing law to eliminate those practices and (2) recommendations concerning additional legislation which may be needed to eliminate those unsafe or unsound practices.

SEC. 12. DEFINITIONS.

For purposes of this Act:

(1) SELF-REGULATORY ORGANIZATION.—The term "self-regulatory organization" means a national securities exchange or a national securities association registered pursuant to subsection (b) of section 15A of the 1934 Act.

(2) FINANCIAL RESPONSIBILITY RULES.—The term "financial responsibility rules" means the rules and regulations pertaining to financial responsibility and related practices which are applicable to a broker or dealer, as prescribed by the Commission under subsection (c)(3) of section 15 of the 1934 Act or prescribed by a national securities exchange.

(3) EXAMINING AUTHORITY.—The term "examining authority" means, with respect to any member of SIPC, the self-regulatory organization which inspects or examines such member of SIPC or the Commission if such member of SIPC is not a member of any self-regulatory organization.

And the Senate agree to the same.

HARLEY O. STAGGERS,
JOHN E. MOSS,
JOHN M. MURPHY,
HASTINGS KEITH,
JAMES HARVEY,
Managers on the Part of the House.

JOHN SPARKMAN,
HARRISON A. WILLIAMS,
EDMUND S. MUSKIE,
WALLACE F. BENNETT,
JOHN G. TOWER,
BOB PACKWOOD,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19333) to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment struck all after the enacting clause of the House bill and inserted a substitute text. The conference agreed to a substitute for both the text of the Senate amendment and the text of the House bill.

The conference substitute uses the structure and format of the House bill. Aside from technical, clerical, and minor drafting changes, the substantive differences between the bill as passed by the House and the substitute agreed to in conference are noted below.

1. *Board of Directors.* The House bill provided for a convertible Board of Directors. The board would have had seven members—a majority of whom would have been industry representatives—until there was an application for funds from the United States Treasury. At that time the President would have been required to appoint four additional public directors so as to convert the Board into one that had a majority of public members. Under the House bill the Board of Directors would have had 4-year, staggered terms, and the Chairman would have been elected by the Board.

The conference substitute provides for a seven member Board of Directors composed as follows:

One member, designated by the Secretary of the Treasury, from the Department of the Treasury;

One member designated by the Federal Reserve Board from the Federal Reserve Board; and

Five members appointed by the President with the advise and consent of the Senate. Of these five members, three are to be persons associated with and representative of the securities industry and two are to be from the general public. The term for each director is three years, and the terms are staggered. The chairman and vice chairman are to be designated by the President from the two members selected by him from the general public.

2. *Ceiling on Assessments.* The House bill, as amended by the Interstate and Foreign Commerce Committee (the "committee") amendment on the House floor, provided for a ceiling on assessments of 1 percent of gross revenues from the securities business.

The conference substitute includes this 1 percent ceiling, but it specifies that assessments above ½ of 1 percent should only be used in times when the financial condition of the industry is sufficiently strong to support such an increased assessment without compounding any financial difficulties of the industry (with the increased danger to investors that would imply). This is totally consistent with the debate on this amendment on the House floor. At that time it was stated that the committee did not intend that the Board of Directors impose an assessment above ½ of 1 percent without regard to what the industry could properly afford. It was clearly recognized that this increased assessment should be imposed only when the conditions in the industry could economically accept an assessment above ½ of 1 percent and if it is needed for the proper build-up and maintenance of the SIPC fund. When good times occur, the interests of the securities industry, as well as the public interest, may be well served by a higher than ½ of 1 percent assessment.

3. *Gross Revenues from the Securities Business.* The House bill, in effect, exempted revenues from the sale of mutual funds, variable annuities and investment advice to registered open-end investment companies, as well as revenues from the business of insurance. In addition, it exempted commissions earned in connection with the distribution of bonds, bills and notes of the U.S. Treasury when the broker was acting as agent for the Federal Reserve Board.

The conference substitute continues the exemption for commissions on the sale of mutual funds and variable annuities; revenues from the business of insurance; and revenues derived from the rendering of investment advice, but the exemption would include advice to both open-end and closed-end registered investment companies.

The conference substitute does not include an exemption for commissions earned in the sale of U.S. Treasury securities. In initially providing for such an exemption, your committee sought to protect reporting dealers for the Federal Reserve Board from suffering competitive disadvantages with certain commercial banks which are also recognized as reporting dealers. However, it became apparent to the conferees that such relief could not be formulated without other unintended effects—notably competitive disadvantages between broker-dealers who are recognized as reporting dealers and broker-dealers who are not so recognized. The conference substitute, therefore, does not include an exemption on this subject.

The conferees attention was also directed to the section of the bill which provides that gross revenues of a broker-dealer shall be computed on a consolidated basis with the broker-dealer's subsidiaries. This is desirable in order to avoid the possibility of evasion of assessments by the use of subsidiaries. It should be clear, however, that in the case of subsidiaries, as in the case of the parent broker-dealer, gross revenues from the securities business shall include only such revenues as are defined in the bill.

In addition, both the Securities and Exchange Commission and (the "Commission") and SIPC are given certain exemptive powers in view of the possibility that certain revenues will be subject to assessments when this is not equitable nor in accordance with the purposes of the Act. For example, the Commission or SIPC well might determine that it would be inequitable and not in accordance with the intended purposes of this legislation to include in the assessments levied on a parent company income that a subsidiary which is a registered investment company receives from investments which are really investments for the benefit of its (the subsidiary's) public investors (and the income from which inures to the benefit of its public investors).

4. *Extent of Customer Protection.* The House bill provided that SIPC should advance monies necessary to satisfy claims of each customer of a member broker-dealer in liquidation, but that such advances should not exceed $50,000 for any one customer.

The conference substitute continues the $50,000 limitation, but provides further that, insofar as all or any portion of a customer's claim is for cash (as distinct from securities), the amount advanced for such claim to cash shall not exceed $20,000.

5. *Financial Responsibility of Broker-Dealers.* The House bill would have amended section 15(c)(3) of the Securities Exchange Act of 1934 so as to grant broad rule making authority to the Commission to promulgate rules to provide safeguards with respect to the financial responsibility and related practices of broker-dealers.

The conference substitute also provides for such broad rule making authority but strengthens it by requiring that the Commission promulgate such rules and by specifying that such authority includes authority to make rules relating to the acceptance of custody and use of customers' securities and the carrying and use of customers' deposits or credit balances. In addition, it specifies that such rules shall require the maintenance of reserves with respect to customer's deposits or credit balances.

The intent of the House provision has always been that the general authority granted to the Commission by the original House language includes the specific language now contained in the conference substitute. Your committee has been concerned about the need for a general upgrading of financial responsibility requirements of broker-dealers, and it recognized this when it stated in its report: "It is clear that the protections provided by the proposed SIPC fund are really only an interim step. The long-range solution to these problems is going to be found in the ultimate raising of the financial responsibility of the brokerage community." Your committee has always intended that the provisions of the House bill would give the Commission broad authority to deal effectively with this matter.

Two parts of the Senate amendment were extensively and thoughtfully discussed in the conference, but are not included, in their specifics, in the conference substitute. One of these parts set forth, in detail, certain requirements for a broker-dealer with respect to the custody and use of customers' securities. The other would have, in effect, required entrance requirements for future broker-dealers before they would have been admitted into SIPC membership.

With respect to the detailed provisions on custody and use of customers' securities, it was the clear intent of your committee that the general authority provided in the amend-

ment to section 15(c)(3) contained in the original House bill (and clearly the language of the conference substitute) grants to the Commission authority to set forth in Commission rules the details contained in the Senate amendment. By not embodying that detail in the legislation, the Commission's hand is stronger in that it has the flexibility to meet changing siuations and needs. Indeed, a situation may develop in which the Commission determines that it is in the public interest to promulgate rules even more restrictive than the specific provisions contained in the part of the Senate amendment in question. The Commission, under the conference substitute, has broad power, and it is expected that it will use that power in a strong and vigorous manner to protect the interests of investors and the public interest.

With respect to the entrance requirements for future broker-dealers, the conference substitute does not contain the specifics of the Senate amendment. Obviously, this amendment was designed to raise ultimately the standards in this industry, and your conferees strongly share that desire. However, your conferees believe that this, too, can better be handled by the broad grant of rulemaking authority to the Commission in section 15(c)(3). In addition to having the advantage of flexibility, this also avoids the disadvantages which your conferees found in the Senate amendment—namely, the discriminatory features of having different standards for existing broker-dealers as opposed to broker-dealers registering in the future; and the situation in which the customers of some broker-dealers would be protected by the SIPC fund and the customers of other broker-dealers would not have such protection.

Your committee shares completely the concerns which are indicated by these parts of the Senate amendment. However, your conferees believe strongly that the concerns will be better and more flexibly handled by giving the Commission a broad delegation of authority to deal with financial responsibility and related practices of broker-dealers. Your conferees, as your committee, expect and direct the Commission to be vigorous in this area. As was stated in the debate on this bill on the floor of the House and in your committee's report: ". . . [Y]our committee directs and expects the Commission to be alert and strong in this area. This will, of course, require similar alertness and strength from the self-regulatory organizations, and if that is not forthcoming, the Commission and, if necessary, the Congress, will have to insure it."

5. *Study of Industry Practices.* The conference substitute adds a provision which did not appear in any form in the original House bill. This provision requires that the Commission make a study of unsafe and unsound practices of broker-dealers, and that the Commission report to the Congress within twelve months, the steps being taken to eliminate these practices and its recommendations for additional legislation which may be necessary to eliminate such practices.

6. *Minimum Initial Assessments.* The House bill provided for an initial assessment of one-eighth of 1 percent of gross revenues from the securities business for 1969, with a minimum assessment of $250.

The conference substitute also provides for an initial assessment of one-eighth of 1 percent but reduces the minimum assessment to $150.

7. *Required Size of SIPC Fund.* The House bill provided that the Securities and Exchange Commission could increase the ultimate size of the SIPC fund.

The conference substitute provides that the Commission may increase or decrease the ultimate size of the fund.

8. *Public Access to Information.* The House bill provided that the public would have access to information about the affairs of SIPC unless SIPC or the Commission determined that disclosure would not be in the public interest. The conference substitute contains this same provision.

The conferees' attention was focused on this provision, and they clearly intend that any documents or information shall be provided under conditions and in a manner which will assure that customers of SIPC members and the public interest in confidence in the securities markets will be protected.

HARLEY O. STAGGERS,
JOHN E. MOSS,
JOHN M. MURPHY,
HASTINGS KEITH,
JAMES HARVEY,
Managers on the Part of the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PELLY (at the request of Mr. GERALD R. FORD), from December 19 to December 24, 1970, on account of illness.

Mr. KLUCZYNSKI (at the request of Mr. ALBERT), for today, on account of illness.

Mr. SHIPLEY (at the request of Mr. ALBERT), for today, on account of official business.

Mr. PRICE of Texas (at the request of Mr. GERALD R. FORD), 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. MIKVA) to revise and extend their remarks and include extraneous material:)

Mr. FLOOD, for 15 minutes, today.

Mr. RODINO, for 15 minutes, today.

Mr. CONYERS, for 6 minutes, today.

(The following Members (at the request of Mr. KYL) to revise and extend their remarks and include extraneous material:)

Mr. ERLENBORN, for 5 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. DORN, for 30 minutes, December 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FALLON (at the request of Mr. WRIGHT), immediately following the remarks of Mr. WRIGHT on the Federal-Aid Highway Act Conference Report today.

Mr. KLUCZYNSKI (at the request of Mr. WRIGHT), immediately following the remarks of Mr. FALLON on the Federal-Aid Highway Act Conference Report today.

Mr. BROYHILL of Virginia, to extend his remarks during debate on H.R. 18874 today.

Mr. SCHMITZ during general debate on H.R. 19860.

Mr. GUDE immediately prior to passage of H.R. 18874.

(The following Members (at the request of Mr. KYL) and to include extraneous material:)

Mr. SKUBITZ in two instances.

Mr. ROBISON in two instances.

Mr. RIEGLE.

Mr. MAILLIARD.

Mr. WYMAN in two instances.

Mr. GOODLING in two instances.

Mr. HOSMER in two instances.

Mr. BUCHANAN in two instances.

Mr. GOLDWATER.

Mr. FINDLEY.

Mr. RUPPE.

Mr. SCHMITZ.

Mr. SHRIVER.

Mr. MCDADE.

Mr. ANDERSON of Illinois.

Mr. CLEVELAND.

Mr. RHODES.

(The following Members (at the request of Mr. MIKVA) and to include extraneous material:)

Mr. HATHAWAY in two instances.

Mr. DINGELL.

Mr. RODINO in two instances.

Mr. KLUCZYNSKI in two instances.

Mr. FOUNTAIN in two instances.

Mr. GIAIMO.

Mr. TUNNEY.

Mr. JONES of Tennessee.

Mr. WALDIE in two instances.

Mr. PICKLE in five instances.

Mr. SYMINGTON.

Mr. BURKE of Massachusetts in three instances.

Mr. VANIK in two instances.

Mr. YATRON.

Mr. TAYLOR in three instances.

Mr. HOLIFIELD.

Mr. Moss in two instances.

Mr. JOHNSON of California in three instances.

Mr. DE LA GARZA in 10 instances.

Mr. CABELL.

Mr. HAGAN in three instances.

Mr. DULSKI.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6114. An act for the relief of Elmer M. Grade and for other purposes;

H.R. 6400. An act for the relief of Reddick B. Still, Jr., and Richard Carpenter;

H.R. 15549. An act to amend title 10, United States Code, to further the effectiveness of shipment of goods and supplies in foreign commerce by promoting the welfare of U.S. merchant seamen through cooperation with the United Seamen's Service, and for other purposes;

H.R. 17809. An act to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes;

H.R. 19401. An act to extend for 1 additional year the authorization for programs under the Vocational Rehabilitation Act;

H.R. 19402. An act to authorize the Secretary of Agriculture to receive gifts for the benefit of the National Agricultural Library;

H.J. Res. 1416. Joint resolution fixing the time of assembly of the 92d Congress; and

H.J. Res. 1417. Joint resolution extending the dates for transmission to the Congress of the President's Economic Report and of the report of the Joint Economic Committee.

ADJOURNMENT

Mr. MIKVA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 1 minutes p.m.), the House adjourned until tomorrow, Saturday, December 19, 1970, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2626. A letter from the Director of Science and Education, Department of Agriculture, transmitting a report for fiscal year 1970 of Department of Agriculture assistance to the States in providing additional facilities for research at the State agricultural experiment stations, pursuant to section 10 of Public Law 88–74; to the Committee on Agriculture.

2627. A letter from the Secretary of State, transmitting a report for fiscal year 1969 on the extent and disposition of U.S. contributions to international organizations, pursuant to section 2 of Public Law 806, 81st Congress (H. Doc. No. 91–432); to the Committee on Foreign Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee of conference. Conference report on H.R. 380; with amendment (Rept. No. 91–1785). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 14873. A bill relating to the income tax treatment of just compensation received from the United States with respect to property taken under the act of the Congress which established the Redwood National Park; with an amendment (Rept. No. 91–1786). Referred to the Committee of the Whole Houes on the State of the Union.

Mr. MILLS: Committee on Ways and Means. H.R. 19909. A bill to amend the Renegotiation Act of 1951 to provide that the Court of Claims shall have jurisdiction of renegotiation cases, and for other purposes; with amendments (Rept. No. 91–1787). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of Conference. Conference report on H.R. 19333; (Rept. No. 91–1788). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. REID of New York:

H.R. 19978. A bill to establish a National Cancer Authority in order to conquer cancer at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. ROTH (for himself and Mr. WYATT):

H.J. Res. 1418. Joint resolution proposing an amendment to the Constitution to provide maximum age limits for certain officers of the Government; to the Committee on the Judiciary.

By Mr. SCHWENGEL:

H.J. Res. 1419. Joint resolution authorizing the acceptance, by the Joint Committee on the Library on behalf of the Congress, from the U.S. Capitol Historical Society, of preliminary design sketches and funds for murals in the east corridor, first floor, in the House wing of the Capitol, and for other purposes; to the Committee on House Administration.

By Mr. RODINO:

H. Con. Res. 792. Concurrent resolution expressing the sense of the Congress with respect to U.S. policy toward political refugees; to the Committee on the Judiciary.

By Mr. DULSKI:

H. Res. 1316. Resolution expressing the sense of the House of Representatives with respect to the traffic in obscene and pornographic material by means of the U.S. mails and otherwise; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CASEY:

H.R. 19979. A bill for the relief of Ed Benavides; to the Committee on the Judiciary.

By Mr. VANIK:

H.R. 19980. A bill for the relief of Ruben P. Red; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

OPERATION NOEL

HON. DONALD E. LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1970

Mr. LUKENS. Mr. Speaker, recently I was privileged to be invited to attend the second annual Operation NOEL—no one ever lonely—Christmas party held for wounded veterans hospitalized in Washington area military hospitals.

As many of my colleagues know this party is sponsored by Capitol Hill secretaries who personally see to it that hundreds of GI's are not forgotten during the holiday season.

The idea for Operation NOEL was conceived last year by Joe Westner of Western Gear Corp. Joe enlisted the help of his wife, Fran, legislative assistant to Representative THOMAS S. KLEPPE, Republican, of North Dakota, Kathy Pierpan, secretary to Representative OTIS G. PIKE, Democrat, of New York, and Jayne Gillenwaters and Pat Rinaldi, both secretaries to Representative JOHN G. SCHMITZ, Republican, of California.

The unheralded workers of the Operation NOEL staff who handled the less glamorized tasks such as wrapping 1,500 gift packages, decorating the Longworth Cafeteria, and worrying about a myriad of details included Chris Negley, receptionist for Representative BENJAMIN ROSENTHAL, Democrat of New York, Bill Westner, a Capitol policeman, and Joe Dougherty, another Capitol Hill policeman who brought cheers from the guests because of his portrayal of Santa Claus.

Although the guests of honor included many Congressmen, Senators, Cabinet officers and some of the Nation's highest ranking military officers, it was clear that the VIP's honored at the party were the wounded GI's who have sacrificed so much for our country.

One Army private, recuperating from shrapnel wounds caused by an enemy mine, told me, "This is one of the best nights of my life."

We are to be proud of the many fine young ladies who work as congressional secretaries, case workers, file clerks, and stenographers who acted as hostesses and made sure that each one of the military guests had a night they will never forget—a night when no one was ever lonely.

I would like to share with my colleagues the following story which appeared in the Cleveland Press on Operation NOEL, written by Alan Horton who was recently appointed to the Washington staff of the Ohio Scripps-Howard newspapers:

HONORED GUESTS: VIET VETS

(By Alan Horton)

WASHINGTON.—Washington Society can keep its Perle Mesta, Gwen Cafritz and other highfalutin party givers if thousands of wounded Vietnam veterans in the area have their way.

They'd rather go to the Operation Noel party a former Ohioan gives in their honor each Christmas. The holiday heroine is Mrs. Fran Westner, secretary to Cong. Thomas S. Kleppe (R-ND) and foster daughter of Mr. and Mrs. Clifton T. Lawson of Willowick.

Fran and her husband, Joseph Westner V., are vice president and president of a nonprofit corporation, Operation Noel (No One Ever Lonely), which gives one of Capitol Hill's biggest Christmas parties.

Last year was the party's first, but it was attended by Mamie Eisenhower, Secretary of Defense Melvin R. Laird, most of the military's top brass, hundreds of congressmen and many more hundreds of "military patients." That's what Fran calls the men for whom she plays Santa.

"We want the fellows to have the most fun they've ever had," Fran said. "There will be no midi-skirts. Only minis.

"There will be plenty of champagne, plenty of dancing, plenty of luscious lady lovelies."

Mrs. Kathy Pierpan, lady lovely and secretary in New York Cong. Otis Pike's office and co-chairman of the party with Fran, added, "There's something special about a soldier who has been wounded being greeted by the Secretary of Defense with a 'Hi, I'm Mel Laird.'"

This year's party is set for Wednesday, from 6 to 10 p.m. Teams of pretty girls will take invitations to the six Washington area military hospitals from 2 to 4 p.m. Six hundred wounded servicemen and 300 congressmen and senators will attend, in the cafeteria of the Longworth House Office Building.

Washington businessmen have donated watches, cameras, transistor radios, dinners-for-two, wallets, ashtrays, books and scores of other gifts.

Fran and Kathy already have collected $2,000 for other things. Some 2,000 gift packages will be distributed at the hospitals. Each package will contain razors, blades, lighter, shave cream, aftershave lotion, tooth paste and brush and playing cards.