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PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Monday, March 23, 1970*

The House met as 12 o'clock noon.

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

All the paths of the Lord are stedfast love and faithfulness for those who keep His covenant and His testimonies.—Psalm 25: 10.

O God, our Father, whose power is without measure and whose judgments are true and righteous altogether, from the busy world about us and at the beginning of another day we would quiet our hearts in Thy presence and wait for Thy still, small voice.

Grant unto us the wisdom to know what we should do and the strength to do it Thy way. Undergird our lives that we may make decisions wisely, walk the high road of noble purpose faithfully, and with outreaching sympathy seek to heal the wounds of our human family.

We may move along an unknown path but we go forward with a firm faith in the reality of goodness, truth, and love and with the abiding assurance that Thou art with us.

In the name of the Master of men we pray. Amen.

THE JOURNAL

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 158) entitled "A joint resolution to authorize the minting of clad silver dollars bearing the likeness of the late President of the United States, Dwight David Eisenhower," with amendments in which concurrence of the House is requested.

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

S.J. Res. 162. Joint resolution in recognition of the Fifth International Conference on Water Pollution Research.

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. 11959) entitled "An act to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons under such chapters."

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

[Pursuant to the order of the House on Thursday, March 19, 1970, the proceedings by which the provisions of H.R. 16196 were substituted for the provisions of S. 2601 and the bill passed, are printed herewith, as follows:]

The SPEAKER pro tempore (Mr. ALBERT). Pursuant to the provisions of House Resolution 881, the Committee on the District of Columbia is discharged from further consideration of the bill, S. 2601.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. M'MILLAN

Mr. McMILLAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. McMILLAN: Strike out all after the enacting clause of the bill S. 2601, to reorganize the courts of the District of Columbia, and for other purposes, and insert in lieu thereof the provisions of H.R. 16196, as passed, as follows:

That this Act may be cited as the "District of Columbia Court Reform and Criminal Procedure Act of 1970".

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TITLE I—REORGANIZATION OF DISTRICT OF COLUMBIA COURTS

SHORT TITLE

SEC. 101. This title may be cited as the "District of Columbia Court Reorganization Act of 1970".

PART A—REVISION OF TITLE 11 OF THE DISTRICT OF COLUMBIA CODE

REVISION OF TITLE 11

SEC. 111. Title 11 of the District of Columbia Code is amended to read as follows:

"TITLE 11.—ORGANIZATION AND JURISDICTION OF THE COURTS

"Chap. Sec.
"1. General Provisions 11–101
"3. United States Court of Appeals for the District of Columbia Circuit 11–301
"5. United States District Court for the District of Columbia 11–501
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"Chapter 1.—GENERAL PROVISIONS

"Sec.
"11–101. Judicial power.
"11–102. Status of District of Columbia Court of Appeals.

"§ 11–101. Judicial power

"The judicial power in the District of Columbia is vested in the following courts:

"(1) The following Federal courts established pursuant to article III of the Constitution:

"(A) The Supreme Court of the United States.

"(B) The United States Court of Appeals for the District of Columbia Circuit.

"(C) The United States District for the District of Columbia.

"(2) The following District of Columbia courts established pursuant to article I of the Constitution:

"(A) The District of Columbia Court of Appeals.

"(B) The Superior Court of the District of Columbia.

"§ 11–102. Status of District of Columbia Court of Appeals

"The highest court of the District of Columbia is the District of Columbia Court of Appeals. Final judgments and decrees of the District of Columbia Court of Appeals are reviewable by the Supreme Court of the United States in accordance with section 1257 of title 28 of the United States Code.

"Chapter 3.—UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

"Sec.
"11–301. Jurisdiction of appeals from the District of Columbia Court of Appeals.

"§ 11–301. Jurisdiction of appeals from the District of Columbia Court of Appeals.

"In addition to its jurisdiction as a United States court of appeals and any other jurisdiction conferred on it by law, the United States Court of Appeals for the District of Columbia Circuit has jurisdiction of appeals from judgments of the District of Columbia Court of Appeals—

"(1) with respect to violations of criminal laws of the United States which are not applicable exclusively to the District of Columbia if a petition for the allowance of an appeal from that judgment is filed within ten days after its entry; or

"(2) entered before the effective date of the District of Columbia Court Reorganization Act of 1970 in any other case if a petition for the allowance of an appeal from that judgment is filed within ten days after its entry.

"Chapter 5.—UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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"Sec.
"11–501. Civil jurisdiction.
"11–502. Criminal jurisdiction.
"11–503. Removal of cases from the Superior Court of the District of Columbia.

"SUBCHAPTER II.—AUDITOR

"11–521. Appointment of auditor.

"SUBCHAPTER I.—JURISDICTION

"§ 11–501. Civil jurisdiction

"In addition to its jurisdiction as a United States district court and any other jurisdiction conferred on it by law, the United States District Court for the District of Columbia has jurisdiction of the following:

"(1) Any civil action or other matter begun in the court before the effective date of the District of Columbia Court Reroganization Act of 1970 other than any matter over which the Superior Court of the District of Columbia takes jurisdiction under section 11–921(a)(4)(B).

"(2) Any civil action begun in the court during the eighteen-month period beginning on such effective date under—

"(A) chapter 3 of title 21 (relating to gifts to minors);

"(B) chapter 5 of title 21 (relating to hospitalization of the mentally ill);

"(C) chapter 7 of title 21 (relating to property of the mentally ill);

"(D) chapter 11 of title 21 (relating to commitment and maintenance of mentally retarded persons);

"(E) chapter 13 of title 21 (relating to appointment of committees for alcoholics and addicts);

"(F) chapter 15 of title 21 (relating to appointment of conservators); or

"(G) chapter 29 of title 16 (relating to partition of property and assignment of dower).

"(3) Any civil action or other matter filed in the court during the eighteen-month period beginning on such effective date—

"(A) which would have been within the jurisdiction of the Orphans Court of Washington County, District of Columbia, before June 21, 1870;

"(B) relating to the execution or validity of wills devising real property within the District of Columbia, and of wills and testaments properly presented for probate in the United States District Court for the District of Columbia, and the admission to probate and recording those wills;

"(C) relating to the proof of wills of either personal or real property and the revocation of probate of wills for cause;

"(D) involving the granting and revocation for cause of letters testamentary, letters of administration, letters and colligendum and letters of guardianship, and the appointment of successors to persons whose letters have been revoked;

"(E) involving the hearing, examination, and issuance of decrees upon accounts, claims, and demands existing between executors or administrators and legatees or persons entitled to a distributive share of an intestate estate, or between wards and their guardians;

"(F) involving the enforcement of the rendition of inventories and accounts by executors, administrators, collectors, guardians, and trustees required to account to the court;

"(G) involving the enforcement of distribution of estates by executors and administrators and the payment or delivery by guardians of money or property belonging to their wards; or

"(H) otherwise within the probate jurisdiction of the court on the day before such effective date.

"(4) Any civil action (other than a matter over which the Superior Court of the District of Columbia has jurisdiction under paragraph (3) or (4) of section 11–921(a)) begun in the court during the thirty-month period beginning on such effective date wherein the amount in controversy exceeds $50,000.

"§ 11–502. Criminal jurisdiction

"In addition to its jurisdiction as a United States district court or any other jurisdiction conferred on it by law, the United States District Court for the District of Columbia has original jurisdiction of the following:

"(1) Any criminal case began in the court by the return of an indictment or the filing of an information before the effective date of the District of Columbia Court Reorganization Act of 1970.

"(2) Any criminal case which is begun in the court by the return of an indictment or the filing of an information during the eighteen-month period beginning on such effective date and which—

"(A) involves a violation of any one of the following sections of the Act entitled 'An Act to establish a code of law for the

District of Columbia', approved March 3, 1901:

"(i) section 809 (D.C. Code, sec. 22–201) (relating to abortion),

"(ii) section 803 (D.C. Code, sec 22–501) (relating to assault with intent to kill, rob, rape, or poison),

"(iii) section 823(a) (D.C. Code, sec. 22–1801(a)) (relating to a burglary in the first degree),

"(iv) section 812 (D.C. Code, sec. 22–2101) (relating to kidnaping),

"(v) sections 798 through 802 (D.C. Code, secs. 22–2401 through 22–2405) relating to murder and manslaughter),

"(vi) section 808 (D.C. Code, sec. 22–2801) (relating to rape),

"(vii) section 810 (D.C. Code, sec. 22–2901) (relating to robbery); or

"(B) involves any other offense under any law applicable exclusively to the District of Columbia which offense is joined in such information or indictment with any of offenses listed in subparagraph (A).

"(3) Any offense under any law applicable exclusively to the District of Columbia which offense is joined in the same information or indictment with any Federal offense.

"§ 11–503. Removal of cases from the Superior Court of the District of Columbia

"A civil action or criminal prosecution in the Superior Court of the District of Columbia is removable to the United States District Court for the District of Columbia in accordance with chapter 89 of title 28, United States Code.

"SUBCHAPTER II.—AUDITOR

"§ 11–521. Appointment of auditor

"For so long as the business of the court may require, the United States District Court for the District of Columbia may appoint an auditor for the court.

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"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"§ 11–701. Continuation of court; court of record; seal

"(a) The District of Columbia Court of Appeals (hereafter in this subchapter referred to as the 'court') shall continue as a court of record in the District of Columbia.

"(b) The Court shall have a seal.

"§ 11–702. Composition.

"The court shall consist of a chief judge and eight associate judges.

"§ 11–703. Judges; services; compensation

"(a) The chief judge and the judges of the court shall serve in accordance with chapter 15 of this title.

"(b) Judges of the court shall be compensated at the rate of $36,000 per annum. The chief judge, during his service in that position, shall receive an additional $500 per annum.

"§ 11–704. Oath of judges

"Each judge, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11–705. Assignment of judges; divisions; hearings

"(a) Judges of the court shall sit on the court and its divisions in such order and at such times as the chief judge directs.

"(b) Cases and controversies shall be heard and determined by divisions of the court unless a hearing or rehearing before the court in banc is ordered. Each division of the court shall consist of three judges.

"(c) A hearing before the court in banc may be ordered by a majority of the judges of the court in regular active service. The court in banc for a hearing shall consist of the judges of the court in regular active service.

"(d) A rehearing before the court in banc may be ordered by a majority of the judges of the court in regular active service. The court in banc for a rehearing shall consist of the judges of the court in regular active service, except that a retired judge may sit as a judge of the court in banc in the rehearing of a case or controversy if he sat on the court or a division of the court at the original hearing thereof.

"§ 11–706. Absence, disability, or disqualification of judges; vacancies; quorum

"(a) When the chief judge of the court is absent or disabled, his duties shall devolve upon and be performed by such associate judge as the chief judge may designate in writing. In the event that the chief judge is (1) disqualified or suspended, or (2) unable or fails to make such a designation, his duties shall devolve upon and be performed by the associate judge of the court next in seniority according to the date of his original commission.

"(b) A chief judge whose term as chief judge has expired shall continue to serve until redesignated or until his successor has been designated. When there is a vacancy in the position of chief judge, the position shall be filled temporarily as provided in subsection (a).

"(c) Two judges shall constitute a quorum of a division of the court, and six judges shall constitute a quorum of the court sitting in banc.

"§ 11–707. Assignment of judges to and from Superior Court

"(a) The chief judge of the District of Columbia Court of Appeals may designate and assign temporarily one or more judges of the Superior Court of the District of Columbia to sit upon the District of Columbia Court of Appeals or a division thereof whenever the business of the District of Columbia Court of Appeals so requires. Such designations or assignments shall be in conformity with the rules or orders of the District of Columbia Court of Appeals.

"(b) Upon presentation of a certificate of necessity by the chief judge of the Superior Court of the District of Columbia, the chief judge of the District of Columbia Court of Appeals may designate and assign temporarily one or more judges of the District of Columbia Court of Appeals to serve as a judge of the Superior Court of the District of Columbia.

"§ 11–708. Clerks and secretaries for judges

"Each judge may appoint and remove a personal law clerk and a personal secretary.

"§ 11–709. Reports

"Each judge shall submit to the chief judge such reports and data as the chief judge may request.

"SUBCHAPTER II.—JURISDICTION

"§ 11–721. Orders and judgments of the Superior Court

"(a) The District of Columbia Court of Appeals has jurisdiction of appeals from—

"(1) all final orders and judgments of the Superior Court of the District of Columbia—

"(2) interlocutory orders of the Superior Court of the District of Columbia—

"(A) granting, continuing, modifying, refusing, or dissolving or refusing to dissolve or modify injunctions;

"(B) appointing receivers, guardians, or conservators or refusing to wind up receiverships, guardianships, or the administration of conservators or to take steps to accomplish the purposes thereof; or

"(C) changing or affecting the possession of property; and

"(3) orders or rulings of the Superior Court of the District of Columbia appealed by the United States or the District of Columbia pursuant to section 23–104 or 23–111 (d)(2).

"(b) Except as provided in subsection (c) of this section, a party aggrieved by an order or judgment specified in subsection (a) of this section, may appeal therefrom as of right to the District of Columbia Court of Appeals.

"(c) Review of judgments of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia and of judgments in the Criminal Division of that court where the penalty imposed is a fine of less than $50 for an offense punishable by imprisonment for one year or less, or by fine of not more than $1,000, or both, shall be by application for the allowance of an appeal, filed in the District of Columbia Court of Appeals.

"(d) When a judge of the Superior Court of the District of Columbia, in making in a civil or criminal case a ruling or order not otherwise appealable under this section, shall be of the opinion that the ruling or order involves a controlling question of law as to which there is substantial ground for a difference of opinion and that an immediate appeal from the ruling or order may materially advance the ultimate termination of the litigation or case, he shall so state in writing in the ruling or order. The District of Columbia Court of Appeals may thereupon, in its discretion, permit an appeal to be taken from that ruling or order, if application is made to it within ten days after the issuance or entry of the ruling or order. An application for an appeal under this subsection shall not stay proceedings in the Superior Court of the District of Columbia unless that court or a judge of the District of Columbia Court of Appeals shall so order.

"(e) On the hearing of any appeal in any case, the District of Columbia Court of Appeals shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties.

"§ 11–722. Administrative orders and decisions

"The District of Columbia Court of Appeals has jurisdiction to review orders and decisions of the Commissioner of the District of Columbia, the District of Columbia Council, and any agency (including the District of Columbia Redevelopment Land Agency, the Board of Zoning Adjustment of the District of Columbia, the Zoning Commission of the District of Columbia, and the Public Service Commission of the District of Columbia) in accordance with the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501—1–1510), or in the case of orders and decisions of the Public Service Commission of the District of Columbia under section 8 of the Act of March 4, 1913 (D.C. Code, title 43), in accordance with that section.

"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

"§ 11–741. Contempt powers

"In addition to the powers conferred by section 402 of title 18, United States Code, the District of Columbia Court of Appeals, or a judge thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§11–742. Oaths, affirmations, and acknowledgments

"Each judge of the District of Columbia Court of Appeals and each employee of the court authorized by the chief judge may administer oaths and affirmations and take acknowledgments.

"§ 11–743. Rules of court

"The District of Columbia Court of Appeals shall conduct its business according to the Federal Rules of Appellate Procedure unless the court prescribes or adopts modifications of those Rules.

"Chapter 9.—SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

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"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"§ 11–901. Continuation of courts; court of record; seal

"The District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court are consolidated in a single court to be known as the Superior Court of the District of Columbia (hereafter in this title referred to as the 'Superior Court'). The Superior Court shall be a court of record in the District of Columbia and shall have a single seal.

"§ 11–902. Organization of the court

"The Superior Court shall consist of the following divisions: Criminal Division, Civil Division, Family Division, Tax Division, and Probate Division. The divisions of the Superior Court may be divided into such branches as the Superior Court may by rule prescribe.

"§ 11–903. Composition

"(a) On the effective date of the District of Columbia Court Reorganization Act of 1970 the Superior Court shall consist of a chief judge and thirty-six associate judges.

"(b) Eighteen months after such effective date, three additional associate judges shall be appointed to the Superior Court.

"§ 904. Judges; service; compensation

"(a) The chief judge and the judges of the Superior Court shall serve as provided in chapter 15 of this title.

"(b) Judges of the Superior Court shall be compensated at the rate of $34,000 per annum. The chief judge, during his service in that position, shall receive an additional $500 per annum.

"§ 11–905. Oath of judges

"Each judge of the Superior Court, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11–906. Administration by chief judge; discharge of duties

"(a) The chief judge shall administer and superintend the business of the Superior Court, as provided in chapter 17 of this title. He shall give his attention to the discharge of the duties especially pertaining to his office and to the performance of such additional judicial work as he is able to perform.

"(h) He shall, insofar as is consistent with this title, arrange and divide the business of the Superior Court and fix the time of sessions of the various divisions and branches of the Superior Court.

"§ 11–907. Absence, disability, or disqualification of chief judge

"(a) When the chief judge of the court is absent or disabled, his duties shall devolve upon and be performed by such associate judge as the chief judge may designate in writing. In the event that the chief judge is (1) disqualified or suspended, or (2) unable or fails to make such a designation, his duties shall devolve upon and be performed by the associate judge of the court next in seniority according to the date of his original commission.

"(b) A chief judge whose term as chief judge has expired shall continue to serve until redesignated or until his successor has been designated. When there is a vacancy in the position of chief judge, the position shall be filled temporarily as provided in subsection (a).

"§ 11–908. Designation and assignment of judges

"(a) The chief judge may designate the number of judges to serve in any division and branch of the Superior Court and may assign and reassign each judge to sit in any division and branch. When making assignments to the Family Division and Tax Division, the chief judge shall consider the qualifications and interest of the judges. Each associate judge shall attend and serve in the division and branch to which he is assigned.

"(b) When the business of the Superior Court requires, the chief judge may certify to the chief judge of the District of Columbia Court of Appeals the need for temporary assignment of an additional judge or judges as provided in section 11–707.

"§ 11–909. Meetings and reports

"(a) The judges of the Superior Court shall meet together at such times as may be specified in the rules of the Superior Court, and at the call of the chief judge, to consider matters relating to the business and operations of the Superior Court.

"(b) Each associate judge shall submit to the chief judge such reports and data as the chief judge may request,

"§ 11–910. Clerks and secretaries for judges

"Each judge of the Superior Court may appoint and remove a personal law clerk and a personal secretary.

"SUBCHAPTER II.—JURISDICTION

"§ 11–921. Civil jurisdiction

"(a) Except as provided in subsection (b), the Superior Court shall have jurisdiction of any civil action or other matter (at law or in equity) brought in the District of Columbia. Such jurisdiction shall vest in the court as follows:

"(1) Beginning on the effective date of the District of Columbia Court Reorganization Act of 1970, the court shall have jurisdiction of any civil action or other matter begun before such effective date in the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, or the District of Columbia Tax Court.

"(2) Beginning on such effective date, the court shall have jurisdiction of any civil action or other matter, at law or in equity (other than a matter over which the United States District Court for the District of Columbia has jurisdiction under paragraph (1), (2), or (3) of section 11–501), which is begun in the Superior Court on or after such effective date and in which the amount in controversy does not exceed $50,000.

"(3) Beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy) of any civil action or other matter, at law or in equity, which is begun in the court on or after such effective date and which—

"(A) is brought under—

"(i) subchapter I of chapter 11 of title 16 (relating to ejectment);

"(ii) subchapter II or III of chapter 13 of title 16 (relating to the condemnation of land on behalf of the District of Columbia);

"(iii) chapter 19 of title 16 (relating to writs of habeas corpus directed to persons other than Federal officers and employees).

"(iv) chapter 25 of title 16 (relating to change of name);

"(v) chapter 33 of title 16 (relating to quieting title to real property);

"(vi) subchapter II of chapter 35 of title 16 (relating to writ of quo warranto);

"(vii) chapter 37 of title 16 (relating to replevin of personal property);

"(viii) the Hospital Treatment for Drug Addicts Act for the District of Columbia (D.C. Code, secs. 24–601 through 24–611) (relating to commitment of narcotics users); or

"(ix) section 2 of the Act of August 3, 1968 (D.C. Code, sec. 1–804(b)) (relating to contractors bonds);

"(B) involves an appeal from or petition for review of any assessment of tax (or civil penalty thereon) made by the District of Columbia;

"(C) is brought under chapter 23 of title 16; or

"(D) is based upon personal injury or property damage (or both) if all the parties to such action are residents of the District of Columbia and the conduct giving rise to the action occurred in the District of Columbia.

"(4) Immediately following the expiration of the eighteen-month period beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy)—

"(A) of any matter (at law or in equity)—

"(i) which would have been within the jurisdiction of the Orphans Court of Washington County, District of Columbia, before June 21, 1870;

"(ii) relating to the execution or validity of wills devising real property within the District of Columbia, and of wills and testaments properly presented for probate in the court, and the admission to probate and recording of those wills;

"(iii) relating to the proof of wills of either personal or real property and the revocation of probate of wills for cause;

"(iv) involving the granting and revocation for cause of letters testamentary, letters of administration, letters ad colligendum and letters of guardianship, and the appointment of successors to persons whose letters have been revoked;

"(v) involving the hearing, examination, and issuance of decrees upon accounts, claims, and demands existing between executors or administrators and legatees or persons entitled to a distributive share of an intestate estate, or between wards and their guardians;

"(vi) involving the enforcement of the rendition of inventories and accounts by executors, administrators, collectors, guardians, and trustees required to account to the court;

"(vii) involving the enforcement of distribution of estates by executors and administrators and the payment or delivery by guardians of money or property belonging to their wards; or

"(viii) otherwise within the probate jurisdiction of the United States District Court for the District of Columbia on the day before such effective date; and

"(B) any matter (at law or in equity) described in subparagraph (A) which was begun in the United States District for the District of Columbia.

"(5) Immediately following the expiration of the eighteen-month period beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy) of any civil action or other matter, at law or in equity, brought under—

"(A) chapter 3 of title 21 (relating to gifts to minors);

"(B) chapter 5 of title 21 (relating to hospitalization of the mentally ill);

"(C) chapter 7 of title 21 (relating to property of the mentally ill);

"(D) chapter 11 of title 21 (relating to commitment and maintenance of mentally retarded persons);

"(E) chapter 13 of title 21 (relating to appointment of committee for alcoholics and addicts);

"(F) chapter 15 of title 21 (relating to appointment of conservators); or

"(G) chapter 29 of title 16 (relating to partition of property and assignment of dower).

"(6) Immediately following the expiration of the thirty-month period beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy) of any civil action or other matter, at law or in equity, brought in the District of Columbia.

"(b) The Superior Court shall not have jurisdiction over any civil action or other matter (1) over which exclusive jurisdiction is vested in a Federal Court in the District of Columbia, or (2) over which jurisdiction is vested in the United States District Court for the District of Columbia under section 11–501 (relating to civil actions or other matters begun in such court before the expiration of the thirty-month period beginning on the effective date of the District of Columbia Court Reorganization Act of 1970).

"(c) For purposes of subsection (a)(3)(D) and section 11–922(b)(1)(B) the term 'resident of the District of Columbia' shall not include (1) any elective officer of the Government of the United States, (2) any employee on the staff of an elected officer if such employee is a bona fide domiciliary of the State of residence of such elected officer, (3) any officer of the executive branch of the Government whose appointment to the office held by him was by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President if such officer is a bona fide domiciliary of a State of the United States, or (4) any officer of a foreign government or any employee of a foreign government or international organization or association if such person is a bona fide domiciliary of a foreign country.

"§ 11–922. Transfer of civil actions to Superior Court

"(a) In a civil action begun in the United States District Court for the District of Columbia before the effective date of the District of Columbia Court Reorganization Act of 1970 (other than an action for equitable relief), where it appears to the satisfaction of the court at or subsequent to any pretrial hearing but before trial thereof that the action will not justify a judgment in excess of $10,000 and does not otherwise invoke the jurisdiction of the court, the court may certify the action to the Superior Court for trial.

"(b) In a civil action begun in the United States District Court for the District of Columbia during the thirty-month period beginning on the effective date of the District of Columbia Court Reorganization Act of 1970, the court may certify the action to the Superior Court if it appears to the satisfaction of the United States District Court at or subsequent to any pretrial hearing, but before the trial thereof that—

"(1) the action—

"(A) will not justify a judgment in excess of $50,000; or

"(B) is based upon personal injury or property damage (or both), all parties thereto are residents of the District of Columbia, and the conduct on which the action is based occurred in the District of Columbia; and

"(2) the action does not otherwise invoke the jurisdiction of the court.

"(c) When an action is transferred under this section, the pleadings in the action, together with a copy of the docket entries and copies of any orders entered therein, and the deposit for costs, shall be sent to the Superior Court. The Superior Court shall thereafter treat the case as though it had been filed originally in that court, except that the jurisdiction of the court shall extend to the amount claimed in the action even though it exceeds the applicable jurisdictional limitation.

"§ 11–923. Criminal jurisdiction; commitment

"(a) The Superior Court has jurisdiction over all criminal cases pending in the District of Columbia Court of General Sessions before the effective date of the District of Columbia Court Reorganization Act of 1970.

"(b)(1) Except as provided in paragraph (2), the Superior Court has jurisdiction of any criminal case under any law applicable exclusively to the District of Columbia.

"(2) The Superior Court shall not have jurisdiction of any criminal case under any law applicable exclusively to the District of Columbia begun in the United States District Court for the District of Columbia under section 11–502(2) by the return of an indictment or the filing of an information during the eighteen-month period beginning on such effective date.

"(c)(1) With respect to any criminal case over which the Superior Court has jurisdiction, that court may make preliminary examinations and commit offenders either for trial or for further examination, and may release or detain offenders in accordance with chapter 13 of title 23.

"(2) With respect to any criminal case over which the United States District Court for the District of Columbia has jurisdiction, the Superior Court (A) may make preliminary examinations and commit offenders, either for trial or for further examination, but only during the eighteen-month period beginning on the effective date of the District of Columbia Court Reorganization Act of 1970, and (B) may release or detain offenders in accordance with chapter 13 of title 23.

"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

"§ 11–941. Issuance of warrants; record

"Judge of the Superior Court may, at any time, including Sundays and legal holidays, on complaint or application under oath or actual view, issue warrants for arrest, search or seizure, or electronic surveillance in connection with crimes and offenses committed within the District of Columbia, or for administrative inspections in connection with laws relating to the public health, safety, and welfare. Each proceeding respecting a warrant shall be recorded as prescribed by the court. Warrants shall be issued free of charge.

"§ 11–942. Subpenas

"(a) The Superior Court may compel the attendance of witnesses by attachment. At the request of any party, subpenas for attendance at a hearing or trial in the Superior Court shall be issued by the clerk of the court. A subpena may be served at any place within the District of Columbia, or at any place without the District of Columbia that is within twenty-five miles of the place of the hearing or trial specified in the subpena. The form, issuance, and manner of service of the subpena shall be as prescribed by rule of the court.

"(b) A subpena in a criminal case in which a felony is charged may be served at any place within the United States upon order of a judge of the court.

"§ 11–943. Process

"(a) All process other than a subpena may be served at any place within the District of Columbia, and, when authorized by statute, by the Federal Rules of Civil Procedure, or by the Federal Rules of Criminal Procedure, at any place without the District of Columbia.

"(b) Service upon a third-party defendant, upon a person whose joinder is needed for just adjudication, and upon persons required to respond to any order of commitment for civil contempt may be served at all places outside the District of Columbia that are not more than one hundred miles from the place of hearing or trial specified.

"(c) The form, issuance, and manner of service of process shall be as prescribed by rule of the court.

"§ 11–944. Contempt power

"In addition to the powers conferred by section 402 of title 18, United States Code, the Superior Court, or a judge thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§ 11–945. Oaths, affirmations, and acknowledgments

"Each judge and each employee of the Superior Court authorized by the chief judge may administer oaths and affirmations and take acknowledgments.

"§ 11–946 Rules of court

"The Superior Court shall conduct its business according to the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure (except as otherwise provided in title 23) unless it prescribes or adopts modifications of those Rules. Modifications of the Federal Rules shall be submitted for the approval of the District of Columbia Court of Appeals, and they shall not take effect until approved by that court. The Superior Court may adopt and enforce other rules as it may deem necessary without the approval of the District of Columbia Court of Appeals if such rules do not modify the Federal Rules.

"Chapter 11.—FAMILY DIVISION OF THE SUPERIOR COURT

"'Sec.

"11–1101. Exclusive jurisdiction.

"§ 11–1101. Exclusive jurisdiction

"The Family Division of the Superior Court shall be assigned exclusive jurisdiction of—

"(1) actions for divorce from the bond of marriage and legal separation from bed and board, including proceedings incidental thereto for alimony, pendente lite and permanent, and for support and custody of minor children;

"(2) applications for revocation of divorce from bed and board;

"(3) actions to enforce support of any person as required by law;

"(4) actions seeking custody of minor children, including petitions for writs of habeas corpus;

"(5) actions to declare marriages void;

"(6) actions to declare marriages valid;

"(7) actions for annulments of marriage;

"(8) determinations and adjudications of property rights, both real and personal, in any action referred to in this subsection, irrespective of any jurisdictional limitation imposed on the Superior Court;

"(9) proceedings in adoption;

"(10) proceedings under the Act of July 10, 1957 (D.C. Code, secs. 30-301 to 30-324);

"(11) proceedings to determine paternity of any child born out of wedlock;

"(12) civil proceedings for protection involving intrafamily offenses, instituted pursuant to chapter 10 of title 16;

"(13) proceedings in which a child, as defined in section 16-2301, is alleged to be delinquent, neglected, or in need of supervision;

"(14) proceedings under chapter 5 of title 21 relating to the commitment of the mentally ill; and

"(15) proceedings under chapter 11 of title 21 relating to the commitment of the mentally retarded.

"Chapter 12.—TAX DIVISION OF THE SUPERIOR COURT

"Sec.
"11-1201. Exclusive jurisdiction.
"11-1202. Abolition of other remedies.
"11-1203. Rules and regulations.

"§ 11-1201. Exclusive jurisdiction

"The Tax Division of the Superior Court shall be assigned exclusive jurisdiction of—

"(1) all appeals from and petitions for review of assessments of tax and civil penalties thereon made by the District of Columbia; and

"(2) all proceedings brought by the District of Columbia for the imposition of criminal penalties pursuant to the provisions of the statutes relating to taxes levied by or in behalf of the District of Columbia.

"§ 11-1202. Abolition of other remedies

"Notwithstanding any other provisions of law, the jurisdiction of the Tax Division of the Superior Court to review the validity and amount of all assessments of tax made by the District of Columbia is exclusive. Effective on and after the effective date of the District of Columbia Court Reorganization Act of 1970, any common-law remedy with respect to assessments of tax in the District of Columbia and any equitable action to enjoin such assessments available in a court other than the former District of Columbia Tax Court is abolished. Actions properly filed before the effective date of that Act are not affected by this section and the court in which any such action has been filed may retain jurisdiction until its disposition.

"§ 11-1203. Rules and regulations

"The Superior Court may make such rules and regulations for conducting business in the Tax Division, consistent with the statutes applicable to such business and with the Superior Court's general rules of practice and procedure, as it may deem necessary and proper. Rules and regulations for the Tax Division shall, insofar as possible, assure the prompt disposition of matters before the Tax Division to the end that the taxing statutes of the District of Columbia shall be fairly and efficiently enforced.

"Chapter 13.—SMALL CLAIMS AND CONCILIATION BRANCH OF THE SUPERIOR COURT

"SUBCHAPTER I.—CONTINUATION AND SESSIONS

"Sec.
"11-1301. Continuation of Branch.
"11-1302. Sessions.

"SUBCHAPTER II.—JURISDICTION AND PROCEDURES

"11-1321. Exclusive jurisdiction of small claims.
"11-1322. Arbitration and conciliation.
"11-1323. Certification of cases by Superior Court judges; recertification.

"SUBCHAPTER I.—CONTINUATION AND SESSIONS

"§ 11-1301. Continuation of Branch

"The Small Claims and Conciliation Branch shall continue as a branch of the Civil Division in the Superior Court.

"§ 11-1302. Sessions

"The Small Claims and Conciliation Branch, with a judge in attendance, shall be open for the transaction of business on every day of the year except Saturday afternoons, Sundays, and legal holidays, and shall hold evening sessions whenever necessary.

"SUBCHAPTER II.—JURISDICTION AND PROCEDURES

"§ 11-1321. Exclusive jurisdiction of small claims

"The Small Claims and Conciliation Branch has jurisdiction over all cases within the jurisdiction of the Superior Court in which the amount of the plaintiff's claim or the claimed value of personal property in controversy does not exceed $500, exclusive of interest, attorney fees, protest fees, and costs.

"§ 11-1322. Arbitration and conciliation

"In order to effect the speedy settlement of controversies, and with the consent of the parties thereto, the Small Claims and Conciliation Branch may settle cases, irrespective of the amount involved, by the methods of arbitration and conciliation. The judges sitting in the Branch may act as referees or arbitrators, either alone or in conjunction with other persons, as provided by rule of the court. A judge, officer, or employee of the Superior Court may not accept any fee or compensation in addition to his salary for services performed pursuant to this section.

"§ 11-1323. Certification of cases by Superior Court judges; recertification

"When the interests of justice seem to require and all parties consent thereto, a judge of the Superior Court may certify a case to the Small Claims and Conciliation Branch for conciliation, or to endeavor to obtain a complete or partial agreed statement of facts or stipulation, which will simplify and expedite the ultimate trial of the case. With the consent of all parties, the trial of the case may be completed in the Branch. In the absence of consent, the case shall be recertified to another judge of the Civil Division for trial.

"Chapter 15.—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

"SUBCHAPTER I.—APPOINTMENT; QUALIFICATIONS; SERVICE OF JUDGES

"Sec.
"11-1501. Appointment and qualifications of judges.
"11-1502. Tenure.
"11-1503. Designation of chief judge.
"11-1504. Service of retired judges.

"SUBCHAPTER II.—THE DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

"11-1521. Establishment of Commission.
"11-1522. Membership.
"11-1523. Term of office—members; vacancy; continuation of service by a member; term of office—alternates.
"11-1524. Compensation.
"11-1525. Operation; personnel; administrative services.
"11-1526. Removal; involuntary retirement; proceedings.
"11-1527. Procedures.
"11-1528. Privilege; confidentiality.
"11-1529. Judicial review.

"SUBCHAPTER III.—RETIREMENT

"11-1561. Definitions.
"11-1562. Eligibility for retirement.
"11-1563. Withholding of retirement payments.
"11-1564. Computation of retirement salary; election to credit other service.
"11-1565. Service by retired judges.
"11-1566. Survivor annuity; election; relinquishment.
"11-1567. Survivor annuity; payments to fund.
"11-1568. Survivor annuity; entitlement; computation.
"11-1569. Survivor annuity payment; order of procedence.
"11-1570. Retirement and Annuity Fund.
"11-1571. Periodic increases; existing rights.

"SUBCHAPTER I.—APPOINTMENT; QUALIFICATIONS; SERVICE OF JUDGES

"§11-1501. Appointment and qualifications of judges

"(a) The President of the United States shall nominate, and by and with the advice and consent of the Senate, shall appoint all judges of the District of Columbia courts. He shall have power to fill all vacancies that may occur in those courts during a recess of the Senate, by granting commission which shall expire at the end of the next session of the Senate.

"(b) A person may not be appointed a judge of a District of Columbia court unless he—

"(1) is a citizen of the United States;

"(2) (A) is a member of the bar of the District of Columbia, and (B) (i) has been a member of such bar for a period of at least five years, or (ii) in the case of a professor of law in a law school in the District of Columbia or of an attorney employed in the District of Columbia by the United States or the District of Columbia, has been eligible for membership in the bar of the District of Columbia for at least five years prior to his appointment; and

"(3) has been actively engaged, for at least five of the ten years immediately prior to his appointment, as an attorney in the practice of law in the District of Columbia, as a judge of a District of Columbia court, as a professor of law in a law school in the District of Columbia, or as an attorney employed in the District of Columbia by the United States or the District of Columbia.

During his term of service and for one year after the termination thereof, no member of the District of Columbia Commission on Judicial Disability and Tenure shall be eligible for nomination or appointment to a District of Columbia court.

§ 11-502. Tenure.

"Subject to the provisions of subchapters II and III of this chapter, a judge of a District of Columbia court shall serve for a term of ten years, and upon completion of such term, such judge shall continue to serve until his successor is appointed and qualifies.

"§ 11-1503. Designation of Chief Judge

"(a) The chief judge of a District of Columbia court shall be designated by the President of the United States from among the judges of the court in regular active service, and shall serve for a term of four years or until his successor is designated. He shall be eligible for redesignation. A judge may relinquish his position as chief judge, after giving notice to the President.

"(b) If a chief judge is not redesignated, or relinquishes the office of chief judge, he shall continue as an associate judge.

"§ 11-1504. Service of retired judges

"A judge retired for reasons other than disability may perform, upon designation of a chief judge, those judicial duties which he is willing and able to undertake.

"SUBCHAPTER II.—THE DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

"§ 11-1521. Establishment of Commission

"There shall be a District of Columbia Commission on Judicial Disabilities and

Tenure (hereafter in this subchapter referred to as the 'Commission'). The Commission shall have power to suspend, retire, or remove a judge of a District of Columbia court, as provided in this subchapter.

"§ 11–1522. Membership

"(a) The Commission shall consist of seven members appointed by the President as follows:

"(1) Two members shall be appointed from active or retired Federal judges serving in the District of Columbia.

"(2) Two members shall be appointed from members of the bar of the District of Columbia who are actively engaged in the practice of law in the District of Columbia.

"(3) Three members shall be appointed from residents of the District of Columbia, at least two of whom are not members of the bar of the District of Columbia.

The Chairman of the Commission shall be designated by the concurrence of at least four members. The term of the Chairman shall be two years.

"(b) There shall be four alternate members of the Commission appointed by the President as follows:

"(1) One alternate member shall be appointed from active or retired Federal judges serving in the District of Columbia.

"(2) Two alternate members shall be appointed from members of the bar of the District of Columbia who are actively engaged in the practice of law in the District of Columbia.

"(3) One alternate member shall be appointed from residents of the District of Columbia who are not members of the bar of the District of Columbia.

"(c) No member or alternate member (other than a Federal judge appointed under subsection (a) or (b)) shall be an officer or employee of an executive or military department of the Government of the United States (listed in section 101 or 102 of title 5 of the United States Code), an officer or employee of the United States employed in the legislative or judicial branch of the Government of the United States, or an officer or employee of the District of Columbia government.

"§ 11–1523. Term of office—members; vacancy; continuation of service by a member; term of office—alternates

"(a)(1) The terms of office for the members of the Commission shall be six years, except that upon appointment of the first members; two members shall serve for two years; two for four years; two for six years; and one for three years, as designated by the President at the time of appointment. A member appointed to fill a vacancy occurring before the expiration of the term of his predecessor shall serve only for the remainder of that term. Any vacancy in the Commission shall be filled pursuant to section 11–1522.

"(2) If approved by the Commission, a member may serve after the expiration of his term for purposes of participating until conclusion in a matter, relating to the suspension, retirement, or removal of a judge, begun before the expiration of his term. A member's successor may be appointed without regard to the member's continuation in service, but his successor may not participate in the matter for which the member's continuation in service was approved.

"(b) The terms of office for the alternate members of the Commission shall be six years. An alternate member shall serve as a member pursuant to rules adopted by the Commission.

"§ 11–1524. Compensation

"Any member or alternate who is an officer or employee of the United States shall serve without compensation. Other members or alternate members shall receive the daily equivalent of the rate provided for GS–18 of the General Schedule contained in section 5332 of title 5, United States Code when actually engaged in service for the Commission.

"§ 11–1525. Operations; personnel; administrative services

"(a) The Commission may make such rules and regulations for its operations as it may deem necessary, and such rules and regulations shall be effective on the date specified by the Commission. The District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1510) shall be applicable to the Commission only as provided by this subsection. For the purposes of the publication of rules and regulations, judicial notice, and the filing and compilation of rules, sections 5, 7, and 8 of that Act (D.C. Code, secs. 1–1504, 1–1506, and 1–1507), insofar as consistent with this subchapter, shall be applicable to the Commission; and for purposes of those sections, the Commission shall be deemed an independent agency as defined in section 3(5) of that Act (D.C. Code, sec. 1–1502). Nothing contained herein shall be construed to require prior public notice and hearings on the subject of rules adopted by the Commission.

"(b) The Commission is authorized, without regard to the provisions governing appointment and classification of District of Columbia employees, to appoint and fix the compensation of, or to contract for, such officers, assistants, reporters, counsel, and other persons as may be necessary for the performance of its duties. It is authorized to obtain the services of medical and other experts in accordance with the provisions of section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate provided for GS–18 of the General Schedule.

"(c) The District of Columbia is authorized to detail, on a reimbursable basis, any of its personnel to assist in carrying out the duties of the Commission.

"(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided to the Commission by the District of Columbia, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the District of Columbia government. Regulations of the District of Columbia for the administrative control of funds shall apply to funds appropriated to the Commission.

"§ 11–1526. Removal; involuntary retirement; proceedings

"(a)(1) A judge of a District of Columbia court shall be removed from office upon the filing in the District of Columbia Court of Appeals by the Commission of an order of removal certifying the entry, in any court within the United States, of a final judgment of conviction of a crime which is punishable as a felony under Federal law or which would be a felony in the District of Columbia.

"(2) A judge of a District of Columbia court shall also be removed from office upon affirmance of an appeal from an order of removal filed in the District of Columbia Court of Appeals by the Commission (or upon expiration of the time within which such an appeal may be taken) after a determination by the Commission of—

"(A) willful misconduct in office,

"(B) willful and persistent failure to perform judicial duties, or

"(C) any other conduct which is prejudicial to the administration of justice or which brings the judicial office into disrepute.

"(b) A judge of a District of Columbia court shall be involuntarily retired from office when (1) the Commission determines that the judge suffers from a mental or physical disability (including habitual intemperance) which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of his judicial duties, and (2) the Commission files in the District of Columbia Court of Appeals an order of involuntary retirement and the order is affirmed on appeal or the time within which an appeal may be taken from the order has expired.

"(c)(1) A judge of a District of Columbia court shall be suspended, without salary—

"(A) upon—

"(i) proof of his conviction of a crime referred to in subsection (a)(1) which has not become final, or

"(ii) the filing of an order of removal under subsection (a)(2) which has not become final; and

"(B) upon the filing by the Commission of an order of suspension in the District of Columbia Court of Appeals.

Suspension under this paragraph shall continue until termination of all appeals. If the conviction is reversed or the order of removal is set aside, the judge shall be reinstated and shall recover his salary and all other rights and privileges of his office.

"(2) A judge of a District of Columbia court shall be suspended from all judicial duties, with such retirement salary as he may be entitled to pursuant to subchapter III of this chapter, upon the filing by the Commission of an order of involuntary retirement under subsection (b) in the District of Columbia Court of Appeals. Suspension shall continue until termination of all appeals. If the order of involuntary retirement is set aside, the judge shall be reinstated and shall recover his judicial salary less any retirement salary received and shall be entitled to all the rights and privileges of his office.

"(3) A judge of a District of Columbia court shall be suspended from all or part of his judicial duties, with salary, if the Commission (A) upon the concurrence of four members, orders a hearing for the removal or retirement of the judge and determines that his suspension is in the interest of the administration of justice, and (B) files an order of suspension in the District of Columbia Court of Appeals. The duration of the suspension shall be specified in the order but may be modified, as appropriate, by the Commission.

§ 11–1527. Procedures

"(a)(1) On its own initiative, or upon complaint or report of any person, formal or informal, the Commission may undertake an investigation of the conduct or health of any judge. After such investigation as it deems adequate, the Commission may terminate the investigation or it may order a hearing concerning the health or conduct of the judge. Nothing in this subchapter shall preclude any informal contacts with the judge, or the chief judge of his court, by the Commission, whether before or after a hearing is ordered, to discuss any matter related to its investigation.

"(2) A judge whose conduct or health is to be the subject of a hearing by the Commission shall be given notice of such hearing and of the nature of the matters under inquiry not less than thirty days before the date on which the hearing is to be held. He shall be admitted to such hearing and to every subsequent hearing regarding his conduct or health. He may be represented by counsel, offer evidence in his own behalf, and confront and cross-examine witnesses against him.

"(3) Within ninety days after the adjournment of hearings, the Commission shall make findings of fact and a determination regarding the conduct or health of a judge who was the subject of the hearing. The concurrence of at least five members shall be required for a determination of grounds

for removal or retirement. Upon a determination of grounds for removal or retirement, the Commission shall file an appropriate order pursuant to subsections (a) and (b) of section 11–1526. On or before the date the order is filed, the Commission shall notify the judge, the chief judge of his court, and the President of the United States.

"(b) The Commission shall keep a record of any hearing on the conduct or health of a judge and one copy of such record shall be provided to the judge at the expense of the Commission.

"(c) (1) In the conduct of investigations and hearings under this section the Commission may administer oaths, order and otherwise provide for the inspection of books and records, and issue subpenas for attendance of witnesses and the production of papers, books, accounts, documents, and testimony relevant to any such investigation or hearing. It may order a judge whose health is in issue to submit to a medical examination by a duly licensed physician designated by the Commission.

"(2) Whenever a witness before the Commission refuses, on the basis of his privilege against self-incrimination, to testify or produce books, papers, documents, records, recordings, or other materials, and the Commission determines that the testimony or production of evidence is necessary to the conduct of its proceedings, it may order the witness to testify or produce the evidence. The Commission may issue the order no earlier than ten days after the day on which it served the Attorney General with notice of its intention to issue the order. The witness may not refuse to comply with the order on the basis of his privilege against self-incrimination, but no testimony or other information compelled under the order (or any information directly or indirectly derived from the testimony or production of evidence) may be used against the witness in any criminal case, nor may it be used as a basis for subjecting the witness to any penalty or forfeiture contrary to constitutional right or privilege. No witness shall be exempt under this subsection from prosecution for perjury committed while giving testimony or producing evidence under compulsion as provided in this subsection.

"(3) If any person refuses to attend, testify, or produce any writing or things required by a subpena issued by the Commission, the Commission may petition the United States district court for the district in which the person may be found for an order compelling him to attend and testify or produce the writings or things required by subpena. The court shall order the person to appear before it at a specified time and place and then and there shall consider why he has not attended, testified, or produced writings or things as required. A copy of the order shall be served upon him. If it appears to the court that the subpena was regularly issued, the court shall order the person to appear before the Commission at the time or place fixed in the order and to testify or produce the required writings or things. Failure to obey the order shall be punishable as contempt of court.

"(4) In pending investigations or proceedings before it, the Commission may order the deposition of any person to be taken in such form and subject to such limitation as may be prescribed in the order. The Commission may file in the Superior Court a petition, stating generally, without identifying the judge, the nature of the pending matter, the name and residence of the person whose testimony is desired, and directions, if any, of the Commission requesting an order requiring the person to appear and testify before a designated officer. Upon the filing of the petition the Superior Court may order the person to appear and testify. A subpena for such deposition shall be issued by the clerk of the Superior Court and the deposition shall be taken and returned in the manner prescribed by law for civil actions.

"(d) It shall be the duty of the United States marshals upon the request of the Commission to serve process and to execute all lawful orders of the Commission.

"(e) Each witness, other than an officer or employee of the United States or the District of Columbia, shall receive for his attendance the same fees, and all witnesses shall receive the allowances, prescribed by section 15–714 for witnesses in civil cases. The amount shall be paid by the Commission from funds appropriated to it.

"§ 11–1528. Privilege; confidentiality

"(a) The filing of papers with and the giving of testimony before the Commission shall be privileged. Unless otherwise authorized by the judge whose conduct or health is the subject of the proceedings under section 11–1527(a), the hearings before the Commission, the record thereof, and all papers filed in connection with such hearings shall be confidential. But on prosecution of a witness for perjury or on review of a decision of the Commission, the record of hearings before the Commission and all papers filed in connection therewith shall be disclosed to the extent required for the prosecution or review.

"(b) If the Commission determines that no grounds for removal or involuntary retirement exist it shall notify the judge and inquire whether he desires the Commission to make available to the public information pertaining to the nature of its investigation, its hearings, findings, determinations, or any other fact related to its proceedings regarding his health or conduct. Upon receipt of such request in writing from the judge, the Commission shall make such information available to the public.

"§ 11–1529 Judicial review

"(a) A judge aggrieved by an order of removal or retirement filed by the Commission pursuant to subsection (a) or (b) of section 11–1526 may seek judicial review thereof by filing notice of appeal with the Chief Justice of the United States. Notice of appeal shall be filed within thirty days of the filing of the order of the Commission in the District of Columbia Court of Appeals.

"(b) Upon receipt of notice of appeal from an order of the Commission, the Chief Justice shall convene a special court consisting of three Federal judges designated from among active or retired judges of the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia.

"(c) The special court shall review the order of the Commission appealed from and, to the extent necessary to decision and when presented, shall decide all relevant questions of law and interpret constitutional and statutory provisions. It shall affirm or reverse the order of the Commission or remand the matter to the Commission for further proceedings.

"(d) The special court shall hold unlawful and set aside a Commission order or determination found to be—

"(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(2) contrary to constitutional right, power, privilege, or immunity;

"(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(4) without observance of procedure required by law; or

"(5) unsupported by substantial evidence. In making the foregoing determinations, the special court shall review the whole record or those parts of it cited by the judge or the Commission, and shall take due account of the rule of prejudicial error.

"(e) As appropriate and to the extent consistent with this chapter, the Federal Rules of Appellate Procedure governing appeals in civil cases shall apply to appeals taken under this section.

"(f) Decisions of the special court shall be final and conclusive.

"SUBCHAPTER III.—RETIREMENT

"§ 11–1561. Definitions

"For purposes of this subchapter—

"(1) The term 'judge' means any judge of the District of Columbia Court of Appeals or the Superior Court or any person with judicial service as described in paragraph (2) of this section.

"(2) The term 'judicial service' means service as a judge in the District of Columbia Court of Appeals, the Superior Court, or the former Juvenile Court of the District of Columbia, District of Columbia Tax Court, police court, municipal court, or District of Columbia Court of General Sessions.

"(3) The terms 'retire' and 'retirement' include retirement, resignation, or failure to be recommissioned or reappointed upon the expiration of a commission.

"(4) The term 'fund' means the District of Columbia Judicial Retirement and Survivors Annuity Fund as provided in section 11–1570.

"(5) The term 'widow' means a surviving wife of a judge who has either (A) been married to the judge for at least two years preceding his death or (B) is the mother of issue by the marriage and has not remarried.

"(6) The term 'widower' means a surviving husband of a judge who has either (A) been married to the judge for at least two years preceding her death or (B) is the father of issue by the marriage and has not remarried.

"(7) The term 'Commissioner' means the Commissioner of the District of Columbia.

"(8) The term 'child' means—

"(A) an unmarried child under eighteen years of age, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lived with the judge in a regular parent-child relationship;

"(B) such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age eighteen; or

"(C) such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university or comparable recognized educational institution. For the purpose of this paragraph, a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become twenty-two years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than five months and if he shows to the satisfaction of the Commissioner that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

"(9) The term 'lump-sum credit for retirement' means the unrefunded amount consisting of—

"(A) retirement deductions made from the basic salary of a judge;

"(B) amounts deposited covering earlier judicial and nonjudicial service; and

"(C) interest on the deductions and deposits at 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter compounded annually to December 31, 1956, or, in the case of a judge separated or transferred to a position not within the purview of this section before he has completed five years of

service, to the date of the separation or transfer;

but the term 'lump-sum credit for retirement' does not include interest—

"(i) if the service covered thereby aggregates one year or less; or

"(ii) for the fractional part of a month in the total service.

"(10) The term 'lump-sum credit for survivor annuity' means the unrefunded amount consisting of—

"(A) survivor annuity deductions made from the salary of a judge;

"(B) amounts deposited for survivor annuity covering earlier judicial and nonjudicial service; and

"(C) interest on the deductions and deposits at 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter compounded annually to December 31, 1956, or, in the case of a judge separated or transferred to a position not within the purview of this section before he has completed five years of service, to the date of the separation or transfer;

but the term 'lump-sum credit for survivor annuity' does not include interest—

"(i) if the service covered thereby aggregates one year or less; or

"(ii) for the fractional part of a month in the total service.

"§ 11–1562. Eligibility for retirement

"(a) A judge is eligible for retirement under this subchapter when he has completed ten years of judicial service, whether continuous or not, or upon mandatory retirement as provided in section 11–1502.

"(b) The retirement salary of a judge who retires shall commence as follows:

"(1) With twenty or more years of judicial service, at age fifty.

"(2) With less than twenty years of judicial service, at age sixty, unless he elects to receive a reduced salary beginning at age fifty-five or at the date of retirement if subsequent to that age.

"(c) A judge with five years or more of judicial service, including civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, may voluntarily retire for a mental or physical disability which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of judicial duties. Such disability shall be established by furnishing to the Commission a certificate of disability signed by a duly licensed physician, approved by the Surgeon General of the United States, and containing such information and conclusions as the Commissioner by regulation may require consistent with this subsection.

"(d) A judge involuntarily retired for permanent disability pursuant to subchapter II of this chapter shall be eligible for retirement salary if he has five years or more of service, judicial or judicial and civilian, performed by the judge which is allowable under section 8332 of title 5, United States Code. The retirement salary of a judge who retires under this subsection shall commence upon the date his retirement becomes effective.

"§ 11–1563. Withholding of retirement payments; lump sum credit

"(a) There shall be deducted and withheld from the basic salary of each judge appointed after October 31, 1964, and each judge appointed before November 1, 1964, who has elected to come within the provisions of this subchapter an amount equal to 3½ per centum of his basic salary. Amounts so deducted and withheld shall be deposited in the fund in accordance with procedures established by the Commissioner. Each judge subject to this section shall be deemed to consent and agree to such deductions from basic salary, and payment less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatsoever for all regular service during the period covered by such payment, except the right to the benefits to which he shall be entitled under this subsection, notwithstanding any law, rule, or regulation affecting the Judge's salary.

"(b) If he has not previously so deposited, each judge subject to this section shall deposit in the fund, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, a sum equal to 3½ per centum of his basic salary received for judicial service performed by him as a judge prior to the date he became subject to the District of Columbia Judges Retirement Act of 1964. Each judge may elect to make such deposits in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioner. Notwithstanding the failure of any judge to make such deposits, credit shall be allowed for the service rendered by the retirement pay for such judge shall be reduced by 10 per centum of such deposit remaining unpaid unless the judge shall elect to eliminate the service involved for purposes of retirement salary computation, except as provided in section 11–1564(d).

"(c) If any judge who is subject to this section is removed, resigns, or fails to be recommissioned or reappointed, he is entitled to be paid his lump-sum credit for retirement if application for payment is filed with the Commissioner at least thirty-one days before the commencing date of any retirement salary for which he is eligible. The receipt of the lump-sum credit for retirement by the judge voids all retirement salary rights under this subchapter, until he is reemployed in judicial service subject to this subchapter.

"(d) If a judge who has not elected to bring himself within the survivor annuity provisions of this subchapter dies while in regular active service, the lump-sum credit for retirement shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving him in the order of precedence established in section 11–1569 (b). Such payments shall be a bar to recovery by any other person.

"§ 11–1564. Computation of retirement salary; election to credit other service

"(a) The retirement salary of a judge who retires pursuant to section 11–1562 (a) and (b) shall be paid annually in equal monthly installments during the remainder of his life and shall bear the same ratio to his basic salary immediately prior to the date of his retirement as the total of his aggregate years of service bears to the period of thirty years. A judge who elects to receive a reduced retirement salary pursuant to section 11–1562 (b) (2) shall have his retirement salary reduced by one-twelfth of 1 per centum for each month or fraction of a month he is under the age of sixty at the time of the commencement of his reduced retirement salary. In no event shall the retirement salary of a judge exceed 80 per centum of his basic salary immediately prior to the date of his retirement.

"(b) The retirement salary of a judge retired for disability pursuant to section 11–1562 (c) or (d) shall be paid annually in equal monthly installments during the remainder of his life and shall be computed as provided in subsection (a). If a judge is retired for disability, his retirement salary shall not be reduced because of his age at the time of retirement. In no event shall the retirement salary of a judge retired for disability be less than 50 per centum or exceed 80 per centum of his basic salary immediately prior to the date of his retirement.

"(c) In computing the retirement salary of a judge retiring under section 11–1562, the judge shall be entitled, if he so elects during the continuance of his judicial service or at the time of his retirement, to receive, in addition to the amount provided for in subsection (a) of this section, an amount (payable annually in equal monthly installments during the remainder of his life) based on military and civilian service performed by the judge which is creditable under section 8332 of title 5, United State Code, computed in accordance with section 8339 (a), (b), (c), (d), (g), and (h) of that title, as applicable, subject to the provisions of section 8334 (c) and (d) of that title and the provisions of subsection (d) of this section; except that average pay for the purpose of the computation shall be deemed to be the basic salary of the judge immediately prior to the date of his retirement under section 11–1562.

"(d)(1) The crediting of service with respect to any judge under subsection (c) of this section shall be made on the standard basis of a deposit in a sum equal to 3½ per centum of his basic salary, pay, or compensation for civilian service creditable under section 8332 of title 5, United States Code, with interest as provided in paragraph (2) of this subsection.

"(2) Interest on deposits under this subsection is computed from the midpoint of each service period included in the computation to the date of deposit or the commencing date of the retirement salary of the judge, whichever date is the earlier. Interest is computed at the rate of 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter, compounded annually. Interest may not be charged for a period of separation from the service which began before October 31, 1956.

"(3) Deposit under this subsection may not be required for—

"(A) service before August 1, 1920;

"(B) military service; or

"(C) service for the Panama Railroad Company before January 1, 1924.

"(4) If a judge elects to be credited with service under subsection (c) of this section, his lump-sum credit, or any remaining balance thereof, in the Civil Service Retirement and Disability Fund or in the retirement fund of any other retirement system for civilian employees of the Government of the United States or the District of Columbia, shall be transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund. The judge shall be deemed to consent to the transfer. The transfer shall be a complete discharge and acquittance of all claims and demands against the retirement system from which the funds were transferred on account of the service so credited.

"(5) A judge whose lump-sum credit is transferred to the fund under paragraph (4) of this subsection is not required to make deposits in addition to the amount transferred for periods of service for which full contributions were made to the retirement system from which the transfer was made.

"(6) In the case of a judge whose lump-sum credit has been transferred to the fund under paragraph (4) of this subsection and who has not elected a survivor annuity under section 11–1566, or prior corresponding provision of law, the Commissioner shall refund to the judge any amount which the Commissioner determines to be in excess of the amount of the deposit required by this subsection. In the case of a judge whose lump-sum credit has been transferred to the fund under paragraph (4) of this subsection and who, prior to the effective date of this section, had elected a survivor annuity and made deposits to the fund for survivor annuity purposes, the Commissioner shall refund to the judge any amount which the Commissioner determines in excess of the amount of the deposit required by section 11–1567.

"(7) If any civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, is not covered by the amount of the lump-sum credit transferred under paragraph (4) of

this subsection, the judge may make deposit, on the standard basis prescribed by paragraph (1) of this subsection, with interest as provided in paragraph (2) of this subsection, in accordance with and subject to the applicable provisions of section 8334 (c) and (4) of that title, of the amount or amounts necessary for him to receive full credit for that service for the purposes of subsection (c) of this section. The deposit may be made, as the judge may elect, in installments, during the continuance of his judicial service, in such amounts as the Commissioner may determine in each instance, or in a lump sum prior to or at the time of his retirement under section 11–1562. A judge electing to make installment deposits shall not be given full credit for the service until the total required deposit is made.

"(8) For the purpose of survivor annuity, deposits authorized by this subsection also may be made by the survivor of a judge.

"(e) Nothing in this subchapter shall prevent a judge eligible therefor from simultaneously receiving his retirement salary under this section and any annuity or retired pay to which he would otherwise be entitled under any other law without regard to this subchapter. However, in computing the retirement salary of a judge under this section, service used in the computation of such other annuity shall not be credited.

"§ 11–1565. Service by retired judges

"Any retired judge performing full-time judicial duties on the District of Columbia Court of Appeals or the Superior Court shall be entitled, during the period for which he serves, to receive the salary of the office in which he performs such duties, but there shall be deducted from such salary an amount equal to his retirement salary for that period. No deduction shall be withheld for health benefits, Federal employees' life insurance, or retirement purposes from the salary paid to a retired judge during judicial service. The performance of such judicial service shall not create an additional retirement, change a retirement, or create or in any manner affect a survivor annuity.

"§ 11–1566. Survivor annuity; election; relinquishment

"(a) Any judge, whether or not subject to sections 11–1562 to 11–1565, may, by written election filed with the Commissioner within six months after the date on which he takes office or is reappointed or recommissioned, or within six months after he marries, bring himself within the survivor annuity provisions of this subchapter.

"(b) Any judge in regular active service or any retired judge, who shall have elected survivor annuity, and who after that election is unmarried and does not have a dependent child, may elect—

"(1) to terminate the deductions and withholdings from his salary under section 11–1567(a) and any installment payments elected to be made under the section 11–1567 (b); and

"(2) to have paid to him the lump-sum credit for survivor annuity.

Any election under this subsection shall be made in writing and filed with the Commissioner.

"(c) If any judge who shall have elected survivor annuity resigns from office otherwise than under the provisions of this subchapter or is removed, he shall be entitled to be paid the lump-sum credit for survivor annuity.

"(d) Payment of the lump-sum credit for survivor annuity as provided in this section shall extinguish all claims with respect to survivor annuity.

"§ 11–1567. Survivor annuity; payments to fund

"(a) There shall be deducted and withheld from the salary (whether basic or retirement) of each judge who has elected survivor annuity a sum equal to 3 per centum of that salary. The amounts so deducted and withheld shall, in accordance with such procedures as may be prescribed by the Commissioner, be deposited in the fund. Every judge who elects survivor annuity shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the survivor annuity provisions of this subchapter.

"(b) If he has not previously so deposited, each judge who has elected survivor annuity shall deposit to the fund, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, a sum equal to 3 per centum of his salary received for judicial service and of retirement salary (but excluding salary for judicial service under section 11–1565); and a sum equal to 3 per centum of his basic salary, pay, or compensation for civilian service creditable under section 8332 of title 5, United States Code, with interest as provided in section 11–1564(d). Except to the extent that the Commissioner has made refund to the judge under section 11–1564 (d)(6), deposit is not required with respect to that portion of the service of the judge covered by the transfer, under section 11–1564(d)(4), of his lump-sum credit to the fund. In addition, deposit may not be required for the types of service described in section 11–1564(d)(3). Each judge may elect to make deposits under this subsection in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioner. Deposits under this subsection also may be made by the survivor of a judge.

"(c) If a judge or survivor fails to make such deposits, credit shall be allowed for the service, but the annuity of the widow or widower of such judge shall be reduced by an amount equal to 10 per centum of the deposit required by this section, computed as of the date of the death of the judge, unless the widow or widower elects to eliminate the service not covered by deposit entirely from credit for computation purposes except as provided in section 11–1564(d)(3).

"§ 11–1568. Survivor annuity; entitlement; computation

"(a) The service of a judge for the purpose of computing a survivor annuity includes his judicial service (and retired service for which deductions are made) and, subject to section 8334(d) of title 5, United States Code, his military and civilian service which is creditable under section 8332 of that title.

"(b) Nothing in this subchapter shall prevent a widow or widower eligible therefor from simultaneously receiving a survivor annuity under this subchapter and any other annuity (survivor or otherwise) or retired pay to which he or she would otherwise be entitled under any other law without regard to this subchapter. However, in computing the surivor annuity of that widow or widower under this subchapter, service used in the computation of such other survivor annuity shall not be credited.

"(c) If a judge who has elected a survivor annuity dies in regular active service or after having retired from such service with at least five years of allowable service under this section for which payments have been withheld or deposits made, the survivor annuity shall be paid as follows:

"(1) If the judge is survived by a widow or widower but no child, the widow or widower shall receive, beginning on the day after the judge dies, an amount computed as provided in subsection (e); or

"(2) If the judge is survived by a widow or widower and one or more children—

"(A) the widow or widower shall receive an immediate annuity in the amount computed as provided in subsection (e); and

"(B) there also shall be paid to or on behalf of each such child an immediate annuity equal to one-half the amount of the annuity of such widow or widower, but not to exceed the lesser of (i) $2,700 per year divided by the number of such children or (ii) $900 per child per year; or

"(3) If the judge leaves no surviving widow or widower but leaves a surviving child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the amount of the annuity to which the widow or widower would have been entitled under paragraph (1) of this subsection had he or she survived, but not to exceed the lesser of (A) $3,240 per year divided by the number of children or (B) $1,080 per child per year.

An annuity payable to a widow or widower under this section shall be terminable upon death or remarriage. The annuity payable to a child shall be terminable upon his death or marriage or his ceasing to be a child as defined in section 11–1561(8). In case of the death of a widow or widower of a judge leaving a child or children of the judge surviving, the annuity of such child or children shall be recomputed and paid as provided in paragraph (3) of this subsection. In any case in which the annuity of a child is terminated, the annuities of any remaining child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was terminated had not survived the judge.

"(d) Questions of disability or other eligibility requirements of a child under this section shall be determined by the Commissioner who may order such medical or other examinations at any time as he deems necessary with respect to determining the facts concerning the disability of a child receiving or applying for an annuity under this subchapter. An annuity may be denied or suspended for failure to submit to examination.

"(e) The annuity of a widow or widower of a judge electing survivor annuity shall be an amount equal to the sum of—

"(1) 1¼ per centum of the average annual salary received for service allowable under subsection (a) during the last three years of such service prior to death or retirement multiplied by the sum of his years of judicial service and his Member, congressional employee, and his military service allowable under subsection (a); and

"(2) three-fourths of 1 per centum of such average annual salary multiplied by his years of all other civilian service allowable under subsection (a).

A survivor annuity shall not exceed 44 percentum of the average annual salary described in paragraph (1) of this subsection and shall be subject to reduction as provided in section 11–1567(c).

"§ 11–1569. Survivor annuity; payment; order of precedence

"(a) Survivor annuities shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued.

"(b) In any case in which—

"(1) a judge who has elected survivor annuity shall die (A) while in regular active service after having rendered five years of allowable service as provided in section 11–1568(a) or while receiving retirement salary under this subchapter but without a survivor or survivors entitled to annuity under section 11–1568(c) or (B) while in regular active service but before having rendered five years of allowable service; or

"(2) the right of all persons entitled to an annuity under section 11–1568(c) based on

the service of the judge shall terminate before a valid claim therefor shall have been established;

the lump-sum credit shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence, and such payment shall be a bar to recovery by any other person:

"First, to the beneficiary or beneficiaries whom the judge may have designated in writing to the Commissioner prior to the judge's death;

"Second, if there be no such beneficiary, to the widow or widower of the judge;

"Third, if none of the above, to the child or children of the judge and the descendants of any deceased children by representation;

"Fourth, if none of the above, to the parents of the judge or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such judge;

"Sixth, if none of the above, to such other next of kin of the judge as may be determined by the Commissioner to be entitled under the laws of the domicile of the judge at the time of his death.

Determination as to the widow, widower, or child of a judge for purposes of this subsection shall be made by the Commissioner without regard to the definitions in section 11–1561.

"(c) In any case in which the annuities of all persons entitled to annuity based upon the service of a judge shall terminate before the aggregate amount of annuity paid (together with any amounts received by the judge as retirement salary) equals the total amount credited to the individual account of the judge, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the date of the death of such judge, the difference shall be paid upon establishment of a valid claim therefor, in the order of precedence prescribed in subsection (b).

"(d) Any accrued annuity remaining unpaid upon the termination (other than by reason of death) of the annuity of any person based upon the service of a judge shall be paid to such person. Any accrued annuity remaining unpaid upon the death of any person receiving an annuity based upon the service of a judge shall be paid, upon establishment of a valid claim therefor, in the following order of precedence:

"First, to the duly appointed executor or administrator of the estate of the annuitant;

"Second, if there is no such executor or administrator, payment may be made, after the expiration of thirty days from the date of death of the annuitant, to such person or persons as may appear in the judgment of the Commissioner to be legally entitled thereto, and such payments shall be to a bar to recovery by any other person.

"(e) Where any payment under sections 11–1566 to 11–1569 is to be made to a minor or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary by the law of the jurisdiction wherein the claimant resides or is otherwise legally vested with the care of the claimant or his estate. Where no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the jurisdiction wherein the claimant resides, payment may be made to any person who, in the judgment of the Commissioner, is responsible for the care of the claimant, and the payment bars recovery by any other person.

"§ 11–1570. Retirement and annuity fund

"(a) The District of Columbia Judicial Retirement and Survivors Annuity Fund is hereby continued in the Treasury and appropriated for the payment of retirement salaries, annuities, refunds, and allowances as provided in this subchapter. If at any time the balance of the fund is insufficient to pay current obligations arising under this subchapter, there is authorized to be appropriated to the funds, out of any moneys in the Treasury of the United States to the credit of the District of Columbia not otherwise appropriated, such amounts as may be necessary to pay current obligations. The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the fund, and shall make actuarial evaluations of the fund at intervals of five years or more if deemed necessary by the Secretary.

"(b) The Secretary shall invest, from time to time, in interest-bearing securities of the United States or Federal farm loan bonds, any portions of such funds as in his judgment may not be immediately required for payments from the fund and the income derived from such investments shall constitute a part of the fund.

"(c) All amounts deposited by, or deducted and withheld from the salary of, any judge for credit to the fund shall, under regulations prescribed by the Commissioner, be credited to an individual account of the judge.

"(d) None of the moneys mentioned in this subchapter shall be assignable, either in law or in equity, or be subject to execution, levy, attachment, garnishment, or other legal process.

"§ 11–1571. Periodic increases; existing rights

"(a) The retirement salary of any judge, or the annuity of any person based upon the service of a judge, who, on the effective date of any increase which, after the effective date of this section, becomes payable under the provisions of section 8340(b) of title 5, United States Code, is receiving such salary or annuity (1) under the provisions of this subchapter, or (2) under the provisions of section 11–1701, as in effect prior to the effective date of this section, and its predecessor laws, shall be increased on the effective date of the increase by a percentage equal to the percentage of such increase under section 8340 of title 5, United States Code.

"(b) Nothing in this subchapter shall defeat or diminish rights acquired under section 11–1701, as in effect prior to the effective date of this section, and its predecessor laws, except on the election and with the consent of the judge, annuitant, or other person affected.

"Chapter 17.—ADMINISTRATION OF DISTRICT OF COLUMBIA COURTS

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"11–1701. Administration of District of Columbia court system.
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"11–1747. Delegation of authority.

"SUBCHAPTER 1.—COURT ADMINISTRATION

"§ 11–1701. Administration of District of Columbia court system

"(a) There shall be a Joint Committee on Judicial Administration in the District of Columbia (hereafter in this chapter referred to as the 'Joint Committee') consisting of: The Chief Judge of the District of Columbia Court of Appeals, who shall serve as Chairman, an associate judge of that court elected annually by the judges thereof, the Chief Judge of the Superior Court, and two associate judges of that court elected annually by the judges thereof.

"(b) The Joint Committee shall have responsibility within the District of Columbia court system for the following matters:

"(1) General personnel policies, including those for recruitment, removal, compensation, and training.

"(2) Accounts and auditing.

"(3) Procurement and disbursement.

"(4) Submission of the annual budget requests of the District of Columbia Court of Appeals and the Superior Court to the Commissioner of the District of Columbia as the integrated budget of the District of Columbia court system, except that such requests may be modified upon the concurrence of four of the five members of the Joint Committee.

"(5) Approval of the bonds of fiduciary employees within the District of Columbia court system.

"(6) Formulation and enforcement of standards for outside activities of and receipt of compensation by the judges of the District of Columbia court system.

"(7) Development and coordination of statistical and management information systems and reports supporting the annual report of the District of Columbia court system.

"(8) Liaison between the District of Columbia court system and the court systems of other jurisdictions, including the Judicial Conference of the United States, the Judicial Conference of the District of Columbia Circuit, and the Federal Judicial Center.

"(9) With the concurrence of the respective chief judges of the District of Columbia courts, other policies and practices of the District of Columbia court system and resolution of other matters which may be of joint and mutual concern of the District of Columbia Court of Appeals and the Superior Court.

"(c) The Joint Committee, with the assistance of the Executive Officer of the District of Columbia courts, shall—

"(1) consider and evaluate the business of the courts and means of improving the administration of justice within the District of Columbia court system and shall report thereon in its annual report;

"(2) prepare and publish an annual report of the District of Columbia court system regarding the work of the courts, the performance of the duties enumerated in this chapter, and of any recommendations relating to the courts;

"(3) recommend from time to time to the Congress changes in the organization, jurisdiction, operation, and procedures of the courts which are appropriate for legislative action, and institute such changes, pursuant

to the responsibilities enumerated in subsection (b), in the methods of administering judicial business in the court system as would improve the administration of justice; and

"(4) arrange for such training seminars, and other related services, as are desirable and feasible for judges and other court personnel, including services from the Federal Judicial Center on a reimbursable basis.

"(d) The Joint Committee shall have authority to issue all orders and directives necessary to implement the responsibilities and duties enumerated in this section.

"§ 11–1702. Responsibilities of chief judges in the respective courts

"(a) The Chief Judge of the District of Columbia Court of Appeals, in addition to the authority conferred on him by chapter 7 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11–1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11–1701(b),

consistent with the general policies and directives of the Joint Committee.

"(b) The Chief Judge of the Superior Court, in addition to the authority conferred on him by chapter 9 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11–1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11–1701(b),

consistent with the general policies and directives of the Joint Committee.

"§ 11–1703. Executive Officer of the District of Columbia courts; appointment; compensation

"(a) There shall be an Executive Officer of the District of Columbia courts (hereafter in this chapter referred to as the 'Executive Officer'). He shall be responsible for the administration of the District of Columbia court system subject to the supervision of the Joint Committee and the chief judges of the respective courts as provided in this chapter. He shall be subject to the supervision of the Joint Committee regarding administrative matters that are enumerated in section 11–1701(b). He shall be subject to the supervision of the chief judges in their respective courts: (1) regarding all administrative matters other than those within the responsibility enumerated in section 11–1701(b), and (2) regarding the implementation in the respective courts of the matters enumerated in section 11–1701(b), consistent with the general policies and directives of the Joint Committee.

"(b) The Executive Officer shall be selected by, and subject to removal by the President.

"(c) The Executive Officer shall receive the same compensation as an associated judge of the Superior Court.

"§ 11–704. Oath and bond of the Executive Officer

"(a) The Executive Officer shall take an oath or affirmation for the faithful and impartial discharge of the duties of his office.

"(b) The Executive Officer shall give bond, with two or more sureties, to be approved by the Joint Committee, in an amount prescribed by the Joint Committee, faithfully to discharge the duties of his office.

"SUBCHAPTER II.—COURT PERSONNEL

"§ 11–1721. Clerks of courts

"The District of Columbia Court of Appeals and the Superior Court shall each have a clerk who shall perform such duties as may be assigned to him.

"§ 11–1722. Director of Social Services

"(a) There shall be a Director of Social Services in the Superior Court who shall have charge of all social services for the Superior Court, subject to the supervision of the Executive Officer. With respect to adults, he shall provide probation services, intake procedures, marital and family counseling, social casework, rehabilitation and training programs, and such other services as the court shall prescribe. With respect to juveniles, he shall provide intake procedures, counseling, education and training programs, probation services, and such other service as the court shall prescribe.

"(b) To the maximum extent feasible, the Director shall coordinate with and utilize the services of appropriate public and private agencies within the District of Columbia, and shall coordinate and provide administrative services to volunteers utilized by the Superior Court or any divisions thereof.

"(c) As directed by the Executive Officer, the Director shall conduct studies and make reports relating to the utilization of social services as an adjunct to the Superior Court.

"(d) The Director shall make recommendations with respect to the consolidation or disposition of causes before the court relating to members of the same family or household.

"§ 11–1723. Fiscal Officer; Auditor, bond

"(a) (1) There shall be a Fiscal Officer in the District of Columbia court system who shall be responsible for the budget of the court system and for the accounts of the courts, subject to the supervision of the Executive Officer.

"(2) The Fiscal Officer shall receive, safeguard, and account for all fees, costs, payments, and deposits of money or other items, and shall be responsible for depositing in the Treasury of the United States all fines, forfeitures, fees, unclaimed deposits, and other moneys.

"(3) The Fiscal Officer shall be responsible for the approval of vouchers and the internal auditing of the accounts of the courts and shall arrange for an annual independent audit of the accounts of the courts by the District of Columbia government.

"(b) There shall be an Auditor in the District of Columbia court system who shall be responsible for the auditing of accounts filed in actions and matters before the District of Columbia courts. He shall be subject to the supervision of the Executive Officer.

"(c) The Fiscal Officer and the Auditor shall each give bond with two or more sureties, to be approved by the Joint Committee, in an amount prescribed by the Joint Committee, faithfully to discharge the duties of his respective office.

"§ 11–1724. Appointment of nonjudicial personnel

"(a) Subject to the approval of the Joint Committee, the Executive Officer shall appoint, and may remove, the Fiscal Officer, and such other personnel whose principal function is to perform duties for both District of Columbia courts.

"(b) The Executive Officer shall appoint, and may remove, the Director of Social Services, the clerks of the courts, the Auditor, and all other nonjudicial personnel for the courts as may be necessary (except the personal law clerks and secretaries of the judges) subject to—

"(1) regulations approved by the Joint Committee; and

"(2) the approval of the chief judge of the court to which the personnel are or will be assigned.

Appointments and removals of court personnel shall not be subject to the laws, rules, and limitations applicable to the District of Columbia employees, except as otherwise specified in the District of Columbia Court Reorganization Act of 1970.

"§ 11–1725. Compensation

"(a) The Executive Officer shall fix the compensation of all nonjudicial employees of the courts without regard to chapter 51, and subchapter III of chapter 53, of title 5, United States Code. He may fix compensation for one position at a rate not to exceed the maximum rate for GS–17 of the General Schedule; and three positions at a rate not to exceed the maximum rate for GS–16 of the General Schedule. He shall be guided, in fixing the rates of compensation of all other nonjudicial employees, by the rates of compensation fixed for other Federal or District of Columbia employees in the judiciary or the executive in the same or similar positions or in positions of similar responsibility, duty, and difficulty.

"§ 11–1726. Court reporters

"(a) The Executive Officer shall appoint reporters who shall be full-time employees of the courts. When necessary, the Executive Officer may contract for additional temporary reporting services. Nothing in this section shall be construed to preclude the Superior Court of the District of Columbia from providing by rule for the sound recording of proceedings in lieu of mechanical (audio or manual) transcription in any branch, division or courtroom of the court. Court reporters shall, in addition to being subject to the general supervision of the Executive Officer, be subject to the supervision of the chief judges of the courts and of the other District of Columbia judges for whom they perform services, regarding the performance of their duties in the respective courts.

"(b) In addition to their annual salaries, court reporters may charge and collect from parties, including the United States and the District of Columbia, who request transcripts of the original records of proceedings, only such fees as may be prescribed from time to time by the Executive Officer. The reporters shall furnish all supplies at their own expense. The Executive Officer shall prescribe such rules, practice, and procedure pertaining to fees for transcripts as he deems necessary, conforming as nearly as practicable to the rules, practice, and procedure established for the United States District Court for the District of Columbia. A fee may not be charged or taxed for a copy of a transcript delivered to a judge at his request or for copies of a transcript delivered to the clerk of a court for the records of the court. Except as to transcripts that are to be paid for by the United States or the District of Columbia, the reporters may require a party requesting a transcript to prepay the estimated fee therefor in advance of delivery of the transcript.

"§ 11–1727. Recruitment and training of personnel

"The Executive Officer shall be responsible for recruiting such qualified personnel as may be necessary for the District of Columbia courts and for providing in-service training for court personnel.

"§ 11–1728. Service of United States marshal

"The United States Marshal for the District of Columbia shall continue to serve the courts of the District of Columbia, subject to the supervision of the Attorney General of the United States.

"§ 11–1729. Reports of court personnel

"(a) Judges of the courts shall furnish time and attendance records to the respective chief judges, with a copy to the Executive Officer.

"(b) All nonjudicial personnel of the courts shall furnish such reports and information to the Executive Officer as he shall request.

"§ 11–1730. Reports of other personnel

"The Executive Officer or the chief judge may request such reports as may be necessary to the efficient administration of the courts from—

"(1) the United States Attorney for the District of Columbia.

"(2) the Corporation Counsel,

"(3) the United States Marshal for the District of Columbia,

"(4) the Commissioner of the District of Columbia,

"(5) the superintendent of any hospitals or institutions to which persons have been committed by the Superior Court,

"(6) the District of Columbia Public Defender Service,

"(7) the District of Columbia Bail Agency,

"(8) the District of Columbia Department of Corrections,

"(9) the Chief of the Metropolitan Police Department,

"(10) the District of Columbia Department of Public Health, and

"(11) the District of Columbia Department of Public Welfare.

These officials, agencies, and departments shall furnish such reports and information as may be requested pursuant to this section.

"SUBCHAPTER III.—DUTIES AND RESPONSIBILITIES

"§ 11–1741. Court operations and organizations

"Within the respective District of Columbia courts, and subject to the supervision of the chief judges thereof, the Executive Officer shall—

"(1) supervise, analyze, and improve case assignments, calendars, and dockets;

"(2) provide improved services and introduce new methods to better utilize the time of and accommodate government and other witnesses;

"(3) supervise, analyze, and improve the management of jurors;

"(4) recommend changes and improvements in court rules and procedures affecting his administrative responsibilities;

"(5) report periodically to the appropriate chief judge with respect to case volumes, backlogs, length of time cases have been pending, number and identity of incarcerated defendants awaiting trial, and such other information as the respective chief judges may request;

"(6) mechanize and computerize court operations and services where feasible and desirable, and carry on continuing studies and evaluations of increased and innovative uses of mechanization and computerization;

"(7) conduct studies and research with respect to court operations on his own initiative or on request of the respective chief judges; and

"(8) perform such other duties as may be assigned to him by a chief judge.

"§ 11–1742. Property and disbursement

"(a) The Executive Officer shall be responsible, subject to the supervision of the Joint Committee, for arranging with the appropriate Federal or District of Columbia agencies for the operation, maintenance and repair of such buildings and space as may be assigned to the courts. The allocation of space therein shall be vested in the chief judges of the District of Columbia courts.

"(b) The Executive Officer shall be responsible for the procurement of necessary equipment, supplies, and services for the courts and shall have power, subject to applicable law, to reimburse the District of Columbia government for services provided and to contract for such equipment, supplies, and services as may be necessary.

"(c) The Executive Officer shall serve as disbursing officer and payroll officer of the District of Columbia courts and shall assign and distribute necessary equipment and supplies.

"§ 11–1743. Annual budget

"(a) The Joint Committee shall prepare and submit to the Commissioner of the District of Columbia annual estimates of the expenditures and appropriations necessary for the maintenance and operations of the District of Columbia court system.

"(b) All such estimates shall be forwarded to the Bureau of the Budget by the District of Columbia without revision, but subject to the recommendations of the District of Columbia. Similarly, all estimates shall be included in the budget without revision by the President but subject to his recommendations.

"§ 11–1744. Information and liaison services

"The Executive Officer shall be responsible for—

"(1) collecting and compiling statistical information with respect to the volume and disposition of the work of the courts and the personnel of the courts;

"(2) printing and distribution of court rules;

"(3) keeping the courts advised of pending legislative and executive actions relating to the courts;

"(4) serving as the public information officer of the courts; and

"(5) performing such other duties as may be assigned to him by the Joint Committee and the chief judges in their respective courts.

"§ 11–1745. Reports and records

"(a) The Executive Officer shall prepare and publish, subject to the approval of the Joint Committee, the annual report of the District of Columbia court system of the work of the courts and their operations during the preceding year together with any recommendations relating to the courts. Nothing in this chapter shall prevent the respective chief judges from preparing and publishing any other reports as they may wish.

"(b) The Executive Officer shall be responsible for maintaining and safeguarding the records of the courts. Except for those records required by law to be kept under court seal, he shall make the records available at all reasonable times to—

"(1) the United States Department of Justice,

"(2) the Commissioner of the District of Columbia,

"(3) the District of Columbia Commission on Judicial Disabilities and Tenure, and

"(4) such other agencies as the Joint Committee may specify.

"§ 11–1746. Certification of copies of papers or documents filed in District of Columbia courts

"The Executive Officer shall provide that if any person filing any paper or document in a District of Columbia court requests a certification of such filing, a copy of such paper or document provided by such person shall be appropriately marked for such person to show the time and date of such filing and the identity of the individual with whom such paper or document was filed. Such certified copy shall be prima facie evidence in any proceeding that the original of such paper or document was filed as shown by the certification.

"§ 11–1747. Delegation of authority

"The Executive Officer and court officers appointed by him may delegate to their subordinates authority and responsibility to perform the functions vested in them by law.

"Chapter 19.—JURIES AND JURORS

"Sec.
"11–1901. Qualifications of jurors.
"11–1902. Single jury selection system.
"11–1903. Grand jury; additional grand jury.
"11–1904. Assignment of jury panels.
"11–1905. Length of service.
"11–1906. Fees of jurors.

"§ 11–1901. Qualifications of jurors

"Jurors serving within the District of Columbia shall have the same qualifications as provided for jurors in Federal courts.

"§ 11–1902. Single jury selection system

"There shall be a single system in the District of Columbia for the selection of jurors for both Federal and District of Columbia courts. The selection system shall be that prescribed by Federal law and executed in accordance therewith as provided by the United States District Court for the District of Columbia.

"§ 11–1903. Grand jury; additional grand jury

"(a) A grand jury serving in the District of Columbia may take cognizance of all matters brought before it regardless of whether an indictment is returnable in the Federal or District of Columbia courts.

"(b) If the United States Attorney for the District of Columbia certifies in writing to the chief judge of the United States District Court for the District of Columbia, or the chief judge of the Superior Court, that the exigencies of the public service require it, the judge may, in his discretion, order an additional grand jury summoned, which shall be drawn at such time as he designates. Unless sooner discharged by order of the judge, the additional grand jury shall serve until the end of the term for which it is drawn.

"§ 11–1904. Assignment of jury panels

"The names of persons to serve as jurors in the United States District Court for the District of Columbia and the Superior Court shall be drawn from time to time as may be required, and such persons shall be assigned to jury panels within those courts as the courts may decide.

"§ 11–1905. Length of service

"Petit jurors summoned for service in the District of Columbia shall serve for such period of time and at such sessions as the particular court shall direct, but, unless actually engaged as a trial juror in a particular case, may not be required to serve in the court for more than one month in any twelve consecutive months.

"§ 11–1906. Fees of jurors

"Jurors serving in the Superior Court shall receive the same fees as jurors serving in the United States District Court for the District of Columbia.

"Chapter 21.—REGISTER OF WILLS

"Sec.
"11–2101. Continuation of office.
"11–2102. Appointment; oath; bond.
"11–2103. Services as clerk.
"11–2104. Powers and duties; restrictions; penalties.
"11–2105. Deputies and other employees.
"11–2106. Accounts.

"§ 11–2101. Continuation of office

"The Office of the Register of Wills shall continue as an office in the Probate Division of the Superior Court.

"§ 11–2102. Appointment; oath; bond

"The Superior Court shall appoint the Register of Wills. The Register of Wills shall—

"(1) take an oath for the faithful and impartial discharge of the duties of his office; and

"(2) give bond, with two or more sureties, to be approved by the chief judge of the Superior Court, in the amount designated by the court, faithfully to discharge the duties of his office, and seasonably to record (A) the decrees and orders of the court in any matters over which the court exercises probate jurisdiction or powers, (B) all wills proved before him or the court, and (C) all other matters directed to be recorded in the court or in his office.

The bond shall be entered in full upon the minutes of the Superior Court and the original filed with records of the Superior Court.

"§ 11–2103. Services as clerk

"With respect to the Probate Division of the Superior Court, the Register of Wills shall perform such duties as clerk as the chief judge of the Superior Court may assign.

"§ 11–2104. Powers and duties; restrictions; penalties

"(a) The Register of Wills may—

"(1) receive inventories and accounts of sales, examine vouchers, and state accounts of executors, administrators, collectors, and guardians, subject to final approval of the court;

"(2) take the probate of claims against the estates of deceased persons that are properly brought before him, and approve or reject claims not exceeding $300; and

"(3) take the probate of wills and accept the bonds of executors, administrators, collectors, and guardians, subject to approval of the court.

"(b) In matters over which the Superior Court has probate jurisdiction or power, the Register of Wills shall—

"(1) make full and fair entries, in separate records, of the proceedings of the court;

"(2) make fair record in strong bound books of all wills proved before him or the court, keeping separate books for wills within the jurisdiction of the court;

"(3) make fair and separate record of other matters required by law to be recorded in the court;

"(4) lodge in places of safetv, designated by the court, original papers filed with him;

"(5) make out and issue every summons, process and order of the court;

"(6) make fair and uniform tables of his fees, and post them in a conspicuous place in his office for the inspection of persons having business therein;

"(7) prepare and submit such reports as may be required to the Executive Officer of the District of Columbia courts; and

"(8) in every respect, act under the control and direction of the court.

"(c) The Register of Wills may not—

"(1) practice law in any court of the District of Columbia or of the United States; or

"(2) demand or receive any fee, gratuity, gift, or reward for giving his advice in any matter relating to his office.

"(d) The Register of Wills shall forfeit to the court the sum of $50 for each day that the tables referred to in subsection (b)(6) are missing through his neglect, which may be recovered as other debts for the same amount are recoverable.

"(e) If the Register of Wills or a person acting for him takes a greater fee than the fee provided for by law, he shall pay the party injured $100, which may be recovered as other debts for the same amount are recoverable.

"§ 11–2105. Deputies and other employees

"The Executive Officer of the District of Columbia courts shall appoint and remove such personnel as may be needed by the Register of Wills, pursuant to chapter 17 of this title.

"§ 11–2106. Accounts

"All fees, costs, and other moneys, except uncollected fees not required by law to be prepaid, collected by the Register of Wills with respect to matters within the jurisdiction of the Superior Court shall be turned over to the Fiscal Officer of the District of Columbia courts.

"Chapter 23.—MEDICAL EXAMINER

"Sec.

"11–2031. Medical Examiner; Deputies; appointment, qualifications, and compensation.

"11–2302. Supporting services and facilities.

"11–2303. Former duties of coroner; oaths; teaching.

"11–2304. Deaths to be investigated; notification and investigation of deaths.

"11–2305. Possession of evidence and property.

"11–2306. Further investigation; autopsy.

"11–2307. Autopsy by pathologist other than Medical Examiner.

"11–2308. Delivery of body; expenses.

"11–2309. Records; reports, fees for other services.

"11–2310. Records as evidence.

"11–2311. Autopsies performed by court order.

"11–2312. Tissue transplants.

"§ 11–2301. Medical Examiner; Deputies; appointment, qualifications, and compensation

"(a) The Commissioner of the District of Columbia shall designate or appoint a Chief Medical Examiner and such Deputy Medical Examiners for the District of Columbia as may be necessary.

"(b) The Chief Medical Examiner and his deputies shall be physicians licensed in the District of Columbia. The Chief Medical Examiner and at least one deputy shall be certified in anatomic pathology by the American Board of Pathology or be board eligible. They may be designated from among physicians practicing in the District of Columbia Department of Public Health.

"(c) The Commissioner shall fix the compensation of the Chief Medical Examiner and his deputies at a rate or rates not in excess of the per diem equivalent of the maximum rate for GS–18 of the General Schedule contained in section 5332 of title 5 of the United States Code.

"§ 11–2302. Supporting services and facilities

"The Commissioner shall furnish or make available such investigative, technical, and clerical personnel, facilities, and equipment as the medical examiners shall require, or he may arrange or contract for such services, equipment, and facilities with the United States Government or universities and hospitals in the District of Columbia.

"§ 11–2303. Former duties of Coroner; oaths; teaching

"(a) The Chief Medical Examiner shall be responsible for all the medical functions formerly performed by the coroner in the District of Columbia, consistent with the provisions of this chapter, and the Chief Medical Examiner and his deputies may administer oaths and affirmations and take affidavits in connection with the performance of their duties.

"(b) The Chief Medical Examiner and his deputies may be authorized by the Commissioner of the District of Columbia to teach medical and law school classes, to conduct special classes for law enforcement personnel, and to engage in other activities related to their work.

"§ 11–2304. Deaths to be investigated; notification and investigation of deaths

"(a) Under regulations established by the Chief Medical Examiner, the following types of human deaths occurring in the District of Columbia shall be investigated:

"(1) Violent deaths, whether apparently homicidal, suicidal, or accidental, including deaths due to thermal, chemical, electrical, or radiational injury, and deaths due to criminal abortion, whether apparently self-induced or not.

"(2) Sudden deaths not caused by readily recognizable disease.

"(3) Deaths under suspicious circumstances.

"(4) Deaths of persons whose bodies are to be cremated, dissected, buried at sea, or otherwise disposed of so as to be thereafter unavailable for examination.

"(5) Deaths related to disease resulting from employment or to accident while employed.

"(6) Deaths related to disease which might constitute a threat to public health.

"(b) All law enforcement officers, physicians, undertakers, embalmers, and other persons shall promptly notify a medical examiner of the occurrence of all deaths coming to their attention which are subject to investigation under subsection (a) of this section and shall assist in making dead bodies and related evidence available to the medical examiner for investigation and autopsy.

"(c) Any physician, undertaker, or embalmer who willfully fails to comply with this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100 nor more than $1,000.

"(d) The Chief Medical Examiner shall by regulation prescribe procedures for taking possession of a body following a death subject to investigation under subsection (a) of this section and for obtaining all essential facts concerning the medical causes of death and the names and addresses of as many witnesses as it is practicable to obtain.

"§ 11–2305. Possession of evidence and property

"(a) At the scene of any death subject to investigation under section 11–2304, a law enforcement officer or the medical examiner shall take possession of any objects or articles useful in establishing the cause of death and shall hold them as evidence.

"(b) In the absence of the next of kin, a police officer or the medical examiner may take possession of all property of value found on or in the custody of the deceased. If possession is taken of the property, the police officer or medical examiner shall make an exact inventory of it, and deliver the property to the property clerk of the Metropolitan Police Department.

"§ 11–2306. Further investigation; autopsy

"(a) If, in the opinion of the medical examiner, the cause of death is established with reasonable medical certainty, he shall complete a report thereon.

"(b) If, in the opinion of the Chief Medical Examiner, or the United States attorney, further investigation as to the cause of death is required or the public interest so requires, a medical examiner shall either perform, or arrange for a qualified pathologist to perform, an autopsy on the body of the deceased. No consent of next of kin shall be required for an autopsy performed pursuant to this section.

"(c) The medical examiner shall make a complete record of the findings of the autopsy and his conclusions with respect thereto and shall prepare a report, and, upon request, furnish a copy to the appropriate law enforcement agency.

"§ 11–2307. Autopsy by pathologist other than medical examiner

"(a) If an autopsy is performed by a pathologist other than a medical examiner by request of a medical examiner, the pathologist shall furnish to the medical examiner a complete record of the findings of the autopsy and his conclusions with respect thereto. The medical examiner shall thereupon prepare a report, indicating the name of the pathologist performing the autopsy and his findings and conclusions, and the medical examiner's own comments with respect thereto, if appropriate, and, upon request, shall furnish a copy thereof to the appropriate law enforcement agency.

"(b) A pathologist other than a medical examiner who performs an autopsy at the request of a medical examiner shall be compensated in accordance with a fee rate established by the Commissioner of the District of Columbia.

"§ 11–2308. Delivery of body; expenses

"(a) Following investigation or autopsy, the medical examiner shall release the body of the deceased to the person having the right to the body for purposes of burial pursuant to law. If there is no such person, he shall dispose of it according to law.

"(b) Expenses of transportation of a body by a medical examiner and of autopsies performed pursuant to this chapter shall be borne by the District of Columbia.

"§ 11–2309. Records; reports; fees for other services

"(a) The Chief Medical Examiner shall be responsible for maintaining full and complete records and files, properly indexed, giving the name, if known, of very person whose death is investigated, the place where the body was found, the date, cause, and manner of death, and all other relevant information and reports of the medical examiner concerning the death, and shall issue a death certificate.

"(b) The records and files maintained under the provisions of subsection (a) of this section shall be open to inspection by the Commissioner of the District of Columbia or his authorized representative, the United States attorney and his assistants, the Metropolitan Police Department, or any other law enforcement agency or official; and the medical examiner shall promptly deliver to such persons copies of all records relating to every death as to which further investigation may be advisable.

"(c) Any other person with a legitimate interest may obtain copies of records maintained under the provisions of subsection (a) upon such conditions and payment of such fees as may be prescribed by the Chief Medical Examiner. If such person fails to meet the prescribed conditions, he may obtain copies of such records pursuant to court order if the court is satisfied that he has a legitimate interest.

"(d) The Chief Medical Examiner shall prepare an annual report to the Commissioner of the District of Columbia containing information on the number of autopsies performed, statistics as to cause of death, and such other relevant information as the Commissioner of the District of Columbia shall require. The report shall be open to inspection by the public. The report shall not identify by name deceased persons examined.

"(e) Medical examiners may charge fees, at rates prescribed by the Chief Medical Examiner for completing insurance forms or performing similar services for private parties.

"§ 11–2310. Records as evidence

"The records maintained pursuant to section 11–2309, or reproductions thereof certified by the Chief Medical Examiner, are admissable in evidence in any court in the District of Columbia, except that statements made by witnesses or other persons and conclusions upon non-medical matters are not made admissible by this section.

"§ 11–2311. Autopsies performed by court order

"In the case of sudden, violent, or suspicious death when the body is buried without investigation, the United States attorney, on his own motion or on request of a medical examiner or the Metropolitan Police Department, may petition the appropriate court for an order to conduct an inquiry. The court may order the body exhumed and an autopsy performed. In such cases, records and reports shall be filed as if the autopsy were performed prior to burial except that a copy of the report shall be furnished directly to the court.

"§ 11–2312. Tissue transplants

"The medical examiner may allow the removal of tissue pursuant to section 9 of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2–258).

"Chapter 25.—ATTORNEYS

"Sec.
"11–2501. Admission to bar; regulations; prior admission.
"11–2502. Censure, suspension, or disbarment for cause.
"11–2503. Disbarment upon conviction of crime; procedure for censure, suspension, or disbarment.
"11–2504. Censure, suspension, or disbarment by other courts.

"§ 11–2501. Admission to bar; regulations; prior admission

"(a) The District of Columbia Court of Appeals shall make such rules as it deems proper respecting the examination, qualification, and admission of persons to membership in its bar, and their censure, suspension, and expulsion.

"(b) Members of the bar of the District of Columbia Court of Appeals shall be eligible to practice in the District of Columbia courts.

"(c) Members of the bar of the United States District Court for the District of Columbia in good standing on April 1, 1972, shall be automatically enrolled as members of the bar of the District of Columbia Court of Appeals, and shall be subject to its disciplinary jurisdiction.

"§ 11–2502. Censure, suspension, or disbarment for cause

"The District of Columbia Court of Appeals may censure, suspend from practice, or expel a member of its bar for crime, misdemeanor, fraud, deceit, malpractice, professional misconduct, or conduct prejudicial to the administration of justice. A fraudulent act or misrepresentation by an applicant in connection with his application or admission is sufficient cause for the revocation by the court of his admission.

"§ 11–2503. Disbarment upon conviction of crime; procedure for censure, suspension or disbarment

"(a) When a member of the bar of the District of Columbia Court of Appeals is convicted of an offense involving moral turpitude, and a certified copy of the conviction is presented to the court, the court shall, pending final determination of an appeal from the conviction, suspend the member of the bar from practice. Upon reversal of the conviction the court may vacate or modify the suspension. If a final judgment of conviction is certified to the court, the name of the member of the bar so convicted shall be struck from the roll of the members of the bar and he shall thereafter cease to be a member. Upon the granting of a pardon to a member so convicted, the court may vacate or modify the order of disbarment.

"(b) Except as provided in subsection (a), a member of the bar may not be censured, suspended, or expelled under this chapter until written charges, under oath, against him have been presented to the court, stating distinctly the grounds of complaint. The court may order the charges to be filed in the office of the clerk of the court and shall fix a time for hearing thereon. Thereupon a certified copy of the charges and order shall be served upon the member personally, or if it is established to the satisfaction of the court that personal service cannot be had, a certified copy of the charges and order shall be served upon him by mail, publication, or otherwise as the court directs. After the filing of the written charges, the court may suspend the person charged from practice at its bar pending the hearing thereof.

"§ 11–2504. Censure, suspension, or disbarment by other courts

"The Federal courts in the District of Columbia and the Superior Court may censure, suspend, or expel an attorney from practice at their respective bars, for a crime involving moral turpitude, or professional misconduct, or conduct prejudicial to the administration of justice. If an attorney is expelled from practice under this section, the court expelling him shall notify the other Federal courts in the District of Columbia and the District of Columbia Court of Appeals of the action taken."

PART B—PROCEEDINGS REGARDING JUVENILE DELINQUENCY AND RELATED MATTERS

SEC. 121. (a) Chapter 23 of title 16 of the District of Columbia Code is amended to read as follows:

"Chapter 23.—FAMILY DIVISION PROCEEDINGS

"SUBCHAPTER I.—PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION

"Sec.
"16–2301. Definitions.
"16–2302. Transfer of criminal matters to Family Division.
"16–2303. Retention of jurisdiction.
"16–2304. Right to counsel.
"16–2305. Petition; contents; amendment.
"16–2306. Service of summons, and petition.
"16–2307. Transfer for criminal prosecution.
"16–2308. Initial appearance.
"16–2309. Taking into custody.
"16–2310. Criteria for detaining child.
"16–2311. Release or delivery to Family Division.
"16–2312. Detention or shelter care hearing; intermediate disposition.
"16–2313. Place of detention or shelter.
"16–2314. Consent decree.
"16–2315. Physical and mental examinations.
"16–2316. Conduct of hearings; evidence.
"16–2317. Hearings; findings; dismissal.
"16–2318. Order of adjudication noncriminal.
"16–2319. Predisposition study and report.
"16–2320. Disposition of child who is neglected, delinquent, or in need of supervision.
"16–2321. Disposition of mentally ill or mentally retarded child.
"16–2322. Limitation of time on disposition orders.
"16–2323. Modification, termination of orders.
"16–2324. Support of committed child.
"16–2325. Court costs and expenses.
"16–2326. Probation revocation; disposition.
"16–2327. Interlocutory appeals.
"16–2328. Finality of judgments; appeals; transcripts.
"16–2329. Time computation.
"16–2330. Juvenile case records; confidentiality; inspection; and disclosure.
"16–2331. Juvenile social records; confidentiality; inspection; and disclosure.
"16–2332. Police and other law enforcement records.
"16–2333. Fingerprint records.
"16–2334. Sealing of records.
"16–2335. Unlawful disclosure of records.
"16–2336. Additional powers of Director of Social Services.
"16–2337. Emergency medical treatment.

"SUBCHAPTER II.—PATERNITY PROCEEDINGS

"Sec.
"16–2341. Representation.
"16–2342. Time of bringing complaint.
"16–2343. Blood tests.
"16–2344. Exclusion of public.
"16–2345. New birth record upon marriage of natural parents.
"16–2346. Reports to Director of Public Health.
"16–2347. Death of respondent; liability of estate.
"16–2348. Paternity records; confidentiality; inspection; and disclosure.

"SUBCHAPTER I.—PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION

"§ 16–2301. Definitions

"As used in this subchapter—

"(1) The term 'Division' means the Family Division of the Superior Court of the District of Columbia.

"(2) The term 'judge' means a judge assigned to the Family Division of the Superior Court.

"(3) The term 'child' means an individual who is under 18 years of age, except that the term 'child' does not include an individual who is—

"(A) sixteen years of age or older and who is charged by the United States attorney

with (i) murder, manslaughter, rape, mayhem, arson, kidnaping, burglary, robbery, any assault with intent to commit any such offense, or assault with a dangerous weapon, or (ii) an offense listed in clause (i) and any other offense properly joinable with such an offense;

"(B) charged with an offense referred to in subparagraph (A) (i) and convicted by plea or verdict of a lesser included offense; or

"(C) sixteen years of age or older and who is charged with a traffic offense.

For purposes of this subchapter the term 'child' also includes a person under the age of twenty-one who is charged with an offense referred to in subparagraph (A) or (C) committed before he attained the age of sixteen, or a delinquent act committed before he attained the age of eighteen.

"(4) The term 'minor' means an individual who is under the age of twenty-one years.

"(5) The term 'adult' means an individual who is twenty-one years of age or older.

"(6) The term 'delinquent child' means a child who has committed a delinquent act and is in need of care or rehabilitation.

"(7) The term 'delinquent act' means an act designated as an offense under the law of the District of Columbia, or of a State if the act occurred in a State, or under Federal law. Traffic offenses shall not be deemed delinquent acts unless committed by an individual who is under the age of sixteen.

"(8) The term 'child in need of supervision' means a child who—

"(A) (i) being subject to compulsory school attendance, is habitually and without justification truant from school;

"(ii) has committed an offense not classified as criminal or is one applicable only to children; or

"(iii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; and

"(B) is in need of care or rehabilitation.

"(9) The term 'neglected child' means a child—

"(A) who has been abandoned or abused by his parent, guardian, or other custodian;

"(B) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his parent, guardian, or other custodian;

"(C) whose parent, guardian, or other custodian is unable to discharge his responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

"(D) who has been placed for care or adoption in violation of law.

No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered a neglected child for purposes of this subchapter.

"(10) The term 'mentally ill child' means a child who is mentally ill within the meaning of section 21–501.

"(11) The term 'mentally retarded child' means a child who is mentally retarded within the meaning of section 21–1101.

"(12) The term 'custodian' means a person or agency, other than a parent or legal guardian, to whom legal custody of a child has been given by court order and who is acting in loco parentis.

"(13) The term 'detention' means the temporary, secure custody of a child in facilities, designated by the Division, pending a final disposition of a petition.

"(14) The term 'shelter care' means the temporary care of a child in physically unrestricting facilities, designated by the Division, pending a final disposition of a petition.

"(15) The term 'detention or shelter care hearing' means a hearing to determine whether a child who is in custody should be placed or continued in detention or shelter care.

"(16) The term 'factfinding hearing' means a hearing to determine whether the allegations of a petition are true.

"(17) The term 'dispositional hearing' means a hearing, after a finding of fact, to determine—

"(A) whether the respondent in a delinquent or need of supervision case is in need of care or rehabilitation and, if so, what order of disposition should be made; or

"(B) what order of disposition should be made in a neglect case.

"(18) The term 'probation' means a legal status created by court order following an adjudication of delinquency or need of supervision, whereby a minor is permitted to remain in the community subject to appropriate supervision and return to the Division for violation of probation at any time during the period of probation.

"(19) The term 'protective supervision' means a legal status created by Division order in neglect cases whereby a minor is permitted to remain in his home under supervision, subject to return to the Division during the period of protective supervision.

"(20) The term 'guardianship of the person of a minor' means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor, and concern with his general welfare. It includes (but is not limited to)—

"(A) authority to consent to marriage, enlistment in the armed forces of the United States, and major medical, surgical, or psychiatric treatment; to represent the minor in legal actions; and to make other decisions concerning the minor of substantive legal significance;

"(B) the authority and duty of reasonable visitation (except as limited by court order);

"(C) the right and responsibility of legal custody when guardianship of the person is exercised by the natural or adoptive parent (except where legal custody has been vested in another person or an agency or institution); and

"(D) the authority to exercise residual parental rights and responsibilities when the rights of his parents or only living parent have been judicially terminated or when both parents are dead.

"(21) The term 'legal custody' means a legal status created by court order which vests in a custodian the responsibility for the custody of a minor which includes—

"(A) physical custody or the determination of where and with whom the minor shall live;

"(B) the right and duty to protect, train, and discipline the minor; and

"(C) the responsibility to provide the minor with food, shelter, education, and ordinary medical care.

A court order of 'legal custody' is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

"(22) The term 'residual parental rights and responsibilities' means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person, including (but not limited to) the right of visitation, consent to adoption, and determination of religious affiliation and the responsibility for support.

"§ 16–2302. Transfer of criminal matters to Family Division

"(a) If it appears to a court, during the pendency of a criminal charge and before the time when jeopardy would attach in the case of an adult, that a minor defendant was a child at the time of an alleged offense, the court shall forthwith transfer the charge against the defendant, together with all papers and documents connected therewith, to the Division. All action taken by the court prior to transfer of the case shall be deemed null and void unless the Division transfers the child for criminal prosecution under section 16–2307.

"(b) If at the time of an alleged offense, a minor defendant was a child but this fact was not discovered by the court until after jeopardy has attached, the court shall proceed to verdict. If judgment has not been entered, the court shall determine on the basis of the criteria in section 16–2307(e) whether to enter judgment or to refer the case to the Division for disposition. If judgment has been entered, it shall not be set aside on the ground of the defendant's age.

"(c) The court making a transfer shall order the minor to be taken forthwith to the Division or to a place of detention designated for children by the Superior Court. The Division shall then proceed as provided in this subchapter.

"(d) Nothing in this section shall affect the jurisdiction of a court over a person twenty-one years of age or older.

"§ 16–2303. Retention of jurisdiction

"For purposes of this subchapter, jurisdiction obtained by the Division in the case of a child shall be retained by it until the child becomes twenty-one years of age, unless jurisdiction is terminated before that time. This section does not affect the jurisdiction of other divisions of the Superior Court or other courts over offenses committed by a person after he ceases to be a child. If a minor already under the jurisdiction of the Division is convicted in the Criminal Division or another court of a crime committed after he ceases to be a child, the Family Division may, in appropriate cases terminate its jurisdiction.

"§ 16–2304. Right to counsel

"(a) A child alleged to be delinquent or in need of supervision is entitled to be represented by counsel at all critical stages of Division proceedings beginning at the time of admission or denial of allegations in the petition and at all subsequent stages. If the child and his parent, guardian, or custodian are financially unable to obtain adequate representation, the child shall be entitled to have counsel appointed for him in accordance with rules established by the Superior Court. In its discretion, the Division may appoint counsel for the child over the objection of the child, his parent, guardian, or other custodian.

"(b) When a child is alleged to be neglected, the parent, guardian, or custodian of the child named in the petition is entitled to be represented by counsel at all critical stages of the Division proceedings and, if financially unable to obtain adequate representation, to have counsel appointed in accordance with rules established by the Superior Court. The Division shall, where appropriate, appoint separate counsel to represent the child, as provided in section 16–918.

"§ 16–2305. Petition; contents; amendment

"(a) Complaints alleging delinquency, need of supervision, or neglect shall be referred to the Director of Social Services who shall conduct a preliminary inquiry to determine whether the best interests of the child or the public require that a petition be filed. If judicial action appears warranted, under intake criteria established by rule of the Superior Court, the Director shall recommend that a petition be filed. If the Director decides not to recommend the filing of a petition, the complainant in a delinquency or neglect case shall have a right to have that decision reviewed by the Corporation Counsel, and the Director shall notify the complainant of such right of review.

"(b) Petitions initiating judicial action may be signed by any person who has knowl-

edge of the facts alleged or, being informed of them, believes they are true, except that petitions alleging need of supervision may only be signed by the Director of Social Services, a representative of a public agency or a nongovernmental agency licensed and authorized to care for children, a representative of a public or private agency providing social service for families, a school official, or a law enforcement officer. Petitions shall be verified and verification may be upon information or belief.

"(c) Each petition shall be prepared by the Corporation Counsel after an inquiry into the facts and a determination of the legal basis for the petition. If the Director of Social Services has refused to recommend filing of a delinquency or neglect petition, the Corporation Counsel, on request of the complainant, shall review the facts presented and shall prepare and file a petition if he believes such action is necessary to protect the community or the interests of the child. Any decision of the Corporation Counsel on whether to file a petition shall be final.

"(d) Petitions shall be filed by the Corporation Counsel within ten days after the complaint has been referred to the Director of Social Services, except as otherwise provided in section 16–2312. A petition shall set forth plainly and concisely the facts which give the Division jurisdiction of the child under section 11–1101(13) and in delinquency cases the petition shall state the specific statute or ordinance on which the charge is based; and, if delinquency or need of supervision is alleged, a statement that the child appears to be in need of care or rehabilitation. The petition shall contain such other facts and information as may be required by rules of the Superior Court.

"(e) A petition may be amended by leave of the Division on motion of the Corporation Counsel or counsel for the child, at any time prior to the conclusion of the factfinding hearing. The Division shall grant the Corporation Counsel, the child, and his parent, guardian, or custodian notice of the amendment and, where necessary, additional time to prepare.

"(f) The District of Columbia shall be a party to all proceedings under this subchapter.

"§ 16–2306. Service of summons and petition

"(a) When a petition is filed, the Division shall set a time for initial appearance and shall direct the issuance of summonses. If delinquency or need of supervision is alleged, a summons, together with a copy of the petition, shall be served upon the child and upon his spouse (if any) and his parent, guardian, or other custodian. If neglect is alleged, the summons, together with a copy of the petition, shall be served on the parent, guardian, or other custodian of the child named in the petition. Where appropriate to the proper disposition of the case, the Division may direct service of summonses upon other persons. A summons issued pursuant to this section shall advise the parties of the right to counsel as provided in section 16–2304.

"(b) Upon request of the Corporation Counsel, the Division may endorse upon the summons an order directing the parent, guardian, or other custodian of the child to appear personally at the hearing and directing the person having physical custody or control of the child to bring the child to the hearing.

"(c) If it appears, from information presented to the Division, that there are grounds to take the child into custody as provided in section 16–2309, or that the child may leave or be removed from the jurisdiction of the Superior Court or will not be brought to the hearing, notwithstanding service of the summons, the Division may endorse upon the summons an order that the officer serving the summons shall at once take the child into custody. If the child is taken into custody under this section, the provisions of sections 16–2309 to 16–2311 shall apply.

"§ 16–2307. Transfer for criminal prosecution

"(a) Within ten days of the filing of a delinquency petition, or later for good cause shown, and prior to a factfinding hearing on the petition, the Corporation Counsel, following consultation with the Director of Social Services, may file a motion, supported by a statement of facts, requesting transfer of the child for criminal prosecution, if—

"(1) the child was fifteen or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult;

"(2) the child is sixteen or more years of age and is already under commitment to an agency or institution as a delinquent child; or

"(3) a minor eighteen years of age or older is alleged to have committed a delinquent act prior to having become eighteen years of age.

"(b) Following the filing of the motion by the Corporation Counsel, summonses shall be issued and served in conformity with the provisions of section 16–2306.

"(c) When there are grounds to believe the child is mentally retarded or mentally ill, the Division shall stay the proceedings for the purpose of obtaining an examination. After examination, the Division shall proceed to a determination under subsection (d) unless it determines that the child is incompetent to participate in the proceedings, in which event it shall order the child committed to a mental hospital pursuant to section 16–2315 or section 927 of the Act of March 3, 1901 (D.C. Code, sec. 24–301(a)).

"(d) The Division shall conduct a hearing on each transfer motion for the purpose of determining whether there are reasonable prospects of rehabilitating the child prior to his majority, unless a commitment pursuant to subsection (c) has intervened. Unless the Division finds that there are reasonable prospects for rehabilitating the child prior to his majority, it shall transfer the child for criminal prosecution and notify the United States attorney. Accompanying the order of transfer shall be a statement of the reasons, with respect to the five factors set forth in subsection (e) of this section, for transferring the child. This statement shall be available, upon request, to any court in which the transfer is challenged, but shall not be available to the trier of fact on the criminal charge prior to verdict.

"(e) Evidence of the following factors shall be considered in determining whether there are reasonable prospects for rehabilitating a child prior to his majority:

"(1) the child's age;

"(2) the nature of the present offense and the extent and nature of the child's prior delinquency record;

"(3) the child's mental condition;

"(4) the nature of past treatment efforts and the nature of the child's response to past treatment efforts; and

(5) the techniques, facilities, and personnel for rehabilitation available to the Division and to the court that would have jurisdiction after transfer.

The rules of evidence at transfer hearings shall be the same as those that govern disposition proceedings in delinquency cases, as set forth in section 16–2317. At a transfer hearing, only the propriety of eventual Division disposition shall be considered, and evidence bearing on probable cause or the likelihood that the child committed the act alleged shall not be admitted.

"(f) Prior to a transfer hearing, a study and report, in writing, relevant to the factors in subsection (e), shall be made by the Director of Social Services. This report and all social records that are to be made available to the judge at the transfer hearing shall be made available to counsel for the child and to the Corporation Counsel at least five days prior to the hearing.

"(g) A judge who conducts a hearing pursuant to this section shall not, over the objection of the child whose prospects for rehabilitation were at issue, participate in any subsequent factfinding proceedings relating to the offense.

"(h) Transfer of a child for criminal prosecution terminates the jurisdiction of the Division over the child with respect to any subsequent delinquent acts.

"§ 16–2308. Initial appearance

"At the time set forth in the summons, or at such later time as may be authorized by rule of the Superior Court, the child named in a delinquency or need of supervision petition or the parent, guardian, or custodian of a child named in a neglect petition shall appear before a judge assigned to the Division and shall be advised of the contents of the petition and of the right to counsel as provided in section 16–2304. At that time the child, or in neglect cases the parent, guardian, or custodian, may admit or deny the allegations in the petition, but it shall not be necessary at the initial appearance for the Corporation Counsel to establish probable cause to believe that the allegations in the petition are true. At the initial appearance, the judge may set the time for the factfinding hearing or continue the matter until a later time. This section shall not apply in any case where prior to or at the time of the initial appearance, a detention or shelter care hearing is required by section 16–2312.

"§ 16–2309. Taking into custody

"A child may be taken into custody—

"(1) pursuant to order of the Division under section 16–2306 or 16–2311;

"(2) by a law enforcement officer when he has reasonable grounds to believe that the child has committed a delinquent act;

"(3) by a law enforcement officer when he has reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his surroundings, and that his removal from his surroundings is necessary; or

"(4) by a law enforcement officer when he has reasonable grounds to believe that the child has run away from his parent, guardian, or other custodian.

§ 16–2310. Criteria for detaining children

"(a) A child shall not be placed in detention prior to a factfinding hearing or a dispositional hearing unless he is alleged to be delinquent or in need of supervision and unless it appears from available information that detention is required—

"(1) to protect the person or property of others or of the child, or

"(2) to secure the child's presence at the next court hearing.

"(b) A child shall not be placed in shelter care prior to a factfinding hearing of a dispositional hearing unless it appears from available information that shelter care is required—

"(1) to protect the person of the child, or

"(2) because the child has no parent, guardian, custodian, or other person or agency able to provide supervision and care for him, and the child appears unable to care for himself.

"(c) The criteria for detention and shelter care provided in this section, as implemented by rules of the Superior Court, shall govern the decisions of all persons responsible for determining whether detention or shelter care is warranted prior to the factfinding hearing.

"§ 16–2311. Release or delivery to Family Division

"(a) A person taking a child into custody shall with all reasonable speed—

"(1) release the child to his parent, guardian, or custodian upon a promise to bring

the child before the Division when requested by the Division, unless the child's placement in detention or shelter care appears required as provided in section 16–2310; or

"(2) bring the child before the Director of Social Services, or to a medical facility if the child appears to require prompt treatment or to require prompt diagnosis for medical or evidentiary purposes.

Any person taking a child into custody shall give prompt notice to the Corporation Counsel and to the parent, guardian, or custodian (if known) together with the reasons for custody.

"(b) When a child is brought before the Director of Social Services, the Director shall in all cases review the need for detention or shelter care prior to the admission of the child to the place of detention or shelter care. The child shall be released to his parent, guardian, or custodian unless the Director of Social Services finds that detention or shelter care is required under section 16–2310.

"(c) If a parent, guardian, or custodian fails, when requested, to bring the child to the Division as provided in subsection (a)(1), the Division may issue a warrant directing that the child be taken into custody and brought before the Division.

"§ 16–2312. Detention or shelter care hearing; intermediate disposition

"(a) When a child is not released as provided in section 16–2311—

"(1) a detention or shelter care hearing shall be commenced not later than the next day (excluding Sundays) after the child has been taken into custody or transferred from another court as provided by section 16–2302; and

"(2) a petition shall be filed at or prior to the detention or shelter care hearing.

"(b) Prompt notice of the detention or shelter care hearing shall be given, if delinquency or need of supervision is alleged, to the child, or to his spouse (if any), parent, guardian, or custodian, if he can be found, or, if neglect is alleged, to the child, and to the parent, guardian, or custodian named in the petition if he can be found. Counsel for the child, and in neglect cases counsel for the parent, guardian, or custodian, shall be entitled to a copy of the petition prior to the hearing.

"(c) at the commencement of the hearing the judge shall advise the parties of the right to counsel, as provided in section 16–2304, and shall appoint counsel if required. He shall also inform them of the contents of the petition and shall afford the child, or in a neglect case, the parent, guardian, or custodian, an opportunity to admit or deny the allegations in the petition. He shall then hear from the Corporation Counsel to determine whether the child should be placed or continued in detention or shelter care under the criteria in section 16–2310. The child and his parent, guardian, or custodian shall have a right to be heard in their own behalf.

"(d) When a judge finds that a child's detention or shelter care is not required under the criteria in section 16–2310, he shall order the child's release, and may impose one or more of the following conditions:

"(1) Placement of the child in the custody of a parent, guardian, or custodian or under supervision of a person or organization agreeing to supervise him.

"(2) Placement of restrictions on the child's travel, activities, or place of abode during the period of release.

"(3) Any other condition reasonably necessary to assure the appearance of the child at a factfinding hearing or his protection from harm, including a requirement that the child return to the physical custody of the parent, guardian, or custodian after specified hours.

"(e) When a judge finds that a child's detention or shelter care is required under the criteria of section 16–2310, he shall then hear evidence presented by the Corporation Counsel to determine whether there is probable cause to believe the allegations in the petition are true. The child, his parent, guardian or custodian may present evidence on the issues and be heard in their own behalf.

"(f) When a judge finds there is probable cause to believe the allegations in the petition are true, he shall order the child to be placed or continued in detention or shelter care and set forth his reasons. When a judge finds that there is no probable cause to believe the allegations in the petition are true, he shall order the child to be released.

"(g) For good cause shown, the Division may grant a continuance of the detention or shelter care hearing, or any part thereof, for a period not to exceed five days. During the period of the continuance, the Division may order the child to be placed or continued in detention or shelter care.

"(h) On motion by or on behalf of the child, a child in custody shall be released from custody if his detention or shelter care hearing is not commenced within the time set herein.

"(i) If a child is not released after his detention or shelter care hearing and the parent, guardian or custodian did not receive notice thereof, the Division may, in the interest of justice, conduct a new hearing in accordance with rules prescribed by the Superior Court.

"(j) Upon objection of the child or his parent, guardian or custodian, a judge who conducted a detention or shelter care hearing shall not conduct a factfinding hearing on the petition.

"§ 16–2313. Place of detention or shelter

"(a) A child who is alleged to be neglected and who is in custody may be placed at any time prior to disposition, only in—

"(1) a foster home;

"(2) a group home, youth shelter, or other appropriate home for nondelinquent children; or

"(3) another facility for shelter care designated by the division, including an appropriate facility operated by the District of Columbia.

No child alleged to be neglected may be placed in a facility described in paragraph (3) of subsection (b) of this section.

"(b) A child who is alleged to be in need of supervision or (except as provided in subsection (d) or (e)) is alleged to be delinquent and who is in custody may be detained at any time prior to disposition only in—

"(1) a foster home;

"(2) a group home, youth shelter, or other appropriate home for allegedly delinquent children; or

"(3) a detention home for allegedly delinquent children or children alleged to be in need of supervision, designated or operated by the District of Columbia.

Unless the Division shall by order so authorize, no child may be detained in a facility described in paragraph (3) if it would result in his commingling with children who have been adjudicated delinquent and committed by order of the Division.

"(c) A child in detention or shelter care may be temporarily transferred to a medical facility for physical care and may, on order of the Division pursuant to section 16–2315, be temporarily transferred to a facility for mental examination or treatment.

"(d) Except as provided in subsection (e), no child under eighteen years of age may be detained in a jail or other facility for the detention of adults, unless transferred as provided in section 16–2307. The appropriate official of a jail or other facility for the detention of adults shall inform the Superior Court immediately when a child under the age of eighteen years is received there (other than by transfer) and shall (1) deliver him to the Director of Social Services upon request, or (2) transfer him to a detention facility described in subsection (b)(3).

"(e) A child sixteen years of age or older who is alleged to be delinquent and who is in detention, whose conduct constitutes a menace to other children, and who cannot be controlled, may on order of the Division be transferred to a place of detention for adults, but shall be kept separate from adults.

"§ 16–2314. Consent decree

"(a) At any time after the filing of a delinquency or need of supervision petition and prior to adjudication at a factfinding hearing, the Division may, on motion of the Corporation Counsel or counsel for the child, suspend the proceedings and continue the child under supervision, without commitment, under terms and conditions established by rules of the Superior Court. Such a consent decree shall not be entered unless the child is represented by counsel and has been informed of the consequences of the decree nor shall it be entered over the objection of the child or of the Corporation Counsel.

"(b) A consent decree shall remain in force for six months unless the child is sooner discharged by the Director of Social Services. Upon application of the Director of Social Services or an agency supervising the child made prior to the expiration of the decree, a consent decree may, after notice and hearing, be extended for not more than six additional months by order of the Division.

"(c) If prior to the expiration of the decree or discharge by the Director of Social Services, the child fails to fulfill the express conditions of the decree or a new delinquency or need of supervision petition is filed concerning the child, the original petition under which the decree was filed may, in the discretion of the Corporation Counsel following consultation with the Director of Social Services, be reinstated. The child shall thereafter be held accountable on the original petition as if the consent decree had never been entered.

"(d) If a child completes the period of continuance under supervision in accordance with the consent decree or is sooner discharged by the Director of Social Services, the Division shall dismiss the original petition.

"§ 16–2315. Physical and mental examinations

"(a) At any time following the filing of a petition, on motion of the Corporation Counsel or counsel for the child, or on its own motion, the Division may order a child to be examined to aid in determining his physical or mental condition.

"(b) Wherever possible examinations shall be conducted on an outpatient basis, but the Division may, if it deems necessary, commit the child to a suitable medical facility or institution for the purpose of examination. Commitment for examination shall be for a period of not more than sixty days unless the Division, for good cause shown, shall extend the commitment for a further period not to exceed sixty days.

"(c)(1) If as a result of a mental examination the Division determines that a child alleged to be delinquent is incompetent to participate in proceedings under the petition by reason of mental illness or mental retardation, it shall, except as provided in subsection (2), suspend further proceedings and the Corporation Counsel shall initiate commitment proceedings pursuant to chapter 5 or 11 of title 21.

"(2) If a motion for transfer for criminal prosecution has been filed pursuant to section 16–2307 and the Division determines that a child alleged to be delinquent is incompetent to participate in the transfer proceedings by reason of mental illness, it shall suspend further proceedings and order the child confined to a suitable hospital or facility for the mentally ill until his competency is restored. If prior to the time the child reaches the age of 21 it appears that he will not regain his competency to participate in the proceedings, the Corporation Counsel

shall initiate commitment proceedings pursuant to chapter 5 of title 21.

"(3) If, as a result of mental examination, the Division determines that a child alleged to be in need of supervision is incompetent to participate in proceedings under the petition by reason of mental illness or mental retardation, it shall suspend further proceedings. If proceedings are suspended, the Corporation Counsel may initiate commitment proceedings pursuant to chapter 5 or 11 of title 21.

"(d) The results of an examination under this section shall be admissible in a transfer hearing pursuant to section 16–2307, in a dispositional hearing under this subchapter, or in a commitment proceeding under chapter 5 or 11 of title 21. The results of examination may be admitted into evidence at a factfinding hearing to aid the Division in determining a material allegation of the petition relating to the child's mental or physical condition, but not for the purpose of establishing a defense of insanity.

"(e) Following an adjudication at a factfinding hearing that a child is neglected, the Division may order the mental or physical examination of the parent, guardian, or custodian of the child whose ability to care for the child is at issue. The results of the examination are admissible at a dispositional hearing on the petition alleging neglect.

"§ 16–2316. Conduct of hearings; evidence

"(a) The Division shall, without a jury, hear and adjudicate cases involving delinquency, need of supervision, or neglect. The Corporation Counsel shall present evidence in support of all petitions arising under this subchapter and otherwise represent the District of Columbia in all proceedings.

"(b) Evidence which is competent, material, and relevant shall be admissible at factfinding hearings. Evidence which is material and relevant shall be admissible at detention hearings, transfer hearings under section 16–2307, and dispositional hearings.

"(c) All hearings and proceedings under this subchapter shall be recorded by appropriate means. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings arising under this subchapter. Only persons necessary to the proceedings shall be admitted, but the Division may, pursuant to rule of the Superior Court, admit such other persons (including members of the press) as have a proper interest in the case or the work of the court on condition that they refrain from divulging information identifying the child or members of his family involved in the proceedings.

"(d) If the Division finds that it is in the best interest of the child, it may temporarily exclude him from any proceeding except a factfinding hearing. If the petition alleges neglect, the child may also be temporarily excluded from a factfinding hearing. In any case, counsel for the child may not be excluded.

"§ 16–2317. Hearings, findings; dismissal

"(a) Except as otherwise provided by statute or court rule, all motions shall be heard at the time of the factfinding hearing.

"(b) After a factfinding hearing on the allegations in the petition, the Division shall make and file written findings in all cases as to the truth of the allegations, and in neglect cases, he shall also make and file written findings as to whether the child is neglected. If the Division finds that the allegations in the petition have not been established by the preponderance of the evidence it shall dismiss the petition and order the child released from any detention or shelter care.

"(c) If the Division finds on the basis of the preponderance of the evidence that a child alleged to be delinquent or in need of supervision committed the acts alleged in the petition, it may proceed immediately to hear evidence as to whether he is in need of care or rehabilitation or may postpone the proceedings to await a predisposition study and report. Material and relevant evidence shall be admissible to determine need for care or rehabilitation even though not competent at a factfinding hearing. In the absence of evidence to the contrary, a finding of the commission of an act which would constitute a criminal offense is sufficient to sustain a finding of need for care or rehabilitation.

"(d) If the Division finds that the child is not in need of care or rehabilitation it shall terminate the proceedings and discharge the child from detention, shelter care, or other restriction previously ordered. If it finds the child is in need of care or rehabilitation in a delinquency or need of supervision case, or that the child is neglected, the Division shall proceed immediately, or at a postponed hearing to make proper disposition of the case.

"(e) After a factfinding hearing if the proceedings are not terminated, the Division shall review the need for detention or shelter care of the child.

"§ 16–2318. Order of adjudication noncriminal

"A consent decree, order of adjudication, or order of disposition in a proceeding under this subchapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction, nor does it operate to disqualify a child in any future civil service examination, appointment, or application for public service in either the Government of the United States or of the District of Columbia.

"§ 16–2319. Predisposition study and report

"After a motion for transfer has been filed, or after the Division has made findings pursuant to subsection (b) of section 16–2317 sustaining the allegations of a petition and, in neglect cases, the conclusion that the child is neglected, the Division shall direct that a predisposition study and report to the Division be made by the Director of Social Services or a qualified agency designated by the Division concerning the child, his family, his environment, and other matters relevant to the need for treatment or disposition of the case. Except in connection with a hearing on a transfer motion, no predisposition study or report shall be furnished to or considered by the Division prior to completion of the factfinding hearing.

"§ 16–2320. Disposition of child who is neglected, delinquent, or in need of supervision

"(a) If a child is found to be neglected, the Division may order any of the following dispositions which will be in the best interest of the child:

"(1) Permit the child to remain with his parent, guardian, or other custodian, subject to such conditions and limitations as the Division may prescribe, including but not limited to medical, psychiatric, or other treatment at an appropriate facility on an outpatient basis.

"(2) Place the child under protective supervision.

"(3) Transfer legal custody to any of the following—

"(A) a public agency responsible for the care of neglected children;

"(B) a child placing agency or other private organization or facility which is licensed or otherwise authorized by law and is designated by the Commissioner of the District of Columbia to receive and provide care for the child; or

"(C) a relative or other individual who is found by the Division to be qualified to receive and care for the child.

"(4) Commitment of the child for medical, psychiatric, or other treatment at an appropriate facility on an in-patient basis if, at the dispositional hearing provided for in section 16–2317, the Division finds that confinement is necessary to the treatment of the child. A child for whom medical, psychiatric or other treatment is ordered may petition the Division for review of the order thirty days after treatment under the order has commenced, and, if, after a hearing for the purpose of such review, the original order is affirmed, the child may petition for review thereafter every six months.

"(5) Make such other disposition as may be provided by law and as the Division deems to be in the best interests of the child and the community.

"(b) Unless a child found neglected is also found to be delinquent, he shall not be committed to, or confined in, an institution for delinquent children.

"(c) If a child is found to be delinquent or in need of supervision, the Division may order any of the following dispositions for his supervision, care, and rehabilitation:

"(1) Any disposition authorized by subsection (a).

"(2) Transfer of legal custody to a public agency for the care of delinquent children.

"(3) Probation under such conditions and limitations as the Division may prescribe.

"(d) No child found in need of supervision, unless also found delinquent, shall be committed to or placed in an institution or facility for delinquent children, unless otherwise specified by the Division.

"(e) No delinquent child shall be committed to a penal or correctional institution for adult offenders, except that, on order of the Division, a child sixteen years of age or older who has been committed to another institution or other facility may be transferred after a hearing at which the child is present and represented by counsel and upon a finding by the Division that the child's conduct while in custody constitutes a menace to other children and cannot be controlled. The transfer shall be to a facility maintained by or available to the District of Columbia pursuant to the provisions of section 5025 of title 18, United States Code.

"§ 16–2321. Disposition of mentally ill or mentally retarded child.

"(a) If no previous examination has been made under section 16–2315 and the Division, after factfinding but before a dispositional hearing, has reason to believe that a child is mentally ill or mentally retarded, it may order an examination as provided in section 16–2315.

"(b) If as a result of the examination the child is found to be mentally ill or mentally retarded, the Division may, in lieu of other disposition, direct the appropriate authority to initiate commitment proceedings under chapter 5 or 11 of title 21. The Division may order the child detained in suitable facilities pending commitment proceedings.

"(c) If the examination does not indicate that commitment proceedings should be initiated or if the proceedings do not result in commitment, the Division shall proceed to disposition pursuant to this subchapter.

"§ 16–2322. Limitation of time on dispositional orders

"(a)(1) A dispositional order vesting legal custody of a child in a department, agency, or institution shall remain in force for an indeterminate period not exceeding two years. Unless the order specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

"(2) An order vesting legal custody of a child in an individual other than his parent shall remain in force for two years unless sooner terminated by order of the Division.

"(3) An order of probation or a protective supervision order shall remain in force for a period not exceeding one year from the date entered, but the Director of Social Services or the agency providing supervision may terminate supervision at any time that it

appears the purpose of the order has been achieved.

"(b) A dispositional order vesting legal custody of a child in a department, agency, or institution may be extended for additional periods of one year, upon motion of the department, agency, or institution to which the child was committed, if, after notice and hearing, the Division finds that—

"(1) in the case of a neglected child, the extension is necessary to safeguard his welfare; or

"(2) in the case of a child adjudicated delinquent or in need of supervision, the extension is necessary for his rehabilitation or the protection of the public interest.

"(c) Any other dispositional order may be extended for additional periods of one year, upon motion of the Director of Social Services, if, after notice and hearing, the Division finds that extension is necessary to protect the interest of the child.

"(d) A release or termination of an order prior to expiration of the order pursuant to subsection (a) (1) or (3), shall promptly be reported in writing to the Division.

"(e) Upon termination of a dispositional order a child shall be notified in writing of its termination. Upon termination of an of the Division under this subchapter in accordance with rules of the Superior Court, of his right to request the sealing of his records as provided in section 16–2334.

"(f) Unless sooner terminated, all orders of the Division under this subchapter in force with respect to a child terminate when he reaches twenty-one years of age.

"§ 16–2323. Modification, termination of orders

"(a) An order of the Division under this subchapter shall be set aside if—

"(1) it was obtained by fraud or mistake sufficient to set aside an order or judgment in a civil action;

"(2) the Division lacked jurisdiction; or

"(3) newly discovered evidence so requires.

"(b) A child who has been committed under this subchapter to the custody of an institution, agency, or person, or the parent or guardian of the child, may file a motion for modification or termination of the order of commitment on the ground that the child no longer is in need of commitment, if the child or his parent or guardian has applied to the institution or agency for release and the application was denied or not acted upon within a reasonable time.

"(c) The Director of Social Services shall conduct a preliminary review of motions filed under subsection (b) and shall prepare a report to the Division on the allegations contained therein. The Division may dismiss the motion if it concludes from the report that it is without substance. Otherwise, the Division, after notice, shall hear and determine the issues raised by the motion and deny the motion, or enter an appropriate order modifying or terminating the order of commitment, if it finds such action necessary to safeguard the welfare of the child or the interest of the public.

"(d) A motion may be filed under subsection (b) no more often than every six months.

"§ 16–2324. Support of committed child

"Whenever legal custody of a child is vested in any agency or individual other than the child's parent, after due notice to the parent or other persons legally obligated to care for and support the child and after hearing, the Division may, at the dispositional hearing or thereafter, order and decree that the parent or other legally obligated person shall pay, in such manner as the Division may direct, a reasonable sum that will cover in whole or in part the support and treatment of the child after the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the Division may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

"§ 16–2325. Court costs and expenses

"If, at the dispositional hearing or thereafter, the Division finds, after due notice and hearing, that the parent or other person legally obligated to care for and support a child subject to proceedings under this subchapter is financially able to pay, the Division may order him to pay all or part of the costs of—

"(1) physical and mental examinations and treatment of the child ordered by the Division; and

"(2) reasonable compensation for services and related expenses of counsel appointed by the court to represent the child, or, in neglect cases, himself.

Payment shall be made as prescribed by rules of the Superior Court.

"§ 16–2326. Probation revocation; disposition

"(a) If a child on probation incident to an adjudication of delinquency or need of supervision commits a probation violation he may be proceeded against in a probation revocation hearing.

"(b) A proceeding to revoke probation shall be commenced by the filing of a revocation petition by the Corporation Counsel. The petition shall be in such form as may be prescribed by rule of the Superior Court and shall be served together with a summons in the manner provided in section 16–2306.

"(c) Probation revocation proceedings shall be heard without a jury and shall require establishment of the facts alleged by a preponderance of the evidence. As nearly as may be appropriate, probation revocation proceedings shall conform to the procedures established by this subchapter for delinquency and need of supervision cases.

"(d) If a child is found to have violated the terms of his probation, the Division may modify the terms and conditions of the probation order, extend the period of probation, or enter any other order of disposition specified in section 16–2320 for a delinquent child.

"§ 16–2327. Interlocutory appeals

"(a) A child who has been ordered transferred for criminal prosecution under section 16–2307 or detained or placed in shelter care or subjected to conditions of release under section 16–2312, may, within three days of the date of entry of the Division's order, file a notice of interlocutory appeal.

"(b) Such appeals shall be given precedence over other cases and shall be expedited.

"(c) In cases involving transfer for criminal prosecution, the pendency of an interlocutory appeal shall act to stay criminal proceedings. Until the time for filing an interlocutory appeal has lapsed, or if an appeal is filed until its completion, no child who has been ordered transferred for criminal prosecution shall be removed to a place of adult detention, except as provided in section 16–2313, or otherwise treated as an adult.

"(d) The decision of the District of Columbia Court of Appeals shall be final.

"§ 16–2328. Finality of judgments; appeals; transcripts

"(a) Except as otherwise expressly provided by law, in all hearings and cases tried before the Division pursuant to this subchapter, the judgment of the Division is final.

"(b) In all appeals from decisions of the Division with respect to a child alleged to be neglected, delinquent, or in need of supervision, the child shall be identified only by initials in all transcripts, briefs, and other papers filed, and all necessary steps, as prescribed by rule of the District of Columbia Court of Appeals, shall be taken to protect the identity of the child.

"(c) Upon the filing of a motion and supporting affidavit stating that he is financially unable to purchase a transcript, a party who has filed notice of appeal or of interlocutory appeal shall be furnished, at no cost or at such part of cost as he is able to pay, so much of the transcript as is necessary adequately to prepare and support the appeal.

"(d) An appeal does not operate to stay the order, judgment, or decree appealed from, but on application and hearing whenever the case is properly before the appellate court, that court may order otherwise if suitable provision is made for the care and custody of the child.

"§ 16–2329. Time computation

"(a) In all proceedings in the Division, time limitations shall be reasonably construed by the Division for the protection of the community and of the child.

"(b) The following periods shall be excluded in computing the time limits established for proceedings under this subchapter:

"(1) The period of delay resulting from a continuance granted, upon grounds constituting unusual circumstances, at the request or with the consent, in any case, of the child or his counsel, or, in neglect cases, also of the parent, guardian, or custodian.

"(2) The period of delay resulting from other proceedings concerning the child, including but not limited to an examination or hearing on mental health or retardation and a hearing on a transfer motion.

"(3) The period of delay resulting from a continuance granted at the request of the Corporation Counsel if the continuance is granted because of the unavailability of evidence material to the case, when the Corporation Counsel has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will be available at the later date; or if the continuance is granted to allow the Corporation Counsel additional time to prepare his case and additional time is required due to the exceptional circumstances of the case.

"(4) The period of delay resulting from the imposition of a consent decree.

"(5) The period of delay resulting from the absence of unavailability of the child.

"(6) A reasonable period of delay when the child is joined for a hearing with another child as to whom the time for a hearing has not run and there is good cause for not hearing the cases separately.

"§ 16–2330. Juvenile case records: confidentiality; inspection and disclosure

"(a) As used in this section, the term 'juvenile case records' refers to the following records of a case over which the Division has jurisdiction under section 11–1101(13):

"(1) Notices filed with the court by an arresting officer pursuant to this subchapter.

"(2) The docket of the court and entries therein.

"(3) Complaints, petitions, and other legal papers filed in the case.

"(4) Transcripts of proceedings before the court.

"(5) Findings, verdicts, judgments, orders, and decrees.

"(b) Juvenile case records shall be kept confidential and shall not be open to inspection; but, subject to the limitations of subsection (c), the inspection of those records shall be permitted to—

"(1) judges and professional staff of the Superior Court;

"(2) the Corporation Counsel and his assistants assigned to the Division;

"(3) the respondent, his parents or guardians, and their duly authorized attorneys;

"(4) any court or its probation staff, for purposes of sentencing the respondent as a defendant in a criminal case and the counsel for the defendant in that case;

"(5) public or private agencies or institutions providing supervision or treatment or having custody of the child, if supervision,

treatment, or custody is under order of the Division;

"(6) the United States Attorney for the District of Columbia, his assistants, and any other prosecuting attorneys involved in the investigation or trial of a criminal case arising out of the same transaction or occurrence as a case in which a child is alleged to be delinquent; and

"(7) other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of his family, or in the work of the Superior Court, if authorized by rule or special order of the court.

Records inspected may not be divulged to unauthorized persons; but the prosecuting attorney inspecting records pursuant to paragraph (6) of this subsection may divulge the contents to the extent required in the prosecution of a criminal case, and the United States Attorney for the District of Columbia and his assistants may inspect a transcript of the testimony of any witness and divulge the contents to the extent required by the prosecution of the witness for perjury, without, wherever possible, naming or otherwise revealing the identity of a child under the jurisdiction of the Division.

"(c) Notwithstanding subsection (b), the Superior Court may by rule or special order provide that particular items or classes of items in juvenile case records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection (1) in delinquency or need of supervision cases, by the attorney for the child, or (2) in neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

"(d) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile case records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

"(e) No person shall disclose, inspect, or use records in violation of this section.

"§ 16–2331. Juvenile social records; confidentiality; inspection and disclosure

"(a) As used in this section, the term 'juvenile social records' refers to all social records made with respect to a child in any proceedings over which the Division has jurisdiction under section 11–1101(13), including preliminary inquiries, predisposition studies, and examination reports.

"(b) Juvenile social records shall be kept confidential and shall not be open to inspection; but, subject to the limitations of subsection (c), the inspection of those records shall be permitted to—

"(1) judges and professional staff of the Superior Court and the Corporation Counsel and his assistants assigned to the Division;

"(2) the attorney for the child at any stage of a proceeding in the Division, including intake;

"(3) any court or its probation staff, for purposes of sentencing the child as a defendant in a criminal case, and, if and to the extent other presentence materials are disclosed to him, the counsel for the defendant in that case;

"(4) public or private agencies or institutions providing supervision or treatment, or having custody of the child, if the supervision, treatment, or custody is under order of the Division; and

"(5) other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of his family, or in the work of the Division, if authorized by rule or special order of the court.

Records inspected may not be divulged to unauthorized persons.

"(c) Notwithstanding subsection (b), the Superior Court may by rule or special order provide that particular items or classes of items in juvenile social records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection (1) in delinquency or need of supervision cases, by the attorney for the child, or (2) in neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

"(d) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile social records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

"(e) No person shall disclose, inspect, or use records in violation of this section.

"§ 16–2332. Police and other law enforcement records

"(a) Law enforcement records and files concerning a child shall not be open to public inspection or shall their contents or existence be disclosed to the public unless a charge of delinquency is transferred for criminal prosecution under section 16–2307, the interest of national security requires, or the court otherwise orders in the interest of the child.

"(b) Inspection of records and files is permitted by—

"(1) the Superior Court, having the child currently before it in any proceeding;

"(2) the officers of public and private institutions or agencies to which the child is currently committed, and those professional persons or agencies responsible for his supervision after release;

"(3) any other person, agency, or institution, by order of the court, having a professional interest in the child or in the work of the law enforcement department;

"(4) law enforcement officers of the United States, the District of Columbia, and other jurisdictions when necessary for the discharge of their current official duties;

"(5) a court in which a person is charged with a criminal offense for the purposes of determining conditions of release or bail;

"(6) a court in which a person is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him; and

"(7) the parent, guardian, or other custodian and counsel for the child.

"(c) Photographs may be displayed to potential witnesses for identification purposes, in accordance with the standards of fairness applicable to adults.

"(d) No person shall disclose, inspect, or use records or files in violation of this section.

"§ 16–2333. Fingerprint records

"(a) The contents or existence of law enforcement records and files of the fingerprints of a child shall not be disclosed by the custodians thereof, except—

"(1) to a law enforcement officer of the United States, the District of Columbia, or other jurisdiction for purposes of the investigation and trial of a criminal offense; or

"(2) pursuant to rule or special order of the court.

"(b) When a child is transferred for criminal prosecution under section 16–2307, law enforcement records and files of his fingerprints relating to any matter so transferred shall be deemed those of an adult.

"(c) No person shall disclose, inspect, or use records in violation of this section.

"§ 16–2334. Sealing of records

"(a) On request of a person who has been the subject of a petition filed pursuant to section 16–2305, or on the Division's own motion, the Division shall vacate its order and findings and shall order the sealing of the case and social records referred to in sections 16–2330 and 16–2331 and the law enforcement records and files referred to in section 16–2332, or those of any other agency active in the case if it finds that—

"(1) (A) a neglected child has reached his majority; or

"(B) two years have elapsed since the final discharge of the person from legal custody or supervision, or since the entry of any other Division order not involving custody or supervision; and

"(2) he has not been subsequently convicted of a crime, or adjudicated delinquent or in need of supervision prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication. "(b) Reasonable notice of a motion shall be given to—

"(1) the person who is the subject of the petition;

"(2) the Corporation Counsel;

"(3) the authority granting the discharge, if the final discharge was from an institution parole, or probation; and

"(4) the law enforcement department having custody of the files and records specified in section 16–2332.

"(c) Upon the entry of the order, the proceedings in the case shall be treated as if they never occurred. All facts relating to the action including arrest, the filing of a petition, and the adjudication, filing, and disposition of the Division shall no longer exist as a matter of law. The Division, the law enforcement department, or any other department or agency that received notice under subsection (b) and was named in the order shall reply, and the person who is the subject matter of the records may reply, to any inquiry that no record exists with respect to such person.

"(d) Inspection of the files and records included in the order may thereafter be permitted by the Division only upon application by the person who is the subject of such records, and only to those persons named in the application; but the Division in its discretion may, by special order in an individual case, permit inspection by or release of information in the records to person having a professional interest in the protection, welfare, treatment, and rehabilitation of the person who is the subject of the petition or other members of his family.

"(e) Any adjudication of delinquency or need of supervision or conviction of a felony subsequent to sealing shall have the effect of nullifying the vacating and sealing order.

"(f) A person who has been the subject of a petition filed under this subchapter shall be notified of his rights under subsection (a) at the time a dispositional order is entered and again at the time of his final discharge from supervision, treatment, or custody.

"(g) No person shall disclose, receive, or use records in violation of this section.

"§ 16–2335. Unlawful disclosure of records; penalties

"Whoever wilfully discloses, receives, makes use of, or knowingly permits the use of information concerning a child or other person in violation of sections 16–2330 through 16–2334, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $250 or imprisoned not more than ninety days, or both. Violations of this section shall be prosecuted by

the Corporation Counsel in the name of the District of Columbia.

"§ 16–2336. Additional powers of the Director of Social Services

"In addition to the powers and duties prescribed in section 11–1722, the Director of Social Services shall have power to take into custody and place in detention or shelter care, in accordance with this subchapter, children who are under his supervision as delinquent, in need of supervision, or neglected, or children who have run away from agencies or institutions to which they were committed under this subchapter.

"§ 16–2337. Emergency medical treatment

"Nothing in this subchapter shall prevent a public agency having custody of a child who is under the jurisdiction of the Division from providing the child with emergency medical treatment.

"SUBCHAPTER II.—PATERNITY PROCEEDINGS

"§ 16–2341. Representation

"(a) Where a public support burden has been incurred or is threatened, the Corporation Counsel, or any of his assistants, shall bring a civil action on behalf of any wife or child in the Family Division to enforce support of such wife or child, the Division having jurisdiction under paragraph (3), (4), (10), or (11) of section 11–1101.

"(b) In all cases over which the Division has jurisdiction under paragraphs (3), (4), (10) and (11) of section 11–1101, where the court deems it necessary and proper, an attorney shall be appointed by the court to represent the respondent.

"(c) Nothing in this section shall be construed to interfere with the right of an individual to file a civil action over which the Division has jurisdiction under the paragraphs of section 11–1101 referred to in subsection (b).

"§ 16–2342. Time of bringing complaint

"Proceedings over which the Division has jurisdiction under paragraphs (3) and (11) of section 11–1101 to establish paternity and provide for the support of a child born out of wedlock may be instituted after four months of pregnancy or within two years after the birth of the child, or within one year after the putative father has ceased making contributions for the support of the child. The time during which the respondent is absent from the jurisdiction shall be excluded from the computation of the time within which a complaint may be filed.

"§ 16–2343. Blood tests

"When it is relevant to an action over which the Division has jurisdiction under section 11–1101, the court may direct that the mother, child, and the respondent submit to one or more blood tests to determine whether or not the respondent can be excluded as being the father of the child, but the results of the test may be admitted as evidence only in cases where the respondent does not object to its admissibility. Where the parties cannot afford the cost of a blood test, the court may direct the Department of Public Health to perform such tests without fee.

"§ 16–2344. Exclusion of public

"Upon trial or proceedings over which the Division has jurisdiction under paragraph (3), (4), (10), or (11) of section 11–1101, the court may exclude the general public and, at the request of either party, shall exclude the general public.

"§ 16–2345. New birth record upon marriage of natural parents

"When a certified copy of a marriage certificate is submitted to the Director of Public Health, establishing that the previously unwed parents of a child born out of wedlock have intermarried subsequent to the birth of the child, and the paternity of the child has been judicially determined or acknowledged by the husband before the Commissioner of the District of Columbia or his designated agent, or has been acknowledged in an affidavit sworn to by the husband before a judge or the clerk of a court of record, or before an officer of the armed forces of the United States authorized to administer oaths, and the affidavit is delivered to the Commissioner or his designated agent, a new certificate of birth bearing the original date of birth and the names of both parents shall be issued and substituted for the certificate of birth then on file. The original certificate of birth and all papers pertaining to the issuance of the new certificate shall be placed under seal and opened for inspection only upon order of the Family Division.

"§ 16–2346. Reports to Director of Public Health

"(a) Upon entry of a final judgment determining the paternity of a child born out of wedlock, the clerk of the court shall forward a certificate to the Director of Public Health of the District of Columbia, or his authorized representative in the jurisdiction in which the child was born, giving the name of the person adjudged to be the father of the child.

"(b) Upon receipt of the certificate provided for by subsection (a) of this section, the Director of Public Health or his authorized representative shall file it with the original birth record, and thereafter may issue a certificate of birth registration including thereon the name of the person adjudged to be the father of the child.

"§ 16–2347. Death of respondent; liability of estate

"If the respondent dies after paternity has been established and prior to the time the child reaches the age of 18 years, any sums due and unpaid under an order of the court at the time of his death shall constitute a valid claim against his estate.

"§ 16–2348. Paternity records; confidentiality; inspection and disclosure

"(a) Except on order of the Family Division, no records in a case over which the Division has jurisdiction under section 11–1101(11) shall be open to inspection by anyone other than the plaintiff, respondent, their attorneys of record, or authorized professional staff of the Superior Court. The Family Division, upon proper showing, may authorize the furnishing of certified copies of the records or portions thereof to the respondent, the mother, or custodian of the child, a party in interest, or their duly authorized attorneys. Certified copies of the records or portions thereof may be furnished, upon request, to the Corporation Counsel for use as evidence in nonsupport proceedings and to the Director of Public Health as provided by section 16–2346(a).

"(b) No person shall disclose, receive, or use records in violation of this section. Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information in violation of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $250 or imprisoned not more than ninety days, or both. Violations of this section shall be prosecuted by the Corporation Counsel in the name of the District of Columbia."

(b) The item relating to chaper 23 in the analysis of title 16 of the District of Columbia Code is amended by striking out "Juvenile Court" and inserting in lieu thereof "Family Division".

PART C—INTRAFAMILY OFFENSES; JURISDICTION AND PROCESS OUTSIDE THE DISTRICT OF COLUMBIA; COMPETENCY OF WITNESSES

INTRAFAMILY OFFENSES

SEC. 131. (a) Title 16 of the District of Columbia Code is amended by inserting after chapter 9 the following new chapter:

"Chapter 10.—PROCEEDINGS REGARDING INTRAFAMILY OFFENSES

"Sec.
"16–1001. Intrafamily offense.
"16–1002. Complaint of criminal conduct; referrals to Family Division.
"16–1003. Petition for civil protection.
"16–1004. Petition; notice; temporary order.
"16–1005. Hearing; evidence; protection order.
"16–1006. Dismissal of petition; notice.

"§ 16–1001. Intrafamily offense

"(a) An intrafamily offense is an act, punishable as a criminal offense, committed—

"(1) by one spouse against the other;

"(2) by a parent, guardian, or other legal custodian against a child; or

"(3) by one person against another person with whom he shares a mutual residence and is in a close relationship rendering the application of this chapter appropriate.

"(b) For purposes of this chapter the terms 'complainant' or 'family member' include any individual in the relationship described in subsection (a).

"§ 16–1002. Complaint of criminal conduct; referrals to Family Division

"(a) If, upon the complaint of any person of criminal conduct by another or the arrest of a person charged with criminal conduct, it appears to the United States Attorney for the District of Columbia (hereafter in this chapter referred to as the 'United States attorney') that the conduct involves an intrafamily offense, he shall notify the Director of Social Services. The Director of Social Services may investigate the matter and make such recommendations to the United States attorney as the Director deems appropriate.

"(b) The United States attorney may also (1) file a criminal charge based upon the conduct and may consult with the Director of Social Services concerning appropriate recommendations for conditions of release taking into account the intrafamily nature of the offense; or (2) refer the matter to the Corporation Counsel for the filing of a petition for civil protection in the Family Division of the Superior Court (hereafter in this chapter referred to as the 'Family Division'). Prior to any such referral, the United States attorney shall consult with the Director of Social Services concerning the appropriateness of the referral. A referral to the Corporation Counsel by the United States attorney shall not preclude the United States attorney from subsequently filing a criminal charge based upon the conduct, if he deems it appropriate, but no criminal charge may be filed after the Family Division begins receiving evidence pursuant to section 16–1005.

"§ 16–1003. Petition for civil protection

"(a) Upon referral by the United States attorney, or upon application of any person or agency for a civil protection order with respect to an intrafamily offense committed or threatened, the Corporation Counsel may file a petition for a civil protection in the Family Division.

"(b) In any matter referred to the Corporation Counsel by the United States attorney in which the Corporation Counsel does not file a petition, he shall so notify the United States attorney.

"§ 16–1004. Petition; notice; temporary order

"(a) Upon a filing of a petition for civil protection by the Corporation Counsel, the Family Division shall set the matter for hearing, consolidating it, where appropriate, with other matters before the Family Division involving members of the same family.

"(b) The Family Division shall cause notice of the hearing to be served on the respondent, the complainant and, if appropriate, the family member endangered (or, if a child, the person then having physical custody of the child), the Director of Social Services, and the Corporation Counsel. The respondent shall be served with a copy of the petition together with the notice and shall be

directed to appear at the hearing. The Family Division may also cause notice to be served on other members of the family whose presence at the hearing is necessary to the proper disposition of the matter.

"(c) If, upon the filing of the petition, the Division finds that the safety or welfare of a family member is immediately endangered by the respondent, it may, ex parte, issue a temporary protection order of not more than ten days duration and direct that the order be served along with the notice required by this section.

"§ 16–1005. Hearing; evidence; protection order

"(a) Members of the family receiving notice shall appear at the hearing. In addition to the parties, the Corporation Counsel and the Director of Social Services may present evidence at the hearing.

"(b) Notwithstanding section 14–306, in a hearing under this section, one spouse shall be a competent and compellable witness against the other and may testify as to confidential communications, but testimony compelled over a claim of a privilege conferred by such section shall be inadmissible in evidence in a criminal trial over the objection of a spouse entitled to claim that privilege.

"(c) If, after hearing, the Family Division finds that there is good cause to believe the respondent has committed or is threatening an intrafamily offense, it may issue a protection order—

"(1) directing the respondent to refrain from the conduct committed or threatened and to keep the peace toward the family member;

"(2) requiring the respondent, alone or in conjunction with any other member of the family before the court, to participate in psychiatric or medical treatment or appropriate counseling programs;

"(3) directing, where appropriate, that the respondent avoid the presence of the family member endangered;

"(4) directing the respondent to perform or refrain from other actions as may be appropriate to the effective resolution of the matter; or

"(5) combining two or more of the directions or requirements prescribed by the preceding paragraphs.

"(d) A protection order issued pursuant to this section shall be effective for such period up to one year as the Family Division may specify, but the Family Division may, upon motion of any party to the original proceeding, extend, rescind, or modify the order for good cause shown.

"(e) Any final order issued pursuant to this section and any order granting or denying extension, modification, or rescission of such order shall be appealable.

"(f) Violation of any temporary or permanent order issued under this chapter and failure to appear as provided in subsection (a) shall be punishable as contempt.

"§-16–1006. Dismissal of petition; notice

"(a) The Family Division may dismiss a petition if the matter is not appropriate for disposition in the Family Division.

"(b) If a petition dismissed under subsection (a) was originated by referral from the United States attorney, and the dismissal, was prior to the receipt of evidence pursuant to section 16–1005, the Family Division shall notify the United States attorney of the dismissal."

(b) The analysis of title 16 is amended by adding after the item relating to chapter 9 the following:

"10. Proceedings Regarding Intrafamily Offenses ..... 10–1001".

JURISDICTION AND PROCESS OUTSIDE THE DISTRICT OF COLUMBIA

SEC. 132. (a) Title 13 of the District of Columbia Code is amended by inserting after chapter 3 the following new chapter:

"Chapter 4.—CIVIL JURISDICTION AND SERVICE OUTSIDE THE DISTRICT OF COLUMBIA

"SUBCHAPTER I.—GENERAL PROVISIONS

"Sec.
"13–401. Relation to other provisions of law.
"13–402. Uniformity of interpretation.

"SUBCHAPTER II.—BASES OF PERSONAL JURISDICTION OVER PERSONS OUTSIDE THE DISTRICT OF COLUMBIA

"13–421. Definition of person.
"13–422. Personal jurisdiction based upon enduring relationship.
"13–423. Personal jurisdiction based upon conduct.
"13–424. Service outside the District of Columbia.
"13–425. Inconvenient forum.

"SUBCHAPTER III.—SERVICE OUTSIDE THE DISTRICT OF COLUMBIA

"Sec.
"13–431. Manner and proof of service.
"13–432. Individuals eligible to make service.
"13–433. Individuals to be served; special cases.
"13–434. Assistance to tribunals and litigants outside the District of Columbia.

"SUBCHAPTER I.—GENERAL PROVISIONS

"§ 13–401. Relation to other provisions of law

"Except in cases of irreconcilable conflict, this chapter shall be construed to augment, and not to repeal, any other law of the District of Columbia authorizing another basis of jurisdiction or permitting another procedure for service in civil proceedings in the District of Columbia courts.

"§13–402. Uniformity of interpretation

"When the statutory language so permits, this chapter shall be so interpreted and construed as to make uniform the laws of those jurisdictions which enact in comparable form the first two articles of the Uniform Interstate and International Procedure Act.

"SUBCHAPTER II.—BASES OF PERSONAL JURISDICTION OVER PERSONS OUTSIDE THE DISTRICT OF COLUMBIA

"§ 13–421. Definition of person

"As used in this subchapter, the term 'person' includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, whether or not a citizen or domiciliary of the District of Columbia and whether or not organized under the laws of the District of Columbia.

"§ 13–422. Personal jurisdiction based upon enduring relationship

"A District of Columbia court may exercise personal jurisdiction over a person domiciled in, organized under the laws of, or maintaining his or its principal place of business in, the District of Columbia as to any claim for relief.

"§ 13–423. Personal jurisdiction based upon conduct

"(a) A District of Columbia court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a claim for relief arising from the person's—

"(1) transacting any business in the District of Columbia;

"(2) contracting to supply services in the District of Columbia;

"(3) causing tortious injury in the District of Columbia by an act or omission in the District of Columbia;

"(4) causing tortious injury in the District of Columbia by an act or omission outside the District of Columbia if he regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue from services used or consumed, or services rendered, in the District of Columbia;

"(5) having an interest in, using, or possessing real property in the District of Columbia; or

"(6) contracting to insure or act as surety for or on any person, property, or risk, contract, obligation, or agreement located, executed, or to be performed within the District of Columbia at the time of contracting, unless the parties otherwise provide in writing.

"(b) When jurisdiction over a person is based solely upon this section, only a claim for relief arising from acts enumerated in this section may be asserted against him.

"§ 13–424. Service outside the District of Columbia

"When the exercise of personal jurisdiction is authorized by this subchapter, service may be made outside the District of Columbia.

"§ 13–425. Inconvenient forum

"When any District of Columbia court finds that in the interest of substantial justice the action should be heard in another forum, the court may stay or dismiss such civil action in whole or in part on any conditions that may be just.

"SUBCHAPTER III.—SERVICE OUTSIDE THE DISTRICT OF COLUMBIA

"§ 13–431. Manner and proof of service

"(a) When the law of the District of Columbia authorizes service outside the District of Columbia, the service, when reasonably calculated to give actual notice, may be made—

"(1) by personal delivery in the manner prescribed for service within the District of Columbia;

"(2) in the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction;

"(3) by any form of mail addressed to the person to be served and requiring a signed receipt; or

"(4) as directed by the foreign authority in response to a letter rogatory.

"(b) Proof of service outside the District of Columbia may be made by affidavit of the individual who made the service or in the manner prescribed by the law of the District of Columbia, the order pursuant to which the service is made, or the law of the place in which the service is made for proof of service in an action in any of its courts of general jurisdiction. When service is made by mail, proof of service shall include a receipt signed by the addressee or other evidence of personal delivery to the addressee satisfactory to the court.

"§ 13–432. Individuals eligible to make service

"Service outside the District of Columbia may be made by an individual who is permitted to make service of process under the law of the District of Columbia or under the law of the place in which the service is made or who is designated by a District of Columbia court.

"§ 13–433. Individuals to be served; special cases

"When the law of the District of Columbia requires that in order to effect service one or more designated individuals be served, service outside the District of Columbia under this article must be made upon such designated individual or individuals.

"§ 13–434. Assistance to tribunals and litigants outside the District of Columbia

"(a) A District of Columbia court may order service upon any person who is domiciled or can be found within the District of Columbia of any document issued in connection with a proceeding in a tribunal outside the District of Columbia. The order may be made upon application of any interested person or in response to a letter rogatory issued by a tribunal outside the District of Columbia and shall direct the manner of service.

"(b) Service in connection with a proceeding in a tribunal outside the District of

Columbia may be made within the District of Columbia without an order of court.

"(c) Service under this section does not, of itself, require the recognition or enforcement of an order, judgment, or decree rendered outside the District of Columbia."

(b) The analysis of title 13 is amended by inserting after the item relating to chapter 3 the following new item:

"4. Civil Jurisdiction and Service Outside the District of Columbia ---------- 13–401".

COMPETENCY OF WITNESSES

SEC. 133. (a) Section 14–305 of the District of Columbia Code is amended to read as follows:

"§ 14–305. Competency of witnesses; impeachment by evidence of conviction of crime

"(a) No person is incompetent to testify, in either civil or criminal proceedings, by reason of his having been convicted of a criminal offense.

"(b)(1) Except as provided in paragraph (2), for the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a criminal offense shall be admitted if offered, either upon the cross-examination of the witness or by evidence aliunde, but only if the criminal offense (A) was punishable by death or imprisonment in excess of one year under the law under which he was convicted, or (B) involved dishonesty or false statement (regardless of punishment). A party establishing conviction by means of cross-examination shall not be bound by the witness' answers as to matters relating to the conviction.

"(2)(A) Evidence of a conviction of a witness is inadmissible under this section if—

"(i) the conviction has been the subject of a pardon, annulment, or other equivalent procedure granted or issued on the basis of innocence, or

"(ii) the conviction has been the subject of a certificate of rehabilitation or its equivalent and such witness has not been convicted for a subsequent criminal offense.

"(B) In addition, no evidence of any conviction of a witness is admissible under this section if a period of more than ten years has elapsed since the later of (i) the date of the release of the witness from confinement imposed for his most recent conviction of any criminal offense, or (ii) the expiration of the period of his parole, probation, or sentence granted or imposed with respect to his most recent conviction of any criminal offense.

"(c) For the purposes of this section, to prove conviction of crime it is not necessary to produce the whole record of the proceedings containing the conviction, but the certificate, under seal, of the clerk of the court wherein the proceedings were had, stating the fact of the conviction and for what cause, shall be sufficient.

"(d) The pendency of an appeal from a conviction does not render evidence of that conviction inadmissible under this section. Evidence of the pendency of such an appeal is admissible."

(b) The item relating to section 14–305 in the analysis of chapter 3 is amended to read as follows:

"14–305. Competency of witnesses; impeachment by evidence of conviction of crime."

PART D—CONFORMING AMENDMENTS

Subpart 1—Amendments to District of Columbia Code

AMENDMENTS TO TITLE 12

SEC. 141. Title 12 of the District of Columbia Code is amended as follows:

(1) Section 12–102 is amended to read as follows:

"§ 12–102. Substitution of parties

"The substitution of parties in civil actions in the United States District Court for the District of Columbia and the Superior Court of the District of Columbia is governed by the Federal Rules of Civil Procedure."

(2) Section 12–309 is amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner".

AMENDMENTS TO TITLE 13

SEC. 142. Title 13 of the District of Columbia Code is amended as follows:

(1)(A) Chapter 1 is repealed.

(B) The analysis of title 13 is amended by striking out the item relating to chapter 1.

(2) Section 13–301 is amended to read as follows:

"§ 13–301. Courts to which applicable

"Except as otherwise specifically provided by law or rules of court, this chapter applies to the District of Columbia courts."

(3) Section 13–302 is amended by striking out ", and the District of Columbia of General Sessions, including the Domestic Relations Branch thereof" and inserting in lieu thereof "and the Superior Court of the District of Columbia";

(4) Section 13–331(1) is amended by inserting "chapter 4 of this title or," after "including".

(5)(A) Chapter 7 is repealed.

(B) The analysis of title 13 is amended by striking out the item relating to chapter 7.

AMENDMENTS TO TITLE 14

SEC. 143. Title 14 of the District of Columbia Code is amended as follows:

(1) Section 14–103 is amended by striking out the period at the end thereof and inserting in lieu thereof ", or by leave of a judge of the Superior Court of the District of Columbia in the manner prescribed by the rules of that court."

(2)(A) Section 14–104 is amended—

(i) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court";

(ii) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia"; and

(iii) by striking out all after the first sentence and inserting in lieu thereof "The testimony shall be taken as provided in the rules of the Superior Court."

(B) The item relating to section 14–104 in the analysis of chapter 1 is amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(3) Section 14–307 is amended—

(A) by striking out "courts of the District of Columbia" in subsection (a) and inserting in lieu thereof "Federal courts in the District of Columbia and District of Columbia courts";

(B) by striking out "where the accused raises a defense of insanity" in subsection (b)(2); and

(C) by striking out "or" at the end of paragraph (1) of subsection (b), by striking out the period at the end of paragraph (2) of such subsection and inserting in lieu thereof "; or", and by adding after paragraph (2) the following new paragraph:

"(3) evidence relating to the mental competency or sanity of a child alleged to be delinquent, neglected, or in need of supervision in any proceeding before the Family Division of the Superior Court."

(4) Section 14–309 is amended by striking out "courts of the District of Columbia" and inserting in lieu thereof "Federal courts in the District of Columbia and District of Columbia courts".

(5) Section 14–503 is amended by striking out "the United States District Court for the District of Columbia, or by the former orphans' court of the District" and inserting in lieu thereof "a court in the District of Columbia".

(6) Section 14–505 is amended by striking out "by the secretary or an assistant secretary of the Board of Commissioners" and substituting in lieu thereof "as provided by the Commissioner".

AMENDMENTS TO TITLE 15

SEC. 144. Title 15 of the District of Columbia Code is amended as follows:

(1) Paragraph (2) of section 15–101(a) is amended to read as follows:

"(2) Superior Court of the District of Columbia,".

(2) Section 15–102 is amended by striking out "District of Columbia Court of General Sessions" wherever it appears and inserting in lieu thereof "Superior Court of the District of Columbia".

(3) Sections 15–108 and 15–111 are each amended by inserting "or the Superior Court of the District of Columbia" after "District of Columbia".

(4)(A) Subchapter II of chapter 1 is repealed.

(B) Chapter 1 is amended by striking out the heading "SUBCHAPTER I.—GENERALLY".

(C) The analysis of chapter 1 is amended by striking out the heading "SUBCHAPTER I.—GENERALLY" and by striking out the matter relating to subchapter II.

(5) Section 15–307 is amended by inserting "or the Superior Court of the District of Columbia" and "United States District Court for the District of Columbia".

(6)(A) Section 15–310 is repealed.

(B) Section 15–301 is amended by striking out "15–310,".

(C) The analysis for chapter 3 is amended by striking out the item relating to section 15–310.

(7) Sections 15–311, 15–318, and 15–320 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(8)(A) Subchapter II of chapter 5 is amended—

(i) by striking out "District of Columbia Court of General Sessions" in sections 15–521 and 15–522 and inserting in lieu thereof "Superior Court of the District of Columbia"; and

(ii) by striking out in the subchapter heading "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(B) The analysis of chapter 5 is amended by striking out in the heading relating to subchapter II "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(9) Section 15–706(a) is amended—

(A) by striking out paragraph (14),

(B) by inserting "and" at the end of paragraph (13), and

(C) by redesignating paragraph (15) as paragraph (14).

(10)(A) Section 15–707 is amended to read as follows:

"§ 15–707. Probate fees

"(a) Except as provided in subsection (b), the Register of Wills may demand and receive in advance for services performed by him such fees as shall be set by the Superior Court.

"(b) Where the estate does not exceed two hundred dollars in value the Register of Wills shall receive no fees, and where the estate does not exceed five hundred dollars in value the fees may not exceed ten dollars."

(B) The item relating to section 15–707 in the analysis of chapter 7 is amended by striking out "Court".

(11)(A) Section 15–708 is amended by striking out "the probate court" in the first sentence and inserting in lieu thereof "probate", and by striking out "court" in the section heading.

(B) The item relating to section 15–708 in the analysis of chapter 7 is amended by striking out "Court".

(12)(A) Section 15–709 is amended—

(i) by striking out "District of Columbia Court of General Sessions" and inserting in

lieu thereof "Superior Court of the District of Columbia",

(ii) by striking out "the Court of General Sessions" and inserting in lieu thereof "the Superior Court",

(iii) by amending subsection (b) to read as follows:

"(b) Fees for services by the United States marshals for processes issued by the Superior Court shall be prescribed by rules of that court."; and

(iv) by amending the section heading to read as follows:

"§ 15–709. Fees and costs in Superior Court."

(B) The item relating to section 15–709 in chapter 7 is amended to read as follows:

"15–709. Fees and costs in Superior Court."

(12) Section 15–710 is repealed and the item relating to that section in the analysis of chapter 7 is repealed.

(13)(A) Sections 15–711, 15–712, and 15–713 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(B) The section heading for each of those sections and the items relating to those sections in the analysis of chapter 7 are each amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(13)(A) Section 15–714 is amended—

(i) by striking out "District of Columbia Court of General Sessions" in subsections (a) and (b) and inserting in lieu thereof "Superior Court of the District of Columbia";

(ii) by adding after subsection (b) the following new subsection:

"(c) No travel allowance shall be paid to any witness residing within the District of Columbia."; and

(iii) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court".

(B) The item relating to section 15–714 in the analysis of chapter 7 is amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(14) Section 15–716 is repealed and the item relating to that section in the analysis of chapter 7 is repealed.

(15) Section 15–717 is amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

AMENDMENTS TO TITLE 16

SEC. 145. (a) Chapter 3 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–301 is amended—

(A) by striking out "Domestic Relations Branch of the District of Columbia Court of General Sessions" in subsection (a) and inserting in lieu thereof "Superior Court of the District of Columbia"; and

(B) by striking out "Commissioners" in subsection (b)(3) and inserting in lieu thereof "Commissioner".

(2) Sections 16–304, 16–305, 16–307, and 16–314 are each amended by striking out "Board of Commissioners" and "Board" each place they appear and inserting in lieu thereof "Commissioner".

(b) Chapter 5 of title 16, District of Columbia Code, is amended as follows:

(1) Sections 16–501 and 16–502 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Sections 16–516 and 16–549 are each amended by striking out "Probate Court" and inserting in lieu thereof "Superior Court".

(3)(A) Sections 16–533 and 16–577 are each amended (i) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia", and (ii) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court".

(B) The items relating to such sections in the analysis of chapter 5 are each amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(4) Section 16–578 is amended (A) by striking out "docketed in the United States District Court of the District of Columbia" and inserting in lieu thereof "filed and recorded", (B) by striking out "six years" and inserting in lieu thereof "twelve years", and (C) by striking out "section 15–132(a)" and inserting in lieu thereof "section 15–101".

(5) Section 16–581 is amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(c) Section 16–601 of the District of Columbia Code is amended by—

(1) striking out ", or a judge thereof," in the first sentence and inserting in lieu thereof "or the Superior Court of the District of Columbia,", and

(2) striking out "has" in the first sentence of the second paragraph and inserting in lieu thereof the following: "(as specified in section 11–501) and the Superior Court of the District of Columbia (as specified in section 11–921) have".

(d) Chapter 7 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–701 is amended to read as follows:

"§16–701. Rules and regulations

"The Superior Court may make such rules and regulations for conducting business in the Criminal Division of the Court, consistent with statutes applicable to such business and in the manner provided in section 11–946, as it may deem necessary and proper."

(2)(A) Section 16–702 is amended to read as follows:

"§ 16–702. Prosecution by indictment or information

"An offense prosecuted in the Superior Court which may be punished by death shall be prosecuted by indicement returned by a grand jury. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, but it may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment. Any other offense may be prosecuted by indictment or by information. An information subscribed by the proper prosecuting officer may be filed without leave of court."

(B) The item relating to section 16–702 in the analysis of chapter 7 is amended to read as follows:

"16–702. Prosecution by indictment or information."

(3) Section 16–703 is amended to read as follows:

"§ 16–703. Process of criminal division; fees

"(a) The Criminal Division of the Superior Court may issue process for the arrest of a person against whom an indictment is returned, an information is filed, or a complaint under oath is made.

"(b) Process shall—

"(1) be under the seal of the court;

"(2) bear teste in the name of a judge of the court; and

"(3) be signed by a clerk or employee of the court authorized to administer oaths.

"(c) In cases arising out of violations of any of the ordinances of the District of Columbia, process shall be directed to the Chief of Police, who shall execute the process and make return thereof in like manner as in other cases.

"(d) In all other criminal cases, the process issued by the Superior Court may be directed to the United States marshal or to the Chief of Police.

"(e) For Services pursuant to subsection (d) of this section the marshal shall receive the fees prescribed by section 15–709(b)(2)."

(4) Section 16–705 is amended to read as follows:

"§ 16–705. Jury trial; trial by court

"(a) In a criminal case tried in the Superior Court in which, according to the Constitution of the United States, the defendant is entitled to a jury trial, the trial shall be by jury, unless the defendant in open court expressly waives trial by jury and requests trial by the court, and the court and the prosecuting officer consent thereto. In the case of a trial without a jury, the trial shall be by a single judge, whose verdict shall have the same force and effect as that of a jury.

"(b) In any case where the defendant is not under the Constitution of the United States entitled to a trial by jury, the trial shall be by a single judge without a jury, except that if—

"(1) the case involves an offense which is punishable by a fine or penalty of more than $300 or by imprisonment for more than ninety days (or for more than six months in the case of the offense of contempt of court), and

"(2) the defendant demands a trial by jury and does not subsequently waive a trial by jury in accordance with subsection (a), the trial shall be by jury.

"(c) The jury shall consist of twelve persons, unless the parties, with the approval of the court and in the manner provided by rules of the court, agree to a number less than twelve."

(5) Section 16–706 is amended to read as follows:

"§ 16–706. Enforcement of judgments; commitment upon non-payment of fine

"The Superior court may enforce any of its judgments rendered in criminal cases by fine or imprisonment, or both. Except as otherwise provided by law, and subject to the relief provided in section 3569 of title 18, United States Code, in any case where the court imposes a fine, the court may, in the event of default in the payment of the fine imposed, commit the defendant for a term not to exceed one year."

(6) Sections 16–704, 16–707, 16–709, and 16–710 are each amended by striking out "Court of General Sessions" and "District of Columbia Court of General Sessions" wherever they appear and inserting in lieu thereof "Superior Court of the District of Columbia".

(7) The heading of chapter 7 is amended by striking out "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(e) Chapter 9 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–901 is amended by striking out "Domestic Relations Branch of the District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2)(A) Section 16–916 is amended—

(i) by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) Whenever any father or mother shall fail to maintain his or her minor child or children, the court may decree that he or she shall pay reasonable sums periodically for the support and maintenance of his or her child or children, and the court may decree that the father or mother pay court costs, including counsel fees, to enable plaintiff to conduct the cases.", and

(ii) by amending the section heading to read as follows:

"§ 16–916. Maintenance of wife and minor children; maintenance of former wife; maintenance of minor children; enforcement".

(B) The item relating to section 16–916 in

the analysis of chapter 9 is amended to read as follows:

"16–916. Maintenance of wife and minor children; maintenance of former wife; maintenance of minor children; enforcement".

(3) (A) Section 16–918 is amended to read as follows:

"§ 16–918. Appointment of counsel; compensation

"(a) In all uncontested divorce cases, and in any other divorce or annulment case where the court deems it necessary or proper, a disinterested attorney shall be appointed by the court to enter his appearance for the defendant and actively defend the cause.

"(b) In any proceeding wherein the custody of a child is in question, the court may appoint a disinterested attorney to appear on behalf of the child and represent his best interests.

"(c) An attorney appointed under this section may receive such compensation for his services as the court determines to be proper, which shall be paid by the parties as the court directs."

(B) The item relating to section 16–918 in the analysis of chapter 9 is amended to read as follows:

"16–918. Appointment of counsel; compensation."

(f) Chapter 13 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–1301 is amended to read as follows:

§ 16–1301. Jurisdiction of District Court

"The United States District Court for the District of Columbia has exclusive jurisdiction of all proceedings for the condemnation of real property authorized by subchapters IV and V of this chapter, with full power to hear and determine all issues of law and fact that may arise in the proceedings."

(2) Subchapter I is amended by adding at the end thereof the following new section:

"§ 16–1303. Jurisdiction of Superior Court

"The Superior Court of the District of Columbia has jurisdiction of all proceedings for the condemnation of real property authorized by subchapters II and III of this chapter with full power to hear and determine all issues of law and fact that may arise in the proceedings."

(3) Section 16–1311 is amended—

(A) by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner",

(B) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court",

(C) by striking out "name of the Board" and inserting in lieu thereof "name of the District of Columbia", and

(D) by striking out "Board of Commissioners" in the heading and inserting in lieu thereof "District of Columbia".

(4) Section 16–1312 is amended to read as follows:

"§ 16–1312. Juries for condemnation proceedings

"For purposes of this subchapter, a special jury list shall be prepared of not less than one hundred persons who are qualified jurors in the District of Columbia. When a jury is required for a condemnation proceeding under this subchapter, the names of such number of persons as may be necessary shall be selected from this list by lot and furnished to the Superior Court."

(5) Section 16–1314(a) is amended by striking out "members of the Board of Commissioners" in the first sentence and inserting in lieu thereof "Commissioner", and by striking out "Commissioners" in paragraph (5) of the second sentence and inserting in lieu thereof "Commissioner".

(6) The third sentence of section 16–1318 is amended to read as follows: "If the appraisement is vacated and set aside, the court shall order the necessary number of new persons selected from the special jury list and, from among the persons so selected, shall appoint a new jury of five capable and disinterested persons who shall proceed as in the case of the first jury."

(7) Sections 16–1319, 16–1321, and 16–1336 are each amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner".

(8) Section 16–1331 is amended by striking out "Board of Commissioners of the District of Columbia, and agencies of the United States authorized by law to acquire real property," and inserting in lieu thereof "Commissioner of the District of Columbia".

(9) Section 16–1332 is amended by striking "Board of Commissioners of the District of Columbia and agencies of the United States authorized by law to acquire real property" in subsection (a) and inserting in lieu thereof "Commissioner of the District of Columbia", and by striking out ", and where the property sold was acquired under an appropriation authorized for the use of the District of Columbia, moneys received from the sale shall be deposited in the Treasury" in subsection (c).

(10) Section 16–1334 is amended by striking out "or the United States" wherever it appears.

(11) Section 16–1337 is repealed and section 16–1338 is redesignated as 16–1337.

(12) The first sentence of section 16–1357 is amended to read as follows: "When the date for trial has been set, as provided by section 16–1356, the court shall order the names of a number of persons, not less than twenty, selected from the special jury list provided by section 16–1312, and the names of the persons selected shall be certified to the clerk of the United States District Court for the District of Columbia as a panel of prospective jurors."

(13) Chapter 13 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V.—EXCESS PROPERTY FOR THE UNITED STATES

"§ 16–1381. Acquisition of property in excess of needs

"In order to promote the orderly and proper development of the seat of government of the United States, agencies of the United States authorized by laws to acquire real property, may acquire, in the public interest, by gift, dedication, exchange, purchase or condemnation, fee simple title to land, or rights in or on land or easements or restrictions therein, within the District of Columbia for public uses, works and improvements authorized by Congress, in excess of that actually needed for and essential to their usefulness, in order to preserve the view, appearance, light and air and to enhance their usefulness to prevent the use of private property adjacent to them in such a manner as to impair the public benefit derived from the construction thereof, or to prevent inequities or hardships to the owners of adjacent private property by depriving them of the beneficial use of their property.

"§ 16–1382. Retention, for public use, of excess property

"When the authorities of the United States having jurisdiction of real property, rights or easements acquired pursuant to this subchapter, elect to retain any of them for the use of the United States, they may use the property, rights or easements for park, playground, highway, or alley purposes, or for any other lawful purposes that they deem advantageous or in the public interest.

"§ 16–1383. Availability of appropriations for purchases of excess property

"When real property is purchased pursuant to this subchapter in excess of that needed for a particular project or improvement, appropriations available for the payment of the purchase price, costs, and expenses incident to the project or improvement may be used in the payment of the purchase price costs, and expenses of excess real property purchased in connection with the project or improvement, as provided by this subchapter.

"§ 16–1384. Condemnation of excess real property by United States agencies; payment of awards, damages and costs

"(a) When excess real property is condemned by agencies of the United States as provided by the subchapter, the condemnation proceedings for the acquisition of the property shall be in accordance wtih subchapter IV of this chapter, or any laws in effect at the time of the commencement of condemnation proceedings for the acquisition of real property in the District of Columbia for the use of the United States.

"(b) Appropriations available for the condemnation of property pursuant to subchapter IV of this chapter may be used in the payment of awards, damages, and costs in condemnation proceedings pursuant to that subchapter for the acquisition of excess real property as provided in this subchapter.

"§ 16–1385. Construction of subchapter

"This subchapter does not repeal any provisions of existing law pertaining to the condemnation or acquisition of streets, alleys, or land, or the laws relating to the subdividing of lands in the District of Columbia."

(16) The analysis of chapter 13 is amended by—

(A) by adding after the item relating to section 16–1302 the following:

"16–1303. Jurisdiction of Superior Court.";

(B) by amending the item relating to section 16–1311 to read as follows:

"16–1311. Condemnation proceedings by District of Columbia.";

(C) by amending the item relating to section 16–1312 to read as follows:

"16–1312. Juries for condemnation proceedings.";

(D) by striking out the item relating to section 16–1337 and by striking out "16–1338" and inserting in lieu thereof "16–1337"; and

(E) by adding at the end thereof:

"SUBCHAPTER V—EXCESS PROPERTY FOR THE UNITED STATES

"16–1381. Acquisition of property in excess of needs.

"16–1382. Retention, for public use, of excess property.

"16–1383. Availability of appropriations for purchases of excess property.

"16–1384. Condemnation of excess real property by United States agencies; payment of awards, damages and costs.

"16–1385. Construction of subchapter."

(g) Chapter 15 of title 16, District of Columbia Code, is amended as follows:

(1) Sections 16–1501 and 16–1505 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 16–1504 and the item relating to that section in the analysis of chapter 15 are repealed.

(h) (1) Section 16–1901 of title 16, District of Columbia Code, is amended—

(A) by striking out "the United States District Court for the District of Columbia" in the first sentence and inserting in lieu thereof "the appropriate court";

(B) by inserting "(a)" immediately before "A person" and by adding after the last sentence the following:

"(b) Petitions for writs directed to Federal officers and employees shall be filed in the United States District Court for the District of Columbia.

"(c) Petitions for writs directed to any other person shall be filed in the Superior Court of the District of Columbia."; and

(C) by striking out "to District Court" in the section heading.

(2) The item relating to section 16–1901 in the analysis of chapter 19 of title 16 is amended by striking out "to District Court".

(i) Section 16–2501 of title 16, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court".

(j) The second paragraph of section 16–2701 of title 16, District of Columbia Code, is amended by striking out "United States Court of Appeals for the District of Columbia Circuit" and inserting in lieu thereof "appellate court".

(k) Chapter 29 of title 16 of the District of Columbia Code is amended as follows:

(1) Sections 16–2901 and 16–2921 are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 16–2901(d) is amended by striking out "section 21–213" and inserting in lieu thereof "sections 21–145 and 21–704".

(3) Sections 16–2923, 16–2924, and 16–2925 are each amended by striking out "District Court" and inserting in lieu thereof "court".

(l) Chapter 31 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–3101 is amended to read as follows:

"§ 16–3101. Definition

"As used in this chapter, the term 'Probate Court' means the Superior Court of the District of Columbia."

(2) Sections 16–3103, 16–3105, and 16–3106 are each amended by striking out "powers of enforcement and punishment as provided by section 401 of title 18, United States Code" and inserting in lieu thereof "contempt power".

(3) Section 16–3104(b) is amended by striking out "to the United States".

(m) Section 16–3301 of title 16 of the District of Columbia Code is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(n) Chapter 35 of title 16, District of Columbia Code, is amended to read as follows:

"Chapter 35.—QUO WARRANTO

"SUBCHAPTER I.—ACTIONS AGAINST OFFICERS OF THE UNITED STATES

"Sec.

"16–3501. Persons against whom issued; civil action.

"16–3502. Parties who may institute; ex rel. proceedings.

"16–3503. Refusal of Attorney General or United States attorney to act; procedure.

"SUBCHAPTER II.—ACTIONS AGAINST OFFICERS OR CORPORATIONS OF THE DISTRICT OF COLUMBIA

"16–3521. Persons against whom issued, civil action.

"16–3522. Parties who may institute; ex rel. proceedings.

"16–3523. Refusal of United States attorney or Corporation Counsel to act; procedure.

"SUBCHAPTER III.—PROCEDURES AND JUDGMENTS

"16–3541. Allegations in petition of relator claiming office.

"16–3542. Notice to defendant.

"16–3543. Proceedings on default.

"16–3544. Pleading; jury trial.

"16–3545. Verdict and judgment.

"16–3546. Usurping corporate franchise; judgment.

"16–3547. Proceedings against corporate directors and trustees; judgment and order; enforcement.

"16–3548. Recovery of damages from usurper; limitation.

"SUBCHAPTER I.—ACTIONS AGAINST OFFICERS OF THE UNITED STATES

"§ 16–3501. Persons against whom issued; civil action

"A quo warranto may be issued from the United States District Court for the District of Columbia in the name of the United States against a person who within the District of Columbia usurps, intrudes into, or unlawfully holds or exercises a franchise conferred by the United States or a public office of the United States, civil or military. The proceedings shall be deemed a civil action.

"§ 16–3502. Parties who may institute; ex rel. proceedings

"The Attorney General of the United States or the United States attorney may institute a proceeding pursuant to this subchapter on his own motion or on the relation of a third person. The writ may not be issued on the relation of a third person except by leave of the court, to be applied for by the relator, by a petition duly verified setting forth the grounds of the application, or until the relator files a bond with sufficient surety, to be approved by the clerk of the court, in such penalty as the court prescribes, conditioned on the payment by him of all costs incurred in the prosecution of the writ if costs are not recovered from and paid by the defendant.

"§ 16–3503. Refusal of Attorney General or United States attorney to act; procedure

"If the Attorney General or United States attorney refuses to institute a quo warranto proceeding on the request of a person interested, the interested person may apply to the court by certified petition for leave to have the writ issued. When, in the opinion of the court, the reasons set forth in the petition are sufficient in law, the writ shall be allowed to be issued by any attorney, in the name of the United States, on the relation of the interested person on his compliance with the condition prescribed by section 16–3502 as to security for costs.

"SUBCHAPTER II.—ACTIONS AGAINST OFFICERS OR CORPORATIONS OF THE DISTRICT OF COLUMBIA

"§ 16–3521. Persons against whom issued; civil action

"A quo warranto may be issued from the Superior Court of the District of Columbia in the name of the District of Columbia against—

"(1) a person who within the District of Columbia usurps, intrudes into, or unlawfully holds or exercises, a franchise conferred by the District of Columbia, a public office of the District of Columbia, civil or military, or an office in a domestic corporation; or

"(2) one or more persons who act as a corporation within the District of Columbia without being duly authorized, or exercise within the District of Columbia corporate rights, privileges, or franchises not granted them by law in force in the District of Columbia.

The proceedings shall be deemed a civil action.

"§ 16–3522. Parties who may institute; ex rel. proceedings

"The United States attorney or the Corporation Counsel may institute a proceeding pursuant to this subchapter on his own motion, or on the relation of a third person. The writ may not be issued on the relation of a third person except by leave of the court, to be applied for by the relator, by a petition duly verified, setting forth the grounds of the application, or until the relator files a bond with sufficient surety, to be approved by the clerk of the court, in such penalty as the court prescribes, conditioned on the payment by him of all costs incurred in prosecution of the writ if costs are not recovered from and paid by the defendant.

"§ 16–3523. Refusal of United States attorney or Corporation Counsel to act; procedures

"If the United States attorney or Corporation Counsel refuses to institute a quo warranto proceeding on the request of a person interested, the interested person may apply to the court by certified petition for leave to have the writ issued. When, in the opinion of the court, the reasons set forth in the petition are sufficient in law, the writ shall be allowed to be issued by any attorney, in the name of the District of Columbia, on the relation of the interested person, on his compliance with the conditions prescribed by section 16–3522 as to security for costs.

"SUBCHAPTER III.—PROCEDURES AND JUDGMENTS

"§ 16–3541. Allegations in petition of relator claiming office

"When a quo warranto proceeding is against a person for usurping an office, on the relation of a person claiming the same office, the relator shall set forth in his petition the facts upon which he claims to be entitled to the office.

"§ 16–3542. Notice to defendant

"On the issuing of a writ of quo warranto the court may fix a time within which the defendant may appear and answer the writ. When the defendant cannot be found in the District of Columbia, the court may direct notice to be given to him by publication as in other cases of proceedings against nonresident defendants, and upon proof of publication, if the defendant does not appear, judgment may be rendered as if he had been personally served.

"§ 16–3543. Proceedings on default

"If the defendant does not appear as required by a writ of quo warranto, after being served, the court may proceed to hear proof in support of the writ and render judgment accordingly.

"In a quo warranto proceeding, the defendant may demur, plead specially, or plead "not guilty" as the general issue, and the United States or the District of Columbia, as the case may be, may reply as in other actions of a civil character. Issues of fact shall be tried by a jury if either party requests it. Otherwise they shall be determined by the court.

"§ 16–3545. Verdict and judgment

"Where a defendant in a quo warranto proceeding is found by the jury to have usurped, intruded into, or unlawfully held or exercised an office or franchise, the verdict shall be that he is guilty of the act or acts in question, and judgment shall be rendered that he be ousted and excluded therefrom and that the relator recover his costs.

"§ 16–3546. Usurping corporate franchise; judgment

"Where a quo warranto proceeding is against persons acting as a corporation without being legally incorporated, the judgment against the defendants shall be that they be perpetually restrained and enjoined from the commission or continuance of the acts complained of.

"§ 16–3547. Proceedings against corporate directors and trustees; judgment and order; enforcement

"Where a quo warranto proceeding is against a director or trustee of a corporation and the court finds that at his election either illegal votes were received or legal votes rejected, or both, sufficient to change the result if the error is corrected, the court may render judgment that the defendant be ousted, and that the relator, if entitled to be declared elected, be admitted to the office,

and the court may issue an order to the proper parties, being officers or members of the corporation, to admit him to the office. The judgment may require the defendant to deliver to the relator all books, papers, and other things in his custody or control pertaining to the office, and obedience to judgment may be enforced by attachment.

"§ 16–3548. Recovery of damages from usurpér; limitation

"At any time within a year from a judgment in a quo warranto proceeding, the relator may bring an action against the party ousted and recover the damages sustained by the relator by reason of the ousted party's usurpation of the office to which the relator was entitled."

(o) Chapter 37 of title 16 of the District of Columbia Code is amended—

(1) by repealing subchapter II;

(2) by striking out the heading "SUBCHAPTER I.—GENERAL PROVISIONS"; and

(3) by striking out the items relating to subchapter II in the chapter analysis and by striking out "SUBCHAPTER I.—GENERAL PROVISIONS" in that analysis.

(p) Chapter 39 of title 16 of the District of Columbia Code is amended as follows:

(1) The chapter heading is amended by striking out "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(2) Section 16–3901 is amended to read as follows:

"§ 16–3901. Practice; applicability of other laws and rules of court

"All provisions of law relating to the Superior Court of the District of Columbia and the rules of the court apply to the Small Claims and Conciliation Branch of the court as far as they may be applicable and are not in conflict with this chapter or chapter 13 of title 11. In case of conflict, this chapter and chapter 13 of title 11 control."

(3) Section 16–3902 is amended—

(A) by striking out "of the District of Columbia Court of General Sessions" in subsection (a); and

(B) by striking out "District of Columbia Court of General Sessions" and "Court of General Sessions" in the form prescribed by subsection (e) and inserting in lieu thereof "Superior Court of the District of Columbia".

(4) Sections 16–3903 and 16–3905 are each amended by striking out "of the District of Columbia Court of General Sessions".

(5) The third sentence of section 16–3904 is amended to read as follows: "When the set-off or counterclaim is for more than the jurisdictional limit of the Small Claims and Conciliation Branch, as provided by section 11–1321, but within the jurisdiction of the Superior Court, the action shall nevertheless remain in the Branch and be tried therein in its entirety."

(6) Section 16–3907 is amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(7) Section 16–3910 is amended by striking out ", or the rules prescribed pursuant to section 13–101(c)" and inserting in lieu thereof "or the rules of the court" and by striking out "of the District of Columbia Court of General Sessions".

AMENDMENTS TO TITLE 17

SEC. 146. (a) Title 17 of the District of Columbia Code is amended as follows:

(1) Chapter 1 and the item relating to such chapter in the chapter analysis are repealed.

(2)(A) Section 17–301 is amended—

(i) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court",

(ii) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia", and

(iii) by striking out "section 11–741(c)" and inserting in lieu thereof "section 11–721(c)".

(B) The item relating to section 17–301 in the analysis of chapter 3 is amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(3)(A) Section 17–303 is amended to read as follows:

"§ 17–303. Appeals from administrative orders and decisions

"An appeal from an order or decision of an administrative agency, as provided for in section 11–722, is commenced by filing within the time prescribed pursuant to section 17–307(a), the written petition for review provided by section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1510). The District of Columbia Court of Appeals may prescribe the necessary rules and procedures for review of administrative orders and decisions, consistent with section 11 of the Administrative Procedure Act."

(B) The item relating to section 17–303 in the analysis of chapter 3 is amended by striking out "; petition; records, procedure".

(4) Section 17–304 is amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner or Council" and by inserting after "District of Columbia," the first time it appears the following: "by the independent agency,".

(5) Section 17–305 is amended to read as follows:

"§ 17–305. Scope of review

"(a) In considering an order or judgment of a lower court or any of its branches, brought before it for review, the District of Columbia Court of Appeals shall review the record on appeal. When the issues of fact were tried by jury, the court shall review the case only as to matters of law. When the case was tried without a jury, the court may review both as to the facts and the law, but the judgment may not be set aside except for errors of law unless it appears that the judgment is plainly wrong or without evidence to support it.

"(b) The provisions of section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1510) shall apply with respect to review by the District of Columbia Court of Appeals of an order or decision under that Act."

(6) Section 17–306 is amended by striking out "branch" and inserting in lieu thereof "division" and by striking out "order or decision of an administration agency" and inserting in lieu thereof "administrative order or decision".

(7) Section 17–307 is amended by striking out "section 11–741 or 11–742" in subsection (a) and inserting in lieu thereof "section 11–721 or 11–722", by striking out "District of Columbia Court of General Sessions" in subsection (b) and inserting in lieu thereof "Superior Court of the District of Columbia", and by striking out "section 11–741(c)" in subsection (b) and inserting in lieu thereof "section 11–721(c)".

AMENDMENTS TO TITLE 18

SEC. 147. Title 18 of the District of Columbia Code is amended as follows:

(1) The last paragraph of section 18–101 is amended to read as follows:

" 'Probate Court' and 'court', respectively, mean the Superior Court of the District of Columbia."

(2) Subsection (d) of section 18–505 is amended to read as follows:

"(d) The rules of the court with respect to the taking and use of testimony of out-of-District witnesses apply to testimony taken pursuant to this section. The original will or codicil shall be sent with the notice or order of appointment or commission or letters rogatory, and exhibited to the witnesses."

(3)(A) Section 18–513 is amended to read as follows:

"§ 18–513. Rules of procedure

"The court shall prescribe rules of procedure governing the trial of issues when a a caveat is filed, including provisions for notice, appointment of guardians ad litem, trial by jury, and effect of judgments."

(B) The item relating to section 18–513 in the analysis of chapter 5 is amended to read as follows:

"18–513. Rules of procedure."

AMENDMENT TO TITLE 19

SEC. 148. Title 19 of the District of Columbia Code is amended as follows:

(1) Sections 19–701 is amended by striking out "Commissioners" and inserting in lieu thereof "Commissioner".

(2)(A) The following new section is added after section 19–114:

"§ 19–115. Definition

"For purposes of this chapter, the term 'Probate Court' means the Superior Court of the District of Columbia."

(B) The analysis of chapter 1 is amended by adding at the end thereof the following new item:

"19–115. Definition."

AMENDMENTS TO TITLE 20

SEC. 149. Title 20 of the District of Columbia Code is amended as follows:

(1) Sections 20–302, 20–332(a)(2), 20–502(b), and 20–1107 are each amended by striking out "to the United States".

(2) Sections 20–312, 20–337, and 20–501 are each amended by striking out in the forms referred to therein "the Chief Judge of the United States District Court for the District of Columbia" and inserting in lieu thereof "the Chief Judge of the Superior Court of the District of Columbia".

(3) Section 20–351(a)(2) is amended by striking out "an insane person" and inserting in lieu thereof "a mentally-ill person".

(4) Section 20–364(a) is amended by striking out "in the name of the United States" and inserting in lieu thereof "in the name of the District of Columbia".

(5) Section 20–502 is further amended by striking out in the form referred to therein "Probate Court of the District of Columbia" and "Probate Court of the District" and inserting in lieu thereof "Probate Court".

(6) Section 20–1110 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Probate Court", and by striking out "shall be given to the United States and".

(7) Sections 20–1320 and 20–1505 are each amended by striking out "Probate Court of the District of Columbia" and inserting in lieu thereof "Probate Court".

(8)(A) Section 20–2301 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Probate Court" and by striking out "United States attorney" in the section heading and inserting in lieu thereof "Corporation Counsel".

(B) The item relating to section 20–2301 in the analysis of chapter 23 is amended by striking out "United States attorney" and inserting in lieu thereof "Corporation Counsel".

AMENDMENTS TO TITLE 21

SEC. 150. (a) Chapter 1 of title 21, District of Columbia Code, is amended as follows:

(1) Section 21–112 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Probate Court".

(2) Section 21–115 is amended by striking out "to the United States".

(3) Section 21–158 is amended by striking out "in the name of the United States".

(4) Section 21–301(4) of title 21, District of Columbia Code, is amended by striking

out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(b) Chapter 5 of title 21, District of Columbia Code, is amended as follows:

(1) Sections 21–501 and 21–502(a) are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 21–521 is amended by striking out "the family physician" and inserting in lieu thereof "a physician".

(3) Sections 21–544, 21–564(a), 21–564(b), and 21–590 are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(4) Section 21–564(a) is further amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner".

(5)(A) Section 21–581 is amended—

(i) by striking out "Commissioners" in subsection (a) and in the section heading and inserting in lieu thereof "Commissioner", and

(ii) by striking out "(a)" and subsection (b).

(B) The item relating to section 21–581 in the analysis of chapter 5 is amended by striking out "Commissioners" and inserting in lieu thereof "Commissioner".

(6) Section 21–584 is amended by striking out "witnesses in the courts of the United States" and inserting in lieu thereof "other witnesses in the court".

(7)(A) The following new section is added after section 21–591:

"§ 21–592. Return to hospital of an escaped mentally ill person

"When a person has been ordered confined in a hospital or institution for the mentally ill pursuant to this chapter and has left such hospital or institution without authorization or has failed to return as directed, the court which ordered confinement shall, upon the request of the administrator of such hospital or institution, order the return of such person to such hospital or institution."

(B) The analysis of chapter 5 is amended by adding after the item relating to section 21–591 the following:

"21–592. Return to hospital of an escaped mentally ill person."

(c) Members of the Commission on Mental Health established under section 21–502 of title 21 of the District of Columbia Code who are in office on the effective date of this title shall continue in office as provided in subsection (b) of that section.

(d) Section 21–706(a) of title 21, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(e) Section 21–906 of title, 21, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(f) Chapter 11 of title 21, District of Columbia Code, is amended as follows:

(1) Sections 21–1101, 21–1102, 21–1103, 21–1104, 21–1105, 21–1106, 21–1107, 21–1108, 21–1110, 21–1111, 21–1113, 21–1115, 21–1118, and 21–1123 are each amended by striking out "feeble-minded" each place it appears and inserting in lieu thereof "retarded".

(2) Sections 21–1102 and 21–1120 are each amended by striking out "Department of Public Welfare" and inserting in lieu thereof "District of Columbia Council".

(3) Section 21–1103 is amended—

(A) by striking out "United States District Court for the District of Columbia" in subsection (a) and inserting in lieu thereof "Superior Court of the District of Columbia", and

(B) by striking out "of District Court as to feeblemindedness" in the section heading and inserting in lieu thereof "mental retardation".

(4) Section 21–1104 is amended by strikign out "District Court of the United States for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(5) Section 21–1109(a) is amended by striking out "running to the United States."

(6) Section 21–1111(a) is amended by striking out "Commissioners" and inserting in lieu thereof "Commissioner".

(7) Section 21–1114 is amended—

(A) by striking out "juvenile court of the District of Columbia as a dependent or delinquent child" and inserting in lieu thereof "Family Division of the Superior Court upon allegations that he is delinquent, neglected, or in need of supervision",

(B) by striking out "feeble-minded" and insertaing in lieu thereof "retarded",

(C) by inserting ", other than proceedings on a motion to transfer pursuant to section 16–2331," after "the proceedings" in the first sentence, and

(D) by striking out "brought before juvenile court appears feeble-minded" in the section heading and inserting in lieu thereof "brought before Family Division appears retarded".

(8) Sections 21–1116 and 21–1122 are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(9) Section 21–1117 is amended—

(A) by striking out "feeble-mindedness" and inserting in lieu thereof "retardation", and

(B) by striking out "feeble-minded" in the section heading and inserting in lieu thereof "retardation".

(10) the analysis of chapter 11 is amended—

(A) by striking out "of District Court as to feeble-mindedness" in the item relating to section 21–1103 and inserting in lieu thereof "mental retardation", and

(B) by striking out "before juvenile court appears feeble-minded" in the item relating to section 21–1114 and inserting in lieu thereof "before Family Division appears retarded", and

(C) by striking out "feeble-minded" in the items relating to sections 21–1117 and 21–1118 and inserting in lieu thereof "retarded".

(g) Chapter 13 of title 21, District of Columbia Code, is amended as follows:

(1) Section 21–1301 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) The first sentence of section 21–1302 is amended by striking out "to the United States".

(h) Chapter 15 of title 21, District of Columbia Code, is amended as follows:

(1) Section 21–1501 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 21–1506 is amended by striking out "of the Civil Division".

AMENDMENTS TO TITLE 28

SEC. 151. (a) Sections 28–2103 and 28–2104 of title 28 of the District of Columbia Code are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(b) Section 28–2105 of title 28 of the District of Columbia Code is amended by striking out "District Court" and inserting in lieu thereof "court having probate jurisdiction".

SUBPART 2—AMENDMENTS TO OTHER LAWS REDESIGNATION OF COURTS

SEC. 155. (a) Except as otherwise provided in this Act, all laws of the United States (other than this Act) applicable exclusively to the District of Columbia in force on the effective date of this Act in which reference is made to the—

(1) justice of the peace,

(2) justice of the peace court,

(3) police court of the District of Columbia,

(4) Municipal Court of the District of Columbia,

(5) Municipal Court for the District of Columbia (established by the Act of April 1, 1942 (56 Stat. 190)), and

(6) District of Columbia Court of General Sessions (established by the Act of July 8, 1963 (77 Stat. 77)), or any division or branch of that Court

are amended by substituting "Superior Court of the District of Columbia" for each such reference.

(b) Except as otherwise provided in this Act, all laws of the United States (other than this Act) applicable exclusively to the District of Columbia in force on the effective date of this Act in which reference is made to the Municipal Court of Appeals for the District of Columbia (established by the Act of April 1, 1942), are amended by substituting "District of Columbia Court of Appeals" for such reference.

(c) The following laws of the United States applicable to the District of Columbia, in force on the effective date of this Act, are amended by striking out all references therein to the United States District Court for the District of Columbia and inserting in lieu thereof "Superior Court for the District of Columbia":

(1) The following sections of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901:

(A) Section 491a of such Act (D.C. Code, sec. 7–202).

(B) Section 491n of such Act (D.C. Code, sec. 7–215).

(C) Section 1608e of such Act (D.C. Code, sec. 7–313).

(D) Section 1610 of such Act (D.C. Code, sec. 7–323).

(E) Section 869b of such Act (D.C. Code, sec. 22–1510).

(F) Section 632 of such Act (D.C. Code, sec. 29–228).

(G) Section 586 of such Act (D.C. Code, sec. 29–413).

(H) Section 586f of such Act (D.C. Code, sec. 29–419).

(I) Section 973 of such Act (D.C. Code, sec. 29–725).

(J) Section 1225 of such Act (D.C. Code, sec. 45–910).

(2) Section 12 of the Boiler Inspection Act of the District of Columbia, approved June 25, 1936 (D.C. Code, sec. 1–713).

(3) Section 2 of the Act of August 3, 1968 (D.C. Code, sec. 1–804b).

(4) Section 41 of the Act entitled "An Act to regulate the practice of the healing art and to protect the public health in the District of Columbia", approved February 27, 1929 (D.C. Code, sec. 2–132).

(5) Section 4 of the Act of July 2, 1940 (D.C. Code, sec. 2–304).

(6) Section 7 of the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906 (D.C. Code, sec. 2–606).

(7) Section 3 of the Act entitled "An Act to amend the Act to regulate the practice of podiatry in the District of Columbia", approved June 29, 1940 (D.C. Code, sec. 2–703).

(8) Section 29 of the Act entitled "An Act to provide for the examination and

registration of architects and to regulate the practice of architecture in the District of Columbia", approved December 13, 1924 (D.C. Code, sec. 2–1029).

(9) The following sections of the Professional Engineers' Registration Act, approved September 19, 1950:

(A) Section 8 of such Act (D.C. Code, sec. 2–1808).

(B) Section 9(b) of such Act (D.C. Code, sec. 2–1809(b)).

(10) Section 13 of the District of Columbia Charitable Solicitation Act, approved July 10, 1957 (D.C. Code, sec. 2–2112).

(11) The following sections of the District of Columbia Securities Act, approved August 30, 1964:

(A) Section 11 of such Act (D.C. Code, sec. 2–2410).

(B) Section 12 of such Act (D.C. Code, sec. 2–2411).

(12) Section 18 of the District of Columbia Public Assistance Act, approved October 15, 1962 (D.C. Code, sec. 3–217).

(13) Section 389 of the Revised Statutes of the United States Relating to the District of Columbia (D.C. Code, sec. 4–135).

(14) The following sections of the Act entitled "An Act to punish false swearing before the trial board of the Metropolitan police force and fire department of the District of Columbia, and for other purposes", approved May 11, 1892:

(A) Section 1 of such Act (D.C. Code, sec. 4–601).

(B) Section 3 of such Act (D.C. Code, sec. 4–603).

(15) Section 2 of the Act entitled "An Act providing for the establishment of a uniform building line on streets in the District of Columbia less than ninety feet in width", approved June 21, 1906 (D.C. Code, sec. 5–202).

(16) Section 11 of the Act entitled "An Act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes", approved March 19, 1906 (D.C. Code, sec. 5–311).

(17) Section 7 of the Act entitled "An Act to provide for means of egress for buildings in the District of Columbia, and for other purposes", approved December 24, 1942 (D.C. Code, sec. 5–323).

(18) Section 8 of the Act entitled "An Act to regulate the height of buildings in the District of Columbia", approved June 1, 1910 (D.C. Code, sec. 5–408).

(19) Section 7(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (D.C. Code, sec. 5–706).

(20) The third proviso of section 11(a) of the Horizontal Property Act of the District of Columbia, approved December 21, 1963 (D.C. Code, sec. 5–911).

(21) Section 1 of the Act of March 4, 1929 (D.C. Code, sec. 6–505).

(22) Section 5 of the Act of December 15, 1932 (D.C. Code, sec. 7–405).

(23) The fifth paragraph of so much of the first section of the Act of March 3, 1905, as relates to bridges (D.C. Code, sec. 7–505).

(24) The second paragraph of so much of the first section of the Act of June 29, 1932, as relates to bridges (D.C. Code, sec. 7–514).

(25) Section 1 of the Act entitled "An Act to provide for the elimination of the Michigan Avenue grade crossing in the District of Columbia, and for other purposes", approved March 3, 1927 (D.C. Code, sec. 7–520).

(26) The third paragraph of so much of the first section of the Act of July 3, 1930, as relates to bridges (D.C. Code, sec. 7–523).

(27) Section 11 of the District of Columbia Public Space Utilization Act, approved October 17, 1968 (D.C. Code, sec. 7–950).

(28) Sections 1 and 2 of the Act entitled "An Act to provide for the elimination of grade crossings of steam railroads in the District of Columbia, and for other purposes", approved March 3, 1927 (D.C. Code, sec. 7–1215 (a), (b)).

(29) Section 1 of the Act entitled "An Act to provide for the establishment of a municipal center in the District of Columbia", approved February 28, 1929 (D.C. Code, sec. 9–201).

(30) The Act entitled "An Act to prohibit the introduction of contraband into the District of Columbia penal institutions", approved December 15, 1941 (D.C. Code, sec. 22–2603).

(31) Section 5 of the Hospital Treatment for Drug Addicts Act for the District of Columbia, approved June 24, 1956 (D.C. Code, sec. 24–605).

(32) Section 345 of the Public Health Service Act, approved July 1, 1944 (D.C. Code, sec. 24–614).

(33) Section 26 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (D.C. Code, sec. 25–126).

(34) Section 3 of the Act entitled "An Act concerning common-trust funds and to make uniform the law with reference thereto", approved October 27, 1949 (D.C. Code, sec. 26–703).

(35) Section 5 of the Act entitled "An Act to provide for the incorporation and regulation of medical and dental colleges in the District of Columbia", approved May 4, 1896 (D.C. Code, sec. 31–904).

(36) The Act entitled "An Act to amend the Code of Law for the District of Columbia", approved April 16, 1934 (D.C. Code, sec. 35–205).

(37) The following sections of the Life Insurance Act, approved June 19, 1934:

(A) Section 13, chapter II of such Act (D.C. Code, sec. 35–412).

(B) Section 24, chapter II of such Act (D.C. Code, sec. 35–423).

(C) Section 15, chapter III of such Act (D.C. Code, sec. 35–515).

(38) Section 5, title II of the Act of September 19, 1918 (D.C. Code, sec. 36–435).

(39) The following sections of the Act of March 4, 1913:

(A) Section 8, paragraph 97(a) of such Act (D.C. Code, sec. 43–201).

(B) Section 8, paragraph 35 of such Act (D.C. Code, sec. 43–405).

(C) Section 8, paragraph 48 of such Act (D.C. Code, sec. 43–418).

(40) Section 5 of the Act entitled "An Act to authorize the Metropolitan Railroad Company to change its motive power for the propulsion of the cars of said company", approved August 2, 1894 (D.C. Code, sec. 44–208).

(41) Section 305 of the District of Columbia Real Estate Deed Recordation Tax Act, approved March 2, 1962 (D.C. Code, sec. 45–725).

(42) The following sections of the Act of August 25, 1937:

(A) Section of such Act (D.C. Code, sec. 45–1409).

(B) Section 11 of such Act (D.C. Code, sec. 45–1411).

(43) The following sections of the Act entitled "An Act to regulate rents in the District of Columbia, and for other purposes", approved December 2, 1941:

(A) Section 7 of such Act (D.C. Code, sec. 45–1607).

(B) Section 10 of such Act (D.C. Code, sec. 45–1610).

(44) The following sections of the Act entitled "An Act to provide for unemployment compensation in the District of Columbia, authorize appropriations, and for other purposes", approved August 28, 1935:

(A) Section 3(c)(10) of such Act (D.C. Code, sec. 46–303(c)(10)).

(B) Section 4(e) of such Act (D.C. Code, sec. 46–304(e)).

(C) Section 12 of such Act (D.C. Code, sec. 46–312).

(D) Section 13(h) of such Act (D.C. Code, sec. 46–313(h)).

(45) Section 13 of the Act of August 14, 1894 (D.C. Code, sec. 47–606).

(46) The Act entitled "An Act to authorize reassessment for improvements and general taxes in the District of Columbia, and for other purposes", approved April 24, 1896 (D.C. Code, sec. 47–721).

(47) Section 1 of the Act entitled "An Act to provide for enforcing the lien of the District of Columbia upon real estate bid off in its name when offered for sale for arrears of taxes and assessments, and for other purposes", approved March 2, 1936 (D.C. Code, sec. 47–1011).

(48) Section 5 of the Act of July 3, 1926 (D.C. Code, sec. 47–1209).

(49) The following sections of the District of Columbia Revenue Act of 1937, approved August 17, 1937:

(A) Section 1, title I of such Act (D.C. Code, sec. 47–1401).

(B) Section 6, title I of such Act (D.C. Code, sec. 47–1406).

(C) Section 3, article III, title V of such Act (D.C. Code, sec. 47–1618).

(50) Section 29 of the District of Columbia Income Tax Act, approved July 26, 1939 (D.C. Code, sec. 47–1529).

(51) Section 3 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (D.C. Code, sec. 47–1586b).

(52) Section 145 of the District of Columbia Sales Tax Act, approved May 27, 1949 (D.C. Code, sec. 47–2622).

(53) Section 8 of the Act entitled "An Act to provide for the regulation of closing-out and fire sales in the District of Columbia", approved September 1, 1959 (D.C. Code, sec. 47–3008).

(54) Section 11 of the Act of July 3, 1926 (D.C. Code, sec. 48–211).

(55) Section 2 of the Act of February 18, 1932 (D.C. Code, sec. 48–402).

(d) The Act of February 26, 1907 (D.C. Code, sec. 45–707), is amended to read as follows: "That the Recorder of Deeds of the District of Columbia shall recopy such of the records in his office as may, in his judgment and that of a judge of the Superior Court of the District of Columbia appointed for that purpose, need recopying in order to preserve the originals from destruction. The expense of such recopying may not in any fiscal year exceed $1,000 and such expense shall be certified by a judge of the Superior Court appointed for that purpose and audited by the General Accounting Office."

AMENDMENTS REDESIGNATING DISTRICT OF COLUMBIA TAX COURT

SEC. 156. (a) Section 303 of the District of Columbia Revenue Act of 1949 (D.C. Code, sec. 40–603–1) is amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(b) Section 314 of the Act of March 2, 1962 (D.C. Code, sec. 45–734), is amended by striking out "District of Columbia Tax Court" and inserting in lieu thereof "Superior Court of the District of Columbia".

(c) Section 5 of the Act entitled "An Act to define the real property exempt from taxation in the District of Columbia," approved December 24, 1942 (D.C. Code, sec. 47–801e), is amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(d) Subsection (e) of the Act entitled "An Act to provide for the taxation of rolling stock of railroad and other companies operated in the District of Columbia, and for other purposes," approved December 15, 1945 (D.C. Code, sec. 47–1215(e)), is amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(e) Sections 31 and 34 of the District of Columbia Income Tax Act, approved July 26, 1939 (D.C. Code, secs. 47–1531, 47–1534), are each amended by striking out "Board of Tax Appeals for the District of Columbia" and

inserting in lieu thereof "Superior Court of the District of Columbia".

(f) Section 11 of title XII and section 1 of title XV of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1586j, 47–1593) are each amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(g) Sections 7 and 13 of title IX of the District of Columbia Revenue Act of 1937 (D.C. Code, sec. 47–2407, 47–2412) are each amended by striking out "the Board" and inserting in lieu thereof "the Court".

(h) All other laws of the United States applicable exclusively to the District of Columbia in force on the effective date of this Act in which reference is made to the Board of Tax Appeals for the District of Columbia or to the District of Columbia Tax Court are amended by substituting "Superior Court of the District of Columbia" for such reference.

MISCELLANEOUS AMENDMENTS RELATING TO TRANSFERS OF JURISDICTION

Criminal Jurisdiction

SEC. 157. (a) Section 40 of the Act entitled "An Act to regulate the practice of the healing art to protect the public health in the District of Columbia", approved February 27, 1929 (D.C. Code, sec. 2–131), is amended by striking out "in the United States District Court for the District of Columbia" and inserting in lieu thereof "in the District of Columbia".

(b) Section 8 of the Act entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932 (D.C. Code, sec. 22–2601), is amended by striking out "in any court of the United States".

(c) The Act entitled "An Act to provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes", approved June 9, 1948, is amended as follows:

(1) Section 201 of such Act (D.C. Code, sec. 22–3503) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) The term 'court' means a court in the District of Columbia having jurisdiction of criminal offenses or delinquent acts.", and

(B) by striking out "an offense in the juvenile court of the District of Columbia" in paragraph (4) and inserting in lieu thereof "a delinquent act".

(2) Section 202(a) of such Act (D.C. Code, sec. 22–3504) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(d) Section 164A(f) of the Uniform Narcotic Drug Act (D.C. Code, sec. 33–416a(f)) is amended by striking out "United States branch of the municipal court" and inserting in lieu thereof "Superior Court of the District of Columbia".

Settlement of Claims

(e) The Act entitled "An Act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia", approved February 11, 1929, is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 1–902) is amended by striking out "court of the District of Columbia" and inserting in lieu thereof "courts in the District of Columbia".

(2) Section 2 of such Act (D.C. Code, sec. 1–903) is amended by striking out "United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia," and inserting in lieu thereof "courts in the District of Columbia".

Law Enforcement Council

(f) Section 401(b) of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (D.C. Code, sec. 2–1901(b)), is amended by striking out paragraph (12) and by redesignating paragraphs (13) through (15) as paragraphs (12) through (14), respectively.

Real Property Actions

(g) Section 1227 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 45–912) is amended by striking out ", either in said United States District Court for the District of Columbia or before a justice of the peace".

Tort Claims

(h) Paragraph (b) of section 2 of the District of Columbia Employee Non-Liability Act (D.C. Code, sec. 1–921) is amended to read as follows:

"(b) 'Court' means the court in the District of Columbia having the necessary civil jurisdiction pursuant to section 11–501 or 11–921 of the District of Columbia Code."

Damages to National Guard Property

(i) Section 38 of the Act entitled "An Act to provide for the organization of the militia of the District of Columbia" approved March 1, 1889 (D.C. Code, sec. 39–513), is amended by striking out "any justice of the peace, with the right of appeal to the United States District Court for the District of Columbia, or before the United States District Court for the District of Columbia" and inserting in lieu thereof "the court in the District of Columbia having jurisdiction of the amount in controversy".

Unclaimed Freight

(j) Section 643 of the Act entitled "An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (D.C. Code, sec. 44–102), is amended—

(1) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia", and

(2) by striking out the proviso.

AMENDMENTS REFLECTING TRANSFER OF PROBATE JURISDICTION

SEC. 158. (a) The Revised Statutes of the District of Columbia are amended as follows:

(1) Section 416(b) of such Revised Statutes (D.C. Code, sec. 4–159) is amended—

(A) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction", and

(B) by striking out "Probate Court" and inserting in lieu thereof "court having probate jurisdiction".

(2) Section 454 of such Revised Statutes (D.C. Code, sec. 29–514) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(b) The Act entitled "An Act regulating admissions to the Institution of the Association for Works of Mercy in certain cases, and for other purposes," approved October 12, 1888, is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 32–101) is amended by striking out "the judge of the orphans' court of the District of Columbia" and inserting in lieu thereof "a judge of the court having probate jurisdiction".

(2) Section 4 of such Act (D.C. Code, sec. 32–104) is amended by striking out "orphans' court of the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(c) The Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901, is amended as follows:

(1) Section 534 of such Act (D.C. Code, sec. 45–611) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(2) Section 537 of such Act (D.C. Code, sec. 45–619) is amended by striking out "said United States District Court for the District of Columbia" and inserting in lieu thereof "the court having probate jurisdiction".

(3) Section 669 of such Act (D.C. Code, sec. 27–113) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(4) Section 746 of such Act (D.C. Code, sec. 26–334) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(d) The District of Columbia Revenue Act of 1937 is amended as follows:

(1) Section 3 of article I of title V of such Act (D.C. Code, sec. 47–1603) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(2) Section 5 of article I of title V of such Act (D.C. Code, sec. 47–1605) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(3) Section 9 of article III of title V of such Act (D.C. Code, sec. 47–1624) is amended—

(A) by striking out "United States District Court for the District of Columbia" each place it occurs and inserting in lieu thereof "court having probate jurisdiction", and

(B) by striking out "said District Court" and inserting in lieu thereof "such court".

(e) Section 9 of the Act entitled "An Act to create a board for the condemnation of insanitary buildings in the District of Columbia and for other purposes," approved May 1, 1906 (D.C. Code, sec. 5–624), is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(f) Section 5 of the Act entitled "An Act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia," approved February 11, 1929 (D.C. Code, sec. 1–906), is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(g) Section 2 of the Act of April 5, 1939 (D.C. Code, sec. 31–711), is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

AMENDMENTS RELATING TO THE JURISDICTION OF THE FAMILY DIVISION

SEC. 159. (a) Section 5 of the Act entitled "An Act to provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children", approved November 6, 1966 (D.C. Code, sec. 2–165), is amended by striking out "Juvenile Court" both times it appears and inserting in lieu thereof "Family Division of the Superior Court".

(b) Section 4 of the Act entitled "An Act to provide for the care of dependent children in the District of Columbia and to create a board of children's guardians", approved July 26, 1892 (D.C. Code, sec. 3–116), is amended by striking out "police court or the criminal court of the District" and inserting in lieu thereof "Family Division of the Superior Court".

(c) The first section of the Act entitled "An Act to enlarge the powers of the courts

of the District of Columbia in cases involving delinquent children, and for other purposes" approved March 3, 1901 (D.C. Code, sec. 3–120), is amended by striking out "criminal and police courts" and inserting in lieu thereof "Family Division of the Superior Court".

(d) Section 405 of the District of Columbia Law Enforcement Act of 1953 (D.C. Code, sec. 24–106) is amended to read as follows:

"PSYCHIATRIST AND PSYCHOLOGIST

"SEC. 405. The Commissioner shall appoint a qualified psychiatrist and a qualified psychologist whose services shall be available to the following officers to assist them in carrying out their duties:

"(1) In criminal cases, the judges and probation officers of the United States District Court for the District of Columbia and the judges and Director of Social Services of the Superior Court of the District of Columbia.

"(2) The judges and such personnel assigned to the Family Division of the Superior Court as the Chief Judge may designate.

"(3) Such officers of the Department of Corrections as the Director thereof shall designate.

"(4) The Board of Parole of the District."

(e) Section 927(a) of the Act entitled "An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (D.C. Code, sec 24–301), is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

(f) The Act entitled "An Act to improve and extend, through reciprocal legislation, the enforcement of duties of support in the District of Columbia", approved July 10, 1957, is amended as follows:

(1) Section 2(d) of such Act (D.C. Code, sec. 30–302 (d)) is amended by striking out "Domestic Relations Branch of the Municipal Court for the District of Columbia" and inserting in lieu thereof "Family Division of the Superior Court".

(2) Section 22 of such Act (D.C. Code, sec. 30–322) is amended by striking out "civil branch of the municipal court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia in civil cases".

(g) Section 3 of article III of the Act entitled "An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes", approved February 4, 1925 (D.C. Code, sec. 31–213), is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

(h) Section 2 of the Act entitled "An Act for the protection of children in the District of Columbia and for other purposes", approved February 13, 1885 (D.C. Code, sec. 32–209), is amended—

(1) by striking out "police court" and inserting in lieu thereof "Family Division of the Superior Court", and

(2) by striking out the proviso at the end thereof.

(i) Section 6 of the Act entitled "An Act to regulate the placing of children in family homes, and for other purposes", approved April 22, 1944 (D.C. Code, sec. 32–786), is amended by striking out "Domestic Relations Branch of the Municipal Court" each time it appears and inserting in lieu thereof "Family Division of the Superior Court".

(j) The Act entitled "An Act to regulate the employment of minors within the District of Columbia", approved May 29, 1928, is amended as follows:

(1) The third sentence of section 22 of such Act (D.C. Code, sec. 36–222) is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

(2) Section 26 of such Act (D.C. Code, sec. 36–228) is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

AMENDMENTS RELATING TO THE CHIEF MEDICAL EXAMINER

SEC. 160. (a) The Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 683 of such Act (D.C. Code, sec. 27–125) is amended—

(A) by striking out "coroner of said District" each place it appears and inserting in lieu thereof "Chief Medical Examiner", and

(B) by striking out "Coroner" each place it appears and inserting in lieu thereof "Chief Medical Examiner".

(2) Section 686 of such Act (D.C. Code, sec. 27–128) is amended to read as follows:

"SEC. 686. This subchapter shall not be construed to (1) interfere with or prevent the disinterment of any body in accordance with section 11–2311 of the District of Columbia Code, or (2) interfere with the disposal of the ashes of bodies which have been cremated."

(3) Section 802(a) of such Act (D.C. Code, sec. 40–606) is amended by striking out the second paragraph.

(b) Section 9 of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2–258) is amended to read as follows:

"SEC. 9. OFFICE OF THE CHIEF MEDICAL EXAMINER.—(a) The Commissioner is authorized to appoint physicians to perform the functions of the Chief Medical Examiner, in accordance with chapter 23 of title 11 of the District of Columbia Code.

"(b) The Chief Medical Examiner of the District of Columbia may, in his discretion, allow tissue to be removed from any dead human body in his custody or under his jurisdiction. Such tissue removal shall not interfere with other functions of his Office. Any person who, in accordance with section 8, is entitled to the body for burial, shall first authorize the tissue removal."

AMENDMENTS RELATING TO THE REVENUE LAWS OF THE DISTRICT OF COLUMBIA

SEC. 161. (a) The District of Columbia Revenue Act of 1937 is amended as follows:

(1) Section 1 of title IX of such Act (D.C. Code, sec. 47–2401) is amended—

(A) by striking out "The word 'Board', means the Board of Tax Appeals for the District of Columbia created by this title.", and

(B) by striking out "The word 'court' shall mean the United States Court of Appeals for the District of Columbia." and inserting in lieu thereof "The word 'court' shall mean the Superior Court of the District of Columbia, unless the context indicates otherwise."

(2) Section 2 of title IX of such Act (D.C. Code, sec. 47–2402) is amended (A) by striking out the first four paragraphs, (B) by striking out "(a)", and (C) by striking out the paragraph designated "(b)".

(3) Section 3 of title IX of such Act (D.C. Code, sec. 47–2403) is amended to read as follows:

"SEC. 3. Any person aggrieved by any assessment by the District of any personal-property, inheritance, estate, business-privilege, gross-receipts, gross-earnings, insurance premiums, or motor-vehicle-fuel tax or taxes, or penalties thereon, may within six months after payment of the tax, together with penalties and interest assessed thereon, appeal from the assessment to the Superior Court of the District of Columbia. The mailing to the taxpayer of a statement of taxes due shall be considered notice of assessment with respect to the taxes. The court shall hear and determine all questions arising on appeal and shall make separate findings of fact and conclusions of law, and shall render its decision in writing. The court may affirm, cancel, reduce, or increase the assessment."

(4) Section 4 of title IX of such Act (D.C. Code, sec. 47–2404) is amended to read as follows:

"SEC. 4. (a) Decisions of the Superior Court on civil tax cases are reviewable in the same manner as other decisions of the court in civil cases tried without a jury. The District of Columbia Court of Appeals has the power to affirm, modify, or reverse the decision of the Superior Court with or without remanding the case for hearing.

"(b) The decision of the Superior Court shall become final (1) upon the expiration of the time allowed for filing a petition for review, if no petition is filed within that time; (2) upon the expiration of time allowed for filing a petition for certiorari if the decision of the Superior Court has been affirmed on appeal, or the appeal has been dismissed, or no petition for certiorari has been filed; (3) upon denial of a petition for certiorari if the decision of the Superior Court has been affirmed on appeal, or the appeal has been dismissed; or (4) upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if that Court has affirmed the decision of the Superior Court or dismissed the petition for review.

"(c) If the Supreme Court directs that the decision of the Superior Court be modified or reversed, the decision rendered in accordance with the Supreme Court's mandate shall become final upon the expiration of thirty days from the time it was rendered unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected to accord with the mandate, in which event the decision of the Superior Court shall become final when so corrected.

"(d) If the decision of the Superior Court is modified or reversed by the Court of Appeals and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been filed, (2) the petition for certiorari has been denied, or (3) the decision of the Court of Appeals has been affirmed by the Supreme Court, then the decision of the Superior Court rendered in accordance with the mandate of the Court of Appeals shall become final upon the expiration of thirty days from the time the decision of the Superior Court was rendered, unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected so that it will accord with the mandate, in which event the decision of the Superior Court shall become final when corrected.

"(e) If the Supreme Court orders a rehearing, or if the case is remanded by the Court of Appeals for rehearing and if (1) the time allowed for filing of a petition for certiorari has expired and no petition has been filed; (2) the petition for certiorari has been denied; or (3) the decision of the Court of Appeals has been affirmed by the Supreme Court, then the Decision of the Superior Court rendered upon such rehearing shall become final in the same manner as though no prior decision had been rendered.

"(f) As used in this section the term 'mandate', in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance, means the final mandate."

(5) Section 5 of title IX of such Act (D.C. Code, secs. 47–709, 47–710, 47–711, 47–712, 47–716 and 47–2405) is amended by striking out "ninety days" wherever it appears and inserting in lieu thereof "six months."

(6) Sections 6, 8, and 9 of title IX of such Act (D.C. Code, secs. 47–2406, 47–2408, and 47–2409) are repealed.

(7) Section 14 of title IX of such Act (D.C. Code, sec. 47–2413) is amended to read as follows:

"SEC. 14. (a) Where there has been an overpayment of any tax, the amount of the overpayment shall be refunded to the taxpayer. No refund (other than inheritance and estate taxes) shall be allowed unless the taxpayer files a claim before the expiration

of that period. The amount of refund of taxes (other than inheritance and estate taxes) shall not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim or, if no claim is filed, then the two years immediately preceding the allowance of the refund. No refund of inheritance and estate taxes shall be allowed after three years from the date the tax is paid unless the taxpayer files a claim before the expiration of that period. The amount of refund of inheritance and estate taxes shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim or, if no claim is filed, then during the three years immediately preceding the allowance of the refund. Every claim for refund must be in writing under oath, must state the specific grounds on which it is founded, and must be filed with the Assessor. If the Assessor disallows all or any part of the refund claim, he shall notify the taxpayer by registered or certified mail. After receiving notice of disallowance, if the claim is acted upon within six months of filing, or after the expiration of six months from the date of filing if the claim is not acted upon, the taxpayer may appeal as provided in sections 3 and 4 of this title. This subsection does not apply to real estate tax nor does it apply to taxes imposed by the District of Columbia Income Tax Act; by the District of Columbia Income and Franchise Tax Act of 1947; or by titles I and II of the District of Columbia Revenue Act of 1949, refunds of which are otherwise provided by law.

"(b) In any proceeding under this title the Superior Court has jurisdiction to determine whether there has been any overpayment of tax and to order that any overpayment be credited or refunded to the taxpayer, if a timely refund claim has been filed.

"(c) Any other provision of law to the contrary notwithstanding, if it is determined by the Assessor or by the Superior Court that there has been an overpayment of any tax, whether as a deficiency or otherwise, interest shall be allowed and paid on the overpayment at the rate of 4 per centum per annum from the date the overpayment was paid until the date of refund, but with respect to that part of any overpayment which was not assessed and paid as a deficiency or as additional tax interest shall be allowed and paid only from the date of filing a claim for refund or a petition to the Superior Court as the case may be.

"(d) For purposes of this section, any interest or penalties paid by the taxpayer in connection with an overpayment of tax shall be deemed to be a part of the overpayment of tax."

(b) Section 34 of the District of Columbia Income Tax Act (D.C. Code, sec. 47–1534) is amended by striking out the last sentence.

(c) Section 34 of the District of Columbia Income Tax Act (D.C. Code, sec. 47–1534) is amended by striking out "ninety days" and inserting in lieu thereof "six months".

(d) The District of Columbia Revenue Act of 1949 is amended as follows:

(1) Section 611 of such Act (D.C. Code, sec. 47–2810) is amended by striking out ", except for such violations as are felonies, and prosecutions for such violations as are felonies shall be by the United States attorney in and for the District of Columbia, or any of his assistants".

(2) Section 303 of such Act (D.C. Code, sec. 40–603–1) is amended—

(A) by striking out the second sentence thereof, and

(B) by striking out "ninety days" and inserting in lieu thereof "six months".

(3) Section 141 of such Act (D.C. Code, sec. 47–2618) is amended to read as follows—

"SEC. 141. (a) Any vendor or purchaser aggrieved by a final determination of tax or denial of an application for refund of any tax may appeal to the Superior Court in the same manner and to the same extent as set forth in sections 3, 4, 7, 10 and 11 of title IX of the District of Columbia Revenue Act of 1937.

"(b) If it is determined by the Assessor or by the Superior Court that any part of any tax which was assessed as a deficiency, and any interest thereon paid by the taxpayer, was an overpayment, interest shall be allowed and paid on the overpayment of tax at the rate of 4 per centum per annum from the date the overpayment was paid until the date of refund."

(e) The Act of March 2, 1962, is amended as follows:

(1) Section 314 of such Act (D.C. Code, sec. 45–734) is amended—

(A) by striking out subsection (b), and

(B) by striking out "(a)".

(2) Section 320 of such Act (D.C. Code, sec. 45–740) is amended by striking out ", except for such violations as are felonies, and prosecution for such violations as are felonies shall be by the United States attorney in and for the District of Columbia, or any of his assistants".

(f) Section 4 of the Act entitled "An Act to designate parcels of land in the District of Columbia for purposes of assessment and taxation, and for other purposes", approved February 23, 1905 (D.C. Code, sec. 47–407), is amended by inserting after "clerk of the United States District Court for the District of Columbia," the following: "clerk of the Superior Court of the District of Columbia,".

(g) Paragraph 11 of section 6 of the Act of July 1, 1902 (D.C. Code, sec. 47–1213), is repealed.

(h) The Act entitled "An Act to amend the laws relating to assessment and collection of taxes in the District of Columbia, and for other purposes", approved February 18, 1929, is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 47–1304) is amended by inserting after "shall be available also" in the second sentence thereof the following: "in the Superior Court of the District of Columbia".

(2) Section 2 of such Act (D.C. Code, sec. 47–1305) is amended by striking out "equity court" and inserting in lieu thereof "Superior Court of the District of Columbia".

(i) Section 2 of title XV of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1593a) is repealed.

(j) Section 7 of the Act entitled "An Act to amend certain tax laws applicable to the District of Columbia", approved July 10, 1952 (D.C. Code, sec. 47–2414), is repealed.

(k) Section 1 of title XV of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1593) is amended by striking out "ninety days" and inserting in lieu thereof "six months".

AMENDMENTS TO THE DISTRICT OF COLUMBIA ADMINISTRATIVE PROCEDURE ACT

SEC. 162. Section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1510) is amended—

(1) in the first sentence, by striking out ", except" and all that follows thereafter and inserting in lieu thereof a period; and

(2) by repealing the last sentence.

ADDITIONAL AMENDMENTS RELATING TO ADMINISTRATIVE PROCEDURE

SEC. 163. (a) The second proviso of section 586d of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 29–417), is amended by striking out "have the action of the said Board of Higher Education reviewed by the United States District Court for the District of Columbia at an equity term thereof" and inserting in lieu thereof "appeal as provided in the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1501 to 1–1510)".

(b) Subsection (c) of section 137 of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–948(c)) is amended to read:

"(c) Appeals from all final orders and judgments entered by the court under this section may be taken by either party to the proceeding within sixty days after service on the party of a copy of the order or judgment of the court."

(c) The first paragraph of section 28 of the Life Insurance Act, approved June 19, 1934 (D.C. Code, sec. 35–427), is amended by striking out "from the ruling of the superintendent to the United States District Court for the District of Columbia, in equity" and all that follows and inserting in lieu thereof "as provided by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(d) Section 1210 of the District of Columbia Insurance Placement Act, approved August 1, 1968 (D.C. Code, sec. 35–1709), is amended by striking out "section 11–742 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(e) Subsection (b) of section 10 of the Act entitled "An Act to provide for voluntary apprenticeship in the District of Columbia", approved May 21, 1946 (D.C. Code, sec. 36–130(b)), is amended by striking out the fourth sentence and all that follows and inserting in lieu thereof "Any person aggrieved by the action of the Council may appeal as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(f) Subsection (a) of section 9 of the Act of September 19, 1918 (D.C. Code, sec. 36–409), is amended by striking out the second sentence and all that follows thereafter and inserting in lieu thereof "The review shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(g) The District of Columbia Traffic Act, 1925, is amended as follows:

(1) Subsection (a) of section 13 (D.C. Code, sec. 40–302(a)) is amended by striking out "sections 11–742, 17–303, 17–304, 17–305 (b), 17–306 and 17–307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(2) Subsection (d) of section 6 (D.C. Code, sec. 40–603(d)) is amended by striking out "and jurisdiction is hereby conferred upon the Court of Appeals of the district for this purpose".

(h) The second paragraph of section 4 of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (D.C. Code, sec. 40–420), is amended by striking out the second and succeeding sentences and inserting in lieu thereof "Appeal shall be as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(j) Section 8 of the Act of March 4, 1913, is amended as follows:

(1) Paragraph 50 of such section (D.C. Code, sec. 43–420) is amended by striking out "circuit courts" and inserting in lieu thereof "the Superior Court of the District of Columbia".

(2) Paragraph 65 of such section (D.C. Code, sec. 43–705) is amended by striking out the third paragraph.

(3) Paragraph 68 of such section (D.C. Code, sec. 43–708) is repealed.

(k) The Act entitled "An Act to provide for unemployment compensation in the District of Columbia, authorize appropriations, and for other purposes", approved August 28, 1935, is amended as follows:

(1) Section 3(c)(10) of such Act (D.C. Code, sec. 46–303(c)(10)) is amended by striking out the last sentence thereof.

(2) Section 12 of such Act (D.C. Code, sec. 46–312) is amended by striking out subsection (b).

AMENDMENTS RELATING TO REVIEW OF ADMINISTRATIVE ACTIONS REGARDING OCCUPATIONS AND PROFESSIONS

SEC. 164. (a) The Act entitled "AN Act to regulate the practice of the healing art to protect the public health in the District of Columbia", approved February 27, 1929, is amended to read as follows:

(1) Section 38 of such Act (D.C. Code, sec. 2–129) is amended to read as follows—

"SEC. 38. The Commission may refuse to license or to register any person for any cause that in the judgment of the Commission would authorize suspension or revocation of a license or registration under section 27 of this Act. Before the Commission refuses to license or register any applicant for cause under this section, it shall give him an opportunity to be heard in person or by attorney and to produce witnesses in his behalf. Witnesses may be produced on behalf of the Commission and on behalf of any interested person. The attendance and testimony of witnesses may be compelled by subpena issued by the Superior Court, and that court is authorized to issue and enforce the subpenas on petition of the Commission. Any person failing or refusing, without just cause, to appear and testify in response to a subpena, or in any way obstructing the course on any hearing to which he has been subpenaed, is guilty of contempt of court and may be punished as other persons guilty of contempt of court are punished. Any member of the Commission may administer oaths at any hearing. Review of the Commission's action may be had in accordance with the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(2) Section 27 of such Act (D.C. Code, sec. 2–123) is amended to read as follows—

"SEC. 27. Suspension or revocation by the Commission of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(b) The Act of July 2, 1940, is amended as follows:

(1) Section 11 of such Act (D.C. Code, sec 2–311) is amended—

(A) by striking out all that precedes paragraph (a) and inserting in lieu thereof "The Board may revoke or suspend the license of any dentist in the District of Columbia upon proof satisfactory to the Board—", and

(B) by striking out "the said court" in the last sentence and inserting in lieu thereof "the Board".

(2) The last sentence of section 25 of such Act (D.C. Code, sec. 2–325) is amended to read as follows: "The license of a dentist who permits a dental hygienist, operating under his supervision, to perform any operation other than that permitted under this section, may be suspended or revoked, and the license of the hygienist violating this Act may also be suspended or revoked, in accordance with section 12 of this Act."

(3) Section 12 of such Act (D.C. Code, sec. 2–312) is amended to read as follows:

"SEC. 12. Suspension or revocation by the Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(c) The Act entitled "An Act to amend the Act to regulate the practice of podiatry in the District of Columbia", approved June 29, 1940, is amended as follows:

(1) Section 7 of such Act (D.C. Code, sec. 2–707) is amended—

(A) by striking out all that precedes paragraph (a) and inserting in lieu thereof "The Board may revoke or suspend the license of any podiatrist in the District of Columbia upon proof satisfactory to the Board—", and

(B) by striking out "the said court" in the last sentence and inserting in lieu thereof "the Board".

(2) Section 8 of such Act (D.C. Code, sec. 2–708) is amended to read as follows:

"SEC. 8. Suspension or revocation by the Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(d) Section 6 of the Act entitled "An Act to define the term of 'registered nurse' and to provide for the registration of nurses in the District of Columbia" approved February 9, 1907 (D.C. Code, sec. 2–407), is amended by striking out all after the first sentence and inserting in lieu thereof "Suspension or revocation by the Nurses' Examining Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1510)."

(e) Section 7 of the Act of March 2, 1929 (D.C. Code, sec. 2–406), is amended by striking out "sections 11–742, 17–303, 17–304, 17–305(b), 17–306, and 17–307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(f) Section 4(d) of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2–253) is amended by striking out ", and may seek review by the United States Court of Appeals for the District of Columbia" and all that follows and inserting in lieu thereof a period.

(g) The District of Columbia Practical Nurses' Licensing Act is amended as follows:

(1) Section 15 of such Act (D.C. Code, sec. 2–434) is amended by striking out ", and may seek a review by the United States Court of Appeals" and all that follows and inserting in lieu thereof a period.

(2) Section 8(b) of such Act (D.C. Code, sec. 2–427) is amended by striking out "in accordance with the provisions of subsection (c), section 5 of the Act of April 1, 1942 (56 Stat. 193, ch. 207; sec. 11–756(c), D.C. Code, 1951 edition)".

(h) Section 14 of the Physical Therapists Practice Act (D.C. Code, sec. 2–463) is amended by striking out ", and may seek a review by the United States Court of Appeals for the District of Columbia" and all that follows and inserting in lieu thereof a period.

(i) The third sentence of section 10 of the Act entitled "An Act to regulate the practice of veterinary medicine in the District of Columbia", approved February 1, 1907 (D.C. Code, sec. 2–810), is amended by striking out ", as provided by section 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code".

(j) The second paragraph of section 10 of the Act entitled "An Act to regulate barbers in the District of Columbia, and for other purposes", approved June 7, 1938 (D.C. Code, sec. 2–1110), is amended by striking out "in the manner provided by sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code".

(k) The fourth paragraph of section 7 of the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906 (D.C. Code, sec. 2–606), is amended by striking out ", in the manner provided by sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code".

(l) Section 28 of the Act entitled "An Act to provide for the examination and registration of architects and to regulate the practice of architecture in the District of Columbia", approved December 13, 1924 (D.C. Code, sec. 2–1028), is amended by striking out ", in the manner provided by sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code".

(m) Section 7(a) of the Act entitled "An Act to regulate and license pawnbrokers in the District of Columbia" approved August 6, 1956 (D.C. Code, sec. 2–2007), is amended by striking out "in accordance with the provisions of subsection (c), section 5 of the Act of April 1, 1942 (56 Stat. 193, ch. 207; sec. 11–756(c), D.C. Code, 1951 edition)".

(n) Section 9 of the Professional Engineers Registration Act (D.C. Code, sec 2–1809) is amended—

(1) by amending subsection (e) to read as follows:

"(e) Any person aggrieved by the action of the Board may appeal as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510).", and

(2) by striking out subsections (f) through (h).

(o) Section 9 of the Act of August 25, 1937 (D.C. Code, sec. 45–1409), is amended by striking out "sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(p) Paragraph 42 of section 7 of the Act of July 1, 1902 (D.C. Code, sec. 47–2101), is amended by striking out "sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

AMENDMENTS RELATING TO ENFORCEMENT OF SUPPORT

SEC. 165. (a) The Act of March 23, 1906 (D.C. Code, secs. 22–903, 22–904, 22–905), is repealed.

(b) The proviso of so much of the first section of the Act of May 18, 1910, as appears under the heading "COURTS" and subheading "JUVENILE COURT" (D.C Code, sec. 22–906) is repealed.

(c) Subsection (c) of section 19 of the District of Columbia Public Assistance Act of 1962 (D.C. Code, sec. 3–218), is repealed.

(d) Section 6 of the Act entitled "An Act to improve and extend, through reciprocal legislation, the enforcement of duties of support in the District of Columbia", approved July 10, 1957 (D.C. Code, sec. 30–306), is amended to read as follows:

"SEC. 6. Proceedings to enforce duties of support initiated by the District of Columbia shall be commenced by the filing of a complaint irrespective of the relationship between the plaintiff and defendant. Jurisdiction of all proceedings under this Act is vested in the Family Division of the Superior Court which shall have all power and authority heretofore vested in the Domestic Relations Branch of the District of Columbia Court of General Sessions."

AMENDMENTS RELATING TO THE CONDEMNATION OF LAND

SEC. 166. (a) Section 2(b) of the District of Columbia Alley Dwelling Act approved June 12, 1934 (D.C. Code, sec. 5–104), is amended by striking out "the Act entitled 'An Act to provide for the acquisition of land in the District of Columbia for the use of the United States', approved March 1, 1929" and inserting in lieu thereof" chapter 13 of title 16 of the District of Columbia Code".

(b) Section 5 of the District of Columbia Redevelopment Act of 1945 (D.C. Code, sec. 5–704) is amended by striking out "the Act entitled 'An Act to provide for the acquisi-

tion of land in the District of Columbia for the use of the United States', approved March 1, 1929 (45 Stat. 1415) or Acts which may amend or supplement said Act" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

(c) Section 1 of the Act of March 4, 1929 (D.C. Code, sec. 6–505), is amended by striking out "Chapter XV of the Code of Law for the District of Columbia" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

(d) Section 491d of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 7–205), is amended to read as follows:

"SEC. 491d. After the return of the marshal and filing of proof of publication of the notice provided for in section 491c, the court shall order the selection of a condemnation jury as provided in section 16–1312 of the District of Columbia Code. The jury shall consist of five persons and each juror take an oath or affirmation that he is not interested in any manner in the land to be condemned, is not related to the parties interested therein, and will fairly and impartially ascertain the damages each owner of land to be taken may sustain by reason of the opening, extension, widening, or straightening of the street, avenue, road, or highway, and the condemnation of land needed for the purpose thereof, and to assess the benefits resulting therefrom as hereinafter provided."

(e) Section 491h of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 7–209), is amended by striking out "shall order the jury commission to draw from the special box the names of as many persons as the court may direct, and from among the persons so drawn the court shall thereupon appoint" and inserting in lieu thereof "shall order the selection in accordance with section 491d of".

(f) Section 491m of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 7–214), is amended by striking out "court of appeals of the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(g) Section 3(a) of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to acquire, operate, and regulate public off-street parking facilities, and for other purposes", approved February 16, 1942 (D.C. Code, sec. 40–804(a)), is amended by striking out "sections 483 to 491, inclusive, of chapter XV, as amended, of the Code of Law for the District of Columbia, approved March 3, 1901 (31 Stat. 1265–1266)" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

AMENDMENTS RELATING TO LANDLORD-TENANT ACTIONS

SEC 167. The Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 1235 of such Act (D.C. Code, sec. 45–909) is amended to read as follows—

"SEC. 1235. Whenever real and personal property are leased together, as, for example, a house with furniture contained therein, the landlord, either in an action of ejectment or in the summary proceeding for possession, in the Superior Court of the District of Columbia, may have a judgment for recovery of the personality as well as the realty."

(2) Section 1225 of such Act (D.C. Code, sec. 45–910) is amended by striking out "or the landlord may bring an action to recover possession before a justice of the peace, as provided in chapter one, subchapter one, aforesaid".

(3) Section 1228 of such Act (D.C. Code, sec. 45–914) is repealed.

AMENDMENTS RELATING TO ACTIONS BY AND AGAINST CERTAIN BUSINESSES

SEC. 168. (a) The Act of March 4, 1913, is amended as follows:

(1) Paragraph 64 of section 8 of such Act (D.C. Code, sec. 43–704) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(2) Paragraph 65 of section 8 of such Act (D.C. Code, sec. 43–705) is amended by striking out "United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "District of Columbia Court of Appeals".

(3) Paragraph 67 of section 8 of such Act (D.C. Code, sec. 43–707) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(4) Paragraph 94 of section 8 of such Act (D.C. Code, sec. 43–401) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(5) Section 11 of such Act (D.C. Code, sec. 43–502) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court for the District of Columbia".

(6) Section 7 of the Act of April 22, 1904 (D.C. Code, sec. 43–1515) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

Business Corporations

(b) The District of Columbia Business Corporation Act, approved June 8, 1954, is amended as follows:

(1) Section 2(r) of such Act (D.C. Code, sec. 29–902(r)) is amended to read as follows:

"(r) 'The court', except where otherwise specified, means the court in the District of Columbia having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000."

(2) Sections 81, 89, and 90 of such Act (D.C. Code, secs. 29–930e, 29–931a, 29–931b) are each amended by striking out "United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "court".

(3) Section 137 of such Act (D.C. Code, sec. 29–948) is amended by striking out "United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "court".

(c) The Act entitled "An Act to establish a Code of laws for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 639d of such Act (D.C. Code, sec. 29–240) is amended—

(A) by striking out "the United States District Court for the District of Columbia" the first time it appears and inserting in lieu thereof "the court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

(B) by striking out "the United States District Court for the District of Columbia" the second time it appears and inserting in lieu thereof "such court", and

(C) by striking out "said United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "such court".

(2) Sections 768, 782, and 786 of such Act (D.C. Code, secs. 29–701, 29–715, and 29–719) are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

(d) The District of Columbia Nonprofit Corporation Act is amended as follows:

(1) Section 2(k) of such Act (D.C. Code, sec. 29–1002(k)) is amended to read:

"(k) 'The court', except where otherwise specified, means the court in the District of Columbia having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000."

(2) Section 55 of such Act (D.C. Code, sec. 29–1055) is amended by striking out "The United States District Court for the District of Columbia" and inserting in lieu thereof "The Court".

(3) Section 94 of such Act (D.C. Code, sec. 29–1094) is amended by striking out "the United States District Court for the District of Columbia" each place it appears and inserting in lieu thereof "the court".

Insurance Companies

(e) Section 20 of chapter II of the Life Insurance Act (D.C. Code, sec. 35–419) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

(f) Section 5 of chapter II of the Fire and Casualty Act (D.C. Code, sec. 35–1308) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

Partnerships

(g) Section 25 of the Uniform Limited Partnership Act (D.C. Code, sec. 41–425) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

AMENDMENTS RELATING TO ILLEGAL ACTION BY CORPORATIONS

SEC. 169. The Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 632 of such Act (D.C. Code, sec. 29–228) is amended by striking out "to the United States" and inserting in lieu thereof "to the District of Columbia".

(2) Section 786 of such Act (D.C. Code, sec. 29–719) is amended by striking out "in the name of the United States".

(3) Section 793 of such Act (D.C. Code, sec. 29–725) is amended by striking out "in the name of the United States."

AMENDMENT RELATING TO HOSPITALIZATION OF ADDICTS

SEC. 170. Section 3 of the Act entitled "An Act to provide for the treatment of users of narcotics in the District of Columbia, approved June 24, 1953 (D.C. Code, sec. 24–602), is amended by striking out "Juvenile Court Act of the District of Columbia, as amended" and inserting in lieu thereof "chapter 23 of title 16 of the District of Columbia Code."

AMENDMENT RELATING TO TRANSFER OF PRISONERS

SEC. 171. So much of the first section of the Act of March 2, 1911, as relates to the workhouse (D.C. Code, sec. 24–403) is amended by inserting after "United States District Court for the District of Columbia" each time it appears the following: ", Superior Court of the District of Columbia.".

AMENDMENTS TO THE UNITED STATES CODE

SEC. 172. (a)(1) Section 1257 of title 28, United States Code, is amended by adding after and below paragraph (3) the following new sentence: "For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals."

(2)(A) Chapter 133 of title 28, United

States Code, is amended by adding at the end thereof the following new section:

"§ 2113. Definition

"For purposes of this chapter, the terms 'State court', 'State courts', and 'highest court of a State' include the District of Columbia Court of Appeals."

(B) The analysis of chapter 133 is amended by adding at the end thereof the following new item:

"2113. Definition."

(b) Section 1869(f) of title 28 of the United States Code is amended by striking out everything following "Canal Zone Code" and inserting in lieu thereof a semicolon and the following: "except that for purposes of sections 1861, 1862, 1866(c), 1866(d), and 1867 of this chapter such terms shall include the Superior Court of the District of Columbia;"

(c)(1) Chapter 85 of title 28 of the United States Code is amended by adding at the end thereof the following new section:

"§ 1363. Construction of references to laws of the United States or Acts of Congress.

"For purposes of this chapter, references to laws of the United States or Acts of Congress do not include laws applicable exclusively to the District of Columbia."

(2) The analysis of chapter 85 is amended by adding at the end thereof the following new item:

"1363. Construction of references to laws of the United States or Acts of Congress.".

(d)(1) Chapter 89 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1451. Definitions

"For purposes of this chapter—

"(1) The term 'State court' includes the Superior Court of the District of Columbia.

"(2) The term 'State' includes the District of Columbia."

(2) The analysis of chapter 89 is amended by adding at the end thereof the following new item:

"1451. Definitions."

(e) Section 5102(c)(4) of title 5 of the United States Code is amended to read as follows:

"(4) teachers, school officials, and employees of the Board of Education of the District of Columiba whose pay is fixed under Chapter 15 of title 31, District of Columbia Code; the chief judges and the associate judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and nonjudicial employees of the District of Columbia court system whose pay is fixed under chapter 17 of title 11, District of Columbia Code;".

AMENDMENTS RELATING TO THE DISTRICT OF COLUMBIA'S SHARE OF EXPENSES OF THE FEDERAL COURTS

SEC. 173. (a)(1) All outstanding and future obligations of the Commissioner of the District of Columbia with respect to the District of Columbia's share of the cost of construction, operation, maintenance, and repair of the United States courthouse in the District of Columbia, as required by the Act of May 14, 1948 (62 Stat. 235), are canceled upon the effective date of this title.

(2) Beginning on the effective date of this title, the Executive Officer of the District of Columbia courts shall reimburse to the United States from any funds in the Treasury to the credit of the District of Columbia courts the amount determined by the administrator of General Services to be necessary to cover seventy-five per centum of the costs of operation, maintenance, and repair of space used by the United States attorney and the United States marshal for the District of Columbia.

(b) Section 7 of the Act of June 30, 1906 (D.C. Code, sec. 47–204), is amended to read as follows:

"SEC. 7. (a)(1) Until the day before the effective date of the District of Columbia Court Reorganization Act of 1970, the Commissioner of the District of Columbia shall reimburse the United States for 60 per centum of the expenditures made on or before that day for the expenses of the United States District Court for the District of Columbia that are described in paragraph (2). During the thirty-month period beginning on such effective date, the Executive Officer of the District of Columbia courts shall reimburse the United States for expenditures made during that period for such expenses at the following rates of reimbursement:

"(A) 40 per centum for the first eighteen months of such period.

"(B) 20 per centum for the remainder of such period.

"(2) The expenses referred to in paragraph (1) are fees of witnesses, fees of jurors, pay of baliffs and criers (including salaries of deputy marshals who act as bailiffs or criers), and all other miscellaneous expenses of the United States District Court for the District of Columbia.

"(b) Beginning after the thirty-month period referred to in subsection (a), the Executive Officer of the District of Columbia courts shall reimburse the United States for the District of Columbia's share of the cost for jury selection and grand jury expenses, as determined by the Director of the Administrative Office of the United States Court. Estimates of the District of Columbia's share of such cost for each fiscal year shall be submitted to the Joint Committee on Judicial Administration of the District of Columbia courts for transmission with the annual estimate of the District of Columbia courts under section 11–1743 of title 11 of the District of Columbia Code.

"(c) Reimbursement made under this section shall be made from funds in the Treasury to the credit of the District of Columbia."

(c) Section 6 of the Act of August 2, 1949 (D.C. Code, sec. 47–213), is amended by inserting before the period at the end thereof ", until eighteen months after the effective date of the District of Columbia Court Reorganization Act of 1970".

PART E—TRANSITION PROVISIONS; APPOINTMENT OF ADDITIONAL JUDGES; AND EFFECTIVE DATE

EXISTING RECORDS, FILES, PROPERTY, AND FUNDS

SEC. 191. (a) The files, records, property, and unexpended balances of appropriations and other funds of the former District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court are transferred to the Superior Court of the District of Columbia.

(b) The files, records, and property of the United States District Court for the District of Columbia with respect to its jurisdiction on the day before the effective date of this title under section 11–522 of title 11 and chapters 5, 7, 11, 13, and 15 of title 21, respectively, of the District of Columbia Code, as in effect on such day, are transferred to the Superior Court of the District of Columbia.

EXISTING PERSONNEL

SEC. 192. (a) The personnel of the former District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court shall be transferred to the Superior Court of the District of Columbia and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of that court without break in service. Personnel of the United States District Court for the District of Columbia performing functions incident to jurisdiction transferred under this Act to the Superior Court shall be entitled to transfer to the Superior Court, and upon such transfer shall retain all of their rights, privileges, and benefits, and shall be considered as continuous employees of the Superior Court without break in service.

(b) Nothing in this title shall affect the status of persons in the competitive civil service on the date of enactment of this Act, but such persons may be assigned within the District of Columbia court system without regard to such status.

RETIREMENT OF CERTAIN DISTRICT OF COLUMBIA JUDGES

SEC. 193. (a) The person serving as judge of the District of Columbia Tax Court on the day prior to the effective date of this title may, within sixty days of such date, elect to retain retirement benefits under section 2 of title IX of the District of Columbia Revenue Act of 1937 (D.C. Code, sec. 47–2402), or relinquish such benefits and elect retirement benefits under chapter 15 of title 11 of the District of Columbia Code, as amended by part A of ths title.

(b)(1) Any judge of the District of Columbia Court of Appeals, the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, or the former District of Columbia Municipal Court of Appeals or Municipal Court, who had retired prior to the effective date of this subsection, may elect to have his retirement salary recomputed and paid in accordance with this subsection. Such election may be made in writing within sixty days after such effective date and shall be filed with the Commissioner of the District of Columbia.

(2) The retirement salary of each judge making such election shall be recomputed in accordance with applicable law then in effect at the time of his retirement, except that, in the recomputation of such retirement salary, the salary of the corresponding judicial office on the day immediately following the effective date of this subsection shall be deemed to be the salary which such judge was receiving immediately prior to the date of his retirement.

(3) Each judge who elects recomputation of his retirement salary in accordance with this subsection shall—

(A) deposit in the District of Columbia Judicial Retirement and Survivors Annuity Fund an amount equal to 3½ per centum of his basic salary received for judicial service, with interest at 4 per centum per annum thereafter, compounded on December 31 of each year; or

(B) have his retirement salary, as recomputed in accordance with this subsection, reduced by 10 per centum of the amount of such deposit remaining unpaid.

(4) The retirement salary of any judge which is recomputed in accordance with this subsection shall be payable only with respect to those months beginning on and after the first day of the first month following the date of the election made by such judge under this subsection.

CONTINUATION OF SERVICE OF JUDGES OF DISTRICT OF COLUMBIA COURTS

SEC. 194. A judge of the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, or the District of Columbia Tax Court who is serving as a judge of such a court on the day before the effective date of this title under an appointment made before such date shall on such date continue to serve as a judge of the Superior Court of the District of Columbia, but no amendment made by this title shall be construed to extend the term of such judge under such appointment. No amendment made by this title shall be construed to extend the term of office of a judge of the District of Columbia Court of Appeals appointed before the effective date of this title. The chief judge of the District of Columbia Court of Appeals and the chief judge of the District

of Columbia Court of General Sessions serving on the day before the effective date of this title shall, on and after such date, serve as chief judges of the District of Columbia Court of Appeals and the Superior Court of the District of Columbia, respectively, until their successors have been designated under section 11–1503 of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title.

APPOINTMENT OF ADDITIONAL JUDGES AND EXECUTIVE OFFICER OF DISTRICT OF COLUMBIA COURTS

SEC. 195. (a)(1) The President of the United States shall nominate, and by and with the advice and consent of the Senate shall appoint, three additional judges to the District of Columbia Court of Appeals who shall have the qualifications prescribed by section 11–1501 of title 11 of the District of Columbia Code as contained in the revision made by part A of this title, and who shall, upon taking the oath required by law, enter into immediate service on that court.

(2) The President of the United States shall nominate, and by and with the advice and consent of the Senate shall appoint, ten additional judges to the District of Columbia Court of General Sessions who shall have the qualifications prescribed by section 11–1501 of title 11 of the District of Columbia Code as contained in the revision made by part A of this title, and who shall, upon taking the oath required by law, enter into immediate service on that court.

(b) The President shall appoint an Executive Officer of the District of Columbia courts. Until the effective date of this title, the Executive Officer shall receive the same compensation as is prescribed for an associate judge of the District of Columbia Court of General Sessions. The Executive Officer in office on the effective date of this title shall continue to serve in such office until his successor has been selected in accordance with subchapter 1 of chapter 17 of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title.

ASSIGNMENT OF JUDGES TO THE JUVENILE COURT OF THE DISTRICT OF COLUMBIA

SEC. 196. Notwithstanding the provisions of title 11 of the District of Columbia Code, as in effect on the date of enactment of this title, the chief judge of the District of Columbia Court of General Sessions may assign associate judges of that court to sit as judges of the Juvenile Court of the District of Columbia, under the supervision of the chief judge of the Juvenile Court, during the period beginning on the date of the enactment of this title and ending on the day before the effective date of this title.

EFFECTIVE DATE

SEC. 197. (a) The effective date of this title (and the amendments made by this title) shall be the first day of the seventh calendar month which begins after the date of the enactment of this Act.

(b) Notwithstanding subsection (a), the following provisions shall take effect as provided in the following paragraphs:

(1) The provisions of chapter 25 (relating to attorneys) of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title, shall take effect on April 1, 1972. The provisions of chapter 21 (relating to attorneys) of title 11 of the District of Columbia Code, in effect on the day before the effective date of this title, shall remain in effect until April 1, 1972.

(2) The provisions of chapter 21 (relating to the Register of Wills) of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title, shall take effect immediately following the expiration of the eighteen-month period beginning on the effective date of this title. The provisions of sections 11–504 through 11–506 of title 11 of the District of Columbia Code (relating to the Register of Wills) in effect on the day before the effective date of this title, shall remain in effect until the expiration of such eighteen-month period.

(3) The amendments made by the following sections of this Act (relating to those matters over which the United States District Court for the District of Columbia retains temporary jurisdiction) shall take effect immediately following the expiration of the eighteen-month period beginning on the effective date of this title: Sections 144(10), 145(b)(2), 145(k)(1), 145(l), 147(1), 148(2), 149(2), 149(4), 149(6), 149(8), 150(a), 150(b)(1), 150(b)(3), 150(d), 150(e), 150(f)(3), 150(f)(4), 150(f)(8), 150(g), and 150(h)(1).

(4) Section 146(a)(1) (relating to the repeal of certain review provisions) shall not apply with respect to any appeal from the District of Columbia Court of Appeals over which the United States Court of Appeals for the District of Columbia Circuit has jurisdiction under section 11–301 of title 11 of the District of Columbia Code as in effect immediately before the date of enactment of this Act.

(5) Section 11–722 of the District of Columbia Code, as contained in the revision made by part A of this title, shall take effect with respect to petitions filed after the effective date of this title for review of decisions or orders.

(6) The amendments made by subpart 2 of part D of this title to section 8 of the Act of March 4, 1913, shall not apply with respect to proceedings brought in the United States District Court for the District of Columbia on or before the effective date of this title.

(7) The amendments made by section 162 shall take effect with respect to petitions filed after the effective date of this title for review of decisions or orders.

(8) Sections 195 and 196 shall take effect on the date of the enactment of this Act.

(c) For purposes of this title and any amendment made by this title, the term "effective date of the District of Columbia Court Reorganization Act of 1970" means the first day of the seventh calendar month which begins after the date of the enactment of this Act.

TITLE II—CRIMINAL LAW AND PROCEDURE

SENTENCING OF MULTIPLE OFFENDERS

SEC. 201. (a) Section 907 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 22–104), is amended to read as follows:

"SEC. 907. Except as provided in section 907A(b), if any person—

"(1) is convicted of a criminal offense (other than a non-moving traffic offense) under a law applicable exclusively to the District of Columbia, and

"(2) was previously convicted of a criminal offense under any law of the United States or of a State or territory of the United States which offense, at the time of the conviction referred to in paragraph (1), is the same as, constitutes, or necessarily includes the offense referred to in that paragraph,

such person may be sentenced to pay a fine in an amount not more than one and one-half times the maximum fine prescribed for the conviction referred to in paragraph (1) and sentenced to imprisonment for a term not more than one and one-half times the maximum term of imprisonment prescribed for that conviction. If such person was previously convicted more than once of an offense described in paragraph (2), he may be sentenced to pay a fine in an amount not more than three times the maximum fine prescribed for the conviction referred to in paragraph (1) and sentenced to imprisonment for a term not more than three times the maximum term of imprisonment prescribed for that conviction. No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this section."

(b) Such Act is amended by adding after section 907 the following new section:

"SEC. 907A. (a)(1) Except as provided in subsection (b), if any person—

"(A) is convicted in the District of Columbia of a felony, and

"(B) before the commission of such felony, was convicted of at least two felonies,

and the court is of the opinion that the history and character of such person and the nature and circumstances of his criminal conduct indicate that extended incarceration or lifetime supervision, or both, will best serve the public interest, the court may, in lieu of any sentence otherwise authorized for the felony referred to in subparagraph (A), impose such greater sentence as it deems necessary, including imprisonment for the natural life of such person.

"(2) For purposes of subparagraph (B) of paragraph (1)—

"(A) a person shall be considered as having been convicted of a felony if he was convicted (i) of a felony in a court of the District of Columbia or of the United States, or (ii) in any other jurisdiction of a crime classified as a felony under the laws of that jurisdiction or punishable by imprisonment for more than two years; and

"(B) a person shall be considered as having been convicted of two felonies if his initial sentencing under a conviction of one felony preceded the commission of the second felony for which he was convicted.

No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this subsection.

"(b)(1) If any person—

"(A) is convicted in the District of Columbia of a violent crime, and

"(B) before the commission of such violent crime, was convicted of at least two violent crimes,

the court shall (unless it imposes the death sentence) sentence him to imprisonment for his natural life, with eligibility for parole only after the expiration of twenty years from the date his imprisonment begins. Imposition or execution of sentence under this subsection shall not be suspended, probation shall not be granted, and chapter 402 of title 18 of the United States Code (Federal Youth Corrections Act) shall not apply.

"(2)(A) For purposes of this subsection, the term 'violent crime' means any violation of the laws of the United States (including laws applicable exclusively to the District of Columbia) or a State or territory of the United States, which violation would constitute under the laws applicable exclusively to the District of Columbia any of the following crimes: Murder, manslaughter, rape, arson, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary in the first degree, robbery, housebreaking, indecent acts against children, assault with intent to kill, to commit rape, or to commit robbery, assault with a dangerous weapon, assault on a police or correctional officer, or assault with intent to commit any offense punishable by imprisonment for more than one year.

"(B) For purposes of this subsection, (i) a person shall be considered as having been convicted of two violent crimes if his initial sentencing under a conviction of one such crime preceded the commission of the second violent crime for which he was convicted, and (ii) no conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this subsection."

CONSPIRACY

SEC. 202. Such Act of March 3, 1901, is further amended by adding after section 908 the following new section:

"SEC. 908A. (a) If two or more persons

conspire either to commit a criminal offense or to defraud the District of Columbia or any court or agency thereof in any manner or for any purpose, each shall be fined not more than $10,000 or imprisoned not more than five years, or both, except that if the object of the conspiracy is a criminal offense punishable by less than five years, the maximum penalty for the conspiracy shall not exceed the maximum penalty provided for that offense.

"(b) No person may be convicted of conspiracy unless an overt act is alleged and proved to have been committed by one of the conspirators pursuant to the conspiracy and to effect its purpose.

"(c) When the object of a conspiracy contrived within the District of Columbia is to engage in conduct in a jurisdiction outside the District of Columbia which would constitute a criminal offense under an Act of Congress applicable exclusively to the District of Columbia if performed therein, the conspiracy is a violation of this section if (1) such conduct would also constitute a crime under the laws of the other jurisdiction if performed therein, or (2) such conduct would constitute a criminal offense under an Act of Congress exclusively applicable to the District of Columbia even if performed outside the District of Columbia.

"(d) A conspiracy contrived in another jurisdiction to engage in conduct within the District of Columbia which would constitute a criminal offense under an Act of Congress exclusively applicable to the District of Columbia if performed within the District of Columbia is a violation of this section when an overt act pursuant to the conspiracy is committed within the District of Columbia. Under such circumstances, it is immaterial and no defense to a prosecution for conspiracy that the conduct which is the object of the conspiracy would not constitute a crime under the laws of the other jurisdiction."

SECOND DEGREE BURGLARY EXTENDED TO BREAKING AND ENTERING VENDING MACHINES AND SIMILAR DEVICES

SEC. 203. Section 823(b) of such Act of March 31, 1901 (D.C. Code, sec. 22–1801), is amended by inserting after "deposited and kept for the purpose of trade," the following: "or any parking meter, coin telephone, vending machine dispensing goods or services, money changer, or any other device designed to receive currency,".

PENALTY FOR RAPE

SEC. 204. Section 808 of such Act of March 31, 1901 (D.C. Code, sec. 22–2801), is amended to read as follows:

"SEC. 808. Whoever has carnal knowledge of a female forcibly and against her will or whoever carnally knows and abuses a female child under sixteen years of age, shall be imprisoned for any term of years or for life."

COMMITTING CRIME OF VIOLENCE WHILE ARMED

SEC. 205. (a) Section 2 of the Act entitled "An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes", approved July 8, 1932 (D.C. Code, sec. 22–3202), is amended to read as follows:

"SEC. 2. (a) If any person commits a crime of violence in the District of Columbia when armed with or having readily available any pistol or other firearm (or imitation thereof) or other dangerous or deadly weapon (including a sawed-off shotgun, shotgun, machinegun, rifle, dirk, bowie knife, butcher knife, switchblade knife, razor, blackjack, billy, or metallic or other false knuckles) he shall, in addition to the punishment provided for the crime of violence—

"(1) if he is convicted for the first time of having so committed a crime of violence in the District of Columbia, be sentenced to a minimum period of imprisonment of not less than three years, and a maximum period of imprisonment which may not be less than three times the minimum sentence imposed and which may be up to life imprisonment.

"(2) if he is convicted more than once of having so committed a crime of violence in the District of Columbia, be sentenced to a minimum period of imprisonment of not less than ten years, and a maximum period of imprisonment which may not be less than three times the minimum sentence imposed and which may be up to life imprisonment.

"(b) Where the maximum sentence imposed under this section is life imprisonment, the minimum sentence imposed under subsection (a) may not exceed fifteen years' imprisonment.

"(c) Any person sentenced under this section may be released on parole in accordance with the Act of July 15, 1932 (chapter 2 of title 24 of the District of Columbia Code), at any time after having served the minimum sentence imposed under this section.

"(d)(1) Chapter 402 of title 18 of the United States Code (Federal Youth Corrections Act) shall not apply with respect to any person sentenced under paragraph (2) of subsection (a).

"(2) The execution or imposition of any term of imprisonment imposed under this section may not be suspended and probation may not be granted. Nothing contained in this section shall be construed as reducing any sentence otherwise imposed or authorized to be imposed.

"(e) No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this section."

(b) Section 13 of such Act is amended by striking out "This" and inserting in lieu thereof the following: "Except as provided in section 2 and section 14(b) of this Act, this".

RESISTING ARREST

SEC. 206. Subsection (a) of section 432 of the Revised Statutes relating to the District of Columbia (D.C. Code, sec. 22–505(a)) is amended by inserting at the end thereof the following: "It is neither justifiable nor excusable cause for a person to use force to resist an arrest when such arrest is made by an individual he has reason to believe is a law enforcement officer, whether or not such arrest is lawful."

INSANE CRIMINALS

SEC. 207. Section 927 of the Act of March 3, 1901 (D.C. Code, sec. 24–301), is amended—

(1) by striking out "Whenever a person is arrested" and all that follows down through "period of probation" in the first sentence of subsection (a) and inserting in lieu thereof the following: "Whenever a person is arrested or indicted for, or charged by information with, an offense, or a child is the subject of a transfer motion in the Family Division of the Superior Court of the District of Columbia pursuant to section 16–2331 of the District of Columbia Code, and before the imposition of sentence, the expiration of any period of probation, or prior to hearing on the transfer motion, as the case may be,";

(2) by striking out the period at the end of the second sentence of subsection (a) and inserting in lieu thereof "or to participate in transfer proceedings.";

(3) by inserting after "stand trial" in the third sentence of subsection (a) "or to participate in transfer proceedings";

(4) by inserting after "stand trial" in both places it appears in subsection (b) "or to participate in transfer proceedings";

(5) by amending subsection (d) to read as follows:

"(d) If any person tried upon an indictment or information for an offense raises the defense of insanity and is acquitted solely on the ground that he was insane at the time of its commission, he shall be committed to a hospital for the mentally ill until such time as he is eligible for release pursuant to subsection (e).";

(6) by adding at the end of subsection (j) the following sentence: "No person accused of an offense shall be acquitted on the ground that he was insane at the time of its commission unless his insanity, regardless of who raises the issue, is affirmatively established by a preponderance of the evidence."; and

(7) by adding at the end thereof the following new subsection:

"(k)(1) A person in custody or conditionally released from custody, pursuant to the provisions of this section, claiming the right to be released from custody, the right to any change in the conditions of his release, or other relief concerning his custody, may move the court having jurisdiction to order his release, to release him from custody, to change the conditions of his release, or to grant other relief.

"(2) A motion for relief may be made at any time.

"(3) Unless the motion and the files and records of the case conclusively show that the person is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto. On all issues raised by his motion, the person shall have the burden of proof. If the court finds that the person is entitled to his release from custody, either conditional or unconditional, a change in the conditions of his release, or other relief, the court shall enter such order as may appear appropriate.

"(4) A court may entertain and determine the motion without requiring the production of the person at the hearing.

"(5) A court shall not be required to entertain a second or successive motion for relief under this section more often than once every six months. A court for good cause shown may in its discretion entertain such a motion more often than once every six months.

"(6) An appeal may be taken from an order entered under this section to the court having jurisdiction to review final judgments of the court entering the order.

"(7) An application for habeas corpus on behalf of a person who is authorized to apply for relief by motion pursuant to this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court having jurisdiction to entertain a motion pursuant to this section, unless it also appears that the remedy by motion is inadequate or ineffective to test the validity of his detention."

NARCOTIC DRUGS

SEC. 208. Section 23 of the Uniform Narcotic Drug Act (D.C. Code, sec. 33–423) is amended to read as follows:

"SEC. 23. (a) Except as hereinafter provided, a person violating any provision of this Act, or any regulation made by the Commissioner of the District of Columbia or the District of Columbia Council under authority of this Act, for which no specific penalty is otherwise provided, shall be fined not less than $100 nor more than $1,000, or imprisoned for not more than one year, or both.

"(b) A person convicted of an offense punishable pursuant to this section, who shall have previously been convicted in the District of Columbia of such an offense, or who shall have previously been convicted, either in the District of Columbia or elsewhere, of a violation of the laws of the United States or of a State or subdivision thereof which would have been a violation of this Act and

punishable pursuant to this section if committed in the District of Columbia and prosecuted pursuant to this Act, shall be fined not less than $500 nor more than $5,000 or imprisoned for not more than ten years, or both.

"(c) For additional penalties for two or more violations of this Act, see sections 907 and 907A of the Act of March 3, 1901 (as amended by title II of the District of Columbia Court Reform and Criminal Procedure Act of 1970)."

POSSESSION OF CERTAIN DESTRUCTIVE DEVICES

SEC. 208A. Section 14 of the Act of July 8, 1932 (D.C. Code, sec. 22–3214), is amended in subsection (c) by striking out "this section" and inserting in lieu thereof "subsection (a) or (b) of this section" and by adding at the end thereof the following new subsection:

"(d)(1) No person shall, without lawful authority, possess any incendiary device within the District of Columbia.

"(2) For the purpose of this subsection, the term 'incendiary device' means any flame producing—

"(A) bomb,

"(B) grenade,

"(C) mine, or

"(D) device similar to any of the devices described in the preceding clauses.

"(3) Whoever violates this subsection shall be imprisoned—

"(A) in the case of a first offense, for a period of not less than two years,

"(B) in the case of a second or subsequent offense, for a period of not less than ten years."

CODIFICATION OF TITLE 23 OF DISTRICT OF COLUMBIA CODE

SEC. 209. (a) The general and permanent laws of the District of Columbia relating to criminal procedure are revised, codified, and enacted as title 23 of the District of Columbia Code, "Criminal Procedure", and may be cited "D.C. Code, sec. ", as follows:

"TITLE 23.—CRIMINAL PROCEDURE

"Chap.	Sec.
"1. General Provisions	23–101
"3. Indictments and Informations	23–301
"5. Warrants and Arrests	23–501
"7. Extradition and Fugitives from Justice	23–701
"9. Fresh Pursuit	23–901
"11. Professional Bondsmen	23–1101
"13. Bail Agency and Pretrial Detention	23–1301
"15. Out-of-State Witnesses	23–1501
"17. Death Penalty	23–1701

Chapter 1.—GENERAL PROVISIONS

"Sec.

"23–101. Conduct of prosecutions.

"23–102. Abandonment of prosecution; enlargement of, time for taking action.

"23–103. Statements prior to sentence.

"23–104. Appeals by United States and District of Columbia.

"23–105. Challenges to jurors.

"23–106. Witnesses for defense; fees.

"23–107. Discharge or acquittal of joint defendant during trial in order to be witness.

"23–108. Depositions.

"23–109. Powers of investigators assigned to United States attorney.

"23–110. Remedies on motion attacking sentence.

"23–111. Proceedings to establish previous convictions.

"23–112. Concurrent and consecutive sentences.

"§ 23–101. Conduct of prosecutions

"(a) Prosecutions for violations of all police or municipal ordinances or regulations and for violations of all penal statutes in the nature of police or municipal regulations, where the maximum punishment is a fine only, or imprisonment not exceeding one year, shall be conducted in the name of the District of Columbia by the Corporation Counsel for the District of Columbia or his assistants, except as otherwise provided in such ordinance, regulation, or statute, or in this section.

"(b) Prosecutions for violations of section 6 of the Act of July 29, 1892 (D.C. Code, sec. 22–1107), relating to disorderly conduct, and for violations of section 9 of that Act (D.C. Code, sec. 22–1112), relating to lewd, indecent, or obscene acts, shall be conducted in the name of the District of Columbia by the Corporation Counsel or his assistants.

"(c) All other criminal prosecutions shall be conducted in the name of the United States by the United States attorney for the District of Columbia or his assistants, except as otherwise provided by law.

"(d) An indictment or information brought in the name of the United States may include, in addition to offenses prosecutable by the United States, offenses prosecutable by the District of Columbia, and such prosecution shall be conducted by the United States attorney in the name of the United States, if the written consent of the Corporation Counsel (or his assistant authorized to consent to such prosecution) is filed in such case.

"(e) Separate indictments or informations, or both, charging offenses prosecutable by the District of Columbia and by the United States may be joined for trial if the offenses charged therein could have been joined in the same indictment. Such prosecution may be conducted either solely by the Corporation Counsel or his assistants or solely by the United States attorney or his assistants if the other prosecuting authority consents.

"(f) If in any case any question shall arise as to whether, under this section, the prosecution should be conducted by the Corporation Counsel or by the United States attorney, the presiding judge shall forthwith, either on his own motion or upon suggestion of the Corporation Counsel or the United States attorney, certify the case to the District of Columbia Court of Appeals, which court shall hear and determine the question in a summary way. In every such case the defendant or defendants shall have the right to be heard in the District of Columbia Court of Appeals. The decision of such court shall be final.

"§ 23–102. Abandonment of prosecution; enlargement of time for taking action

"If any person charged with a criminal offense shall have been committed or held to bail to await the action of the grand jury and within nine months thereafter the grand jury shall not have taken action on the case, either by ignoring the charge or by returning an indictment, the prosecution of such charge shall be deemed to have been abandoned and the accused shall be set free or his bail discharged, as the case may be: but, the court having jurisdiction to try the offense for which the person has been committed, when practicable and upon good cause shown in writing and upon due notice to the accused, may from time to time enlarge the time for the taking action in such case by the grand jury.

"§ 23–103. Statements prior to sentence

"Before imposing sentence the court may disclose to the defendant's counsel and to the prosecuting attorney, but not to one and not the other, all or part of any pre-sentencing report submitted to the court in the case. The court also prior to imposing sentence shall afford counsel an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of punishment. At any time when the defendant or his counsel addresses the court on the sentence to be imposed, the prosecuting attorney shall, if he wishes, have an equivalent opportunity to address the court and to make a recommendation to the court on the sentence to be imposed and to present information in support of his recommendation. Such information as the defendant or his counsel or the prosecuting attorney may present shall at all times be subject to the applicable rules of mutual discovery.

"§ 23–104. Appeals by United States and District of Columbia

"(a)(1) The United States or the District of Columbia may appeal an order, entered before the trial of a person charged with a criminal offense, which directs the return of seized property, suppresses evidence, or otherwise denies the prosecutor the use of evidence at trial, if the United States attorney or the Corporation Counsel conducting the prosecution for such violation certifies to the judge who granted such motion that the appeal is not taken for purpose of delay and the evidence is a substantial proof of the charge pending against the defendant.

"(2) A motion for return of seized property or to suppress evidence shall be made before trial unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion.

"(b) The United States or the District of Columbia may appeal a ruling made during the trial of a person charged with a criminal offense which suppresses or otherwise denies the prosecutor the use of evidence on the ground that it was invalidly obtained, if the United States attorney or the Corporation Counsel conducting the prosecution for such violation certifies to the judge that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of the charge being tried against the defendant. The court shall either adjourn the trial until the appeal shall be resolved or declare a mistrial and continue the case until the appeal shall be resolved.

"(c) The United States or the District of Columbia may appeal an order dismissing an indictment or information or otherwise terminating a prosecution in favor of a defendant or defendants as to one or more counts thereof, except where there is an acquittal on the merits.

"(d) The United States or the District of Columbia may appeal any other ruling made during the trial of a person charged with an offense which the United States attorney or the Corporation Counsel certifies as involving a substantial and recurring question of law which requires appellate resolution. Such an appeal may be taken during a trial only with leave of the court, and upon allowing such an appeal during a trial the court shall adjourn the trial until the appeal shall be resolved or declare a mistrial and continue the case until the appeal shall be resolved. Such an appeal may be taken after trial, and the appellate court shall decide the question of law which has been certified as substantial and recurring, but a verdict in favor of the defendant shall not be set aside.

"(e) Any appeal taken pursuant to this section either during or prior to trial shall be expedited.

"(f) Pending the prosecution and determination of an appeal taken pursuant to this section, the defendant shall be detained or released in accordance with chapter 13 of this title or chapter 207 of title 18, United States Code.

"§ 23–105. Challenges to jurors

"(a) In a trial for an offense punishable by death, each side is entitled to twenty peremptory challenges. In a trial for an offense punishable by imprisonment for more than one year, each side is entitled to ten peremptory challenges. In all other criminal cases, each side is entitled to three peremptory challenges. If there is more than one defendant, or if a case is prosecuted both by

the United States and by the District of Columbia, the court may allow additional peremptory challenges and permit them to be exercised separately or jointly, but in no event shall one side be entitled to more peremptory challenges than the other.

"(b) The court may direct that jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. In addition to those otherwise allowed, each side is entitled to one peremptory challenge if one or two alternate jurors are to be impaneled, to two peremptory challenges if three or four alternate jurors are to be impaneled, and to three peremptory challenges if five or six alternate jurors are to be impaneled.

"(c) Any juror or alternate juror may be challenged for cause.

"(d) No verdict shall be set aside for any cause which might be alleged as ground for challenge of a juror before the jury is sworn, except when the objection to the juror is that he had a bias against the defendant such as would have disqualified him, such disqualification was not known to or suspected by the defendant or his counsel before the juror was sworn, and the basis for such disqualification was the subject of examination or request for examination of the prospective jurors by or on request of the defendant.

"§ 23–106. Witnesses for defense; fees

"The court shall order at any time that a subpoena be issued for service upon a named witness on behalf of a defendant if the defendant makes an application for such an order and makes a satisfactory showing that he is financially unable to pay the fees of the witness and that the presence of the witness is necessary to an adequate defense. If the court orders the subpoena to be issued the cost incurred by the process and the fees of the witness so subpoenaed shall be paid in the same manner in which similar costs and fees are paid in case of a witness subpoenaed in behalf of the prosecuting authority.

"§ 23–107. Discharge or acquittal of joint defendant during trial in order to be witness

"(a) When two or more persons are jointly indicted or charged by information, or charged by separate indictments or informations which have been joined for trial, the court may, with the consent of the prosecuting authority, direct that a defendant who has not gone into his defense be discharged so that he may be a witness for the prosecution.

"(b) When two or more persons are jointly tried, a person desiring that another defendant testify on his behalf may request a judgment of acquittal on behalf of such defendant, which the court shall consider in the same manner as a motion made by such defendant.

"(c) At the request of a defendant who wishes to testify on behalf of another person with whom he is jointly tried, if the evidence against such defendant is sufficient to be submitted to the jury and if such other person consents, the court may submit the case concerning such defendant to the jury separately so that his testimony may not be considered against him by such jury.

"(d) A discharge granted pursuant to subsection (a), or an acquittal secured pursuant to subsection (b) or (c), shall be bar to another prosecution for the same offense of the defendant so discharged or acquitted.

"§ 23–108. Depositions

"(a) If a material witness for either the prosecution or the defendant resides more than twenty-five miles from the place of holding court, is sick or infirm, or is about to leave the District of Columbia, and the prosecution or the defendant applies in writing to the court for a commission to examine such witness when the deposition is to be taken beyond the District of Columbia, the court may grant the commission and enter an order stating for what length of time notice shall be given to the other party before such witness shall be examined. At or before the time fixed in the notice, when the examination is upon written interrogatories, the other party may file cross-interrogatories, but if he fails to do so the clerk shall file the following interrogatories:

"(1) Are all your statements in the foregoing answers made from your own personal knowledge? If not, show what is stated upon information and give its source.

"(2) State everything you know in addition to what is stated in your above answers concerning this case favorable to either the prosecution or the defendant.

"(b) The court may order in any case that the examination be conducted orally.

"(c) The commission shall issue from the clerk's office, the examination of the witnesses shall be made and certified, and the return thereof made in the same manner as in civil cases, and unimportant irregularities or errors in the proceedings under the commission shall not cause the deposition to be excluded where no substantial prejudice can be wrought to the prosecution or the defendant by such irregularities or errors.

"§ 23–109. Powers of investigators assigned to United States attorney

"Any special investigator appointed by the Attorney General and assigned to the United States attorney for the District shall have authority to execute all lawful writs, process, and orders issued under authority of the United States, and command all necessary assistance to execute his duties, and shall have the same powers to make arrests as are possessed by members of the Metropolitan Police Department of the District of Columbia.

"§ 23–110. Remedies on motion attacking sentence

"(a) A prisoner in custody under sentence of the Superior Court claiming the right to be released upon the ground that (1) the sentence was imposed in violation of the Constitution of the United States or the laws of the District of Columbia, (2) the court was without jurisdiction to impose the sentence, (3) the sentence was in excess of the maximum authorized by law, (4) the sentence is otherwise subject to collateral attack, may move the court to vacate, set aside, or correct the sentence.

"(b) A motion for such relief may be made at any time.

"(c) Unless the motion and files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto. If the court finds that (1) the judgment was rendered without jurisdiction, (2) the sentence imposed was not authorized by law or is otherwise open to collateral attack, (3) there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner, resentence him, grant a new trial, or correct the sentence, as may appear appropriate.

"(d) A court may entertain and determine the motion without requiring the production of the prisoner at the hearing.

"(e) The court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

"(f) An appeal may be taken to the District of Columbia Court of Appeals from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

"(g) An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section shall not be entertained by the Superior Court or by any Federal or State court if it appears that the applicant has failed to make a motion for relief under this section or that the Superior Court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

"§ 23–111. Proceedings to establish previous convictions

"(a)(1) After conviction of (but before pronouncement of sentence on) a person for an offense under the laws applicable exclusively to the District of Columbia the United States attorney or the Corporation Counsel, as the case may be, shall file an information informing the court of any previous convictions that would subject such person to increased punishment. A copy of such information shall be served upon counsel for the person before sentence is imposed.

"(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

"(3) Whenever an information has been filed under this section with respect to a person who stands convicted following a plea of guilty, the court shall allow the person to withdraw the plea upon a showing that, at the time the plea was entered, the person did not know that his previous convictions would subject him to increased punishment.

"(b) If the prosecutor files an information under this section, the court shall inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a previous conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

"(c)(1) If the person denies any allegation of the information of previous conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the prosecutor. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the prosecuting authority shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

"(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a previous conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

"(d)(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of previous convictions, the court shall proceed to impose sentence upon him as provided by law.

"(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at

the request of the prosecutor, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by law. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

"§ 23–112. Consecutive and concurrent sentences

"A sentence imposed on a person for conviction of an offense shall, unless the court imposing such sentence expressly provides otherwise, run consecutively to any other sentence imposed on such person for conviction of an offense, whether or not the offense (1) arises out of another transaction, or (2) arises out of the same transaction and requires proof of a fact which the other does not.

"Chapter 3.—INDICTMENTS AND INFORMATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"23–301. Prosecution by indictment or information.

"SUBCHAPTER II—JOINDER

"23–311. Joinder of offenses and of defendants.
"23–312. Joinder of indictments or informations for trial.
"23–313. Relief from prejudicial joinder.
"23–314. Joinder of inconsistent offenses concerning the same property.

"SUBCHAPTER III—SUFFICIENCY

"23–321. Description of money.
"23–322. Intent to defraud.
"23–323. Perjury.
"23–324. Subordination of perjury.

SUBCHAPTER 1—GENERAL PROVISIONS

"§ 23–301. Prosecution by indictment or information

"An offense prosecuted in the Superior Court which may be punished by death shall be prosecuted by indictment returned by a grand jury. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, but it may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment. Any other offense may be prosecuted by indictment or by information. An information subscribed by the proper prosecuting officer may be filed without leave of court.

"SUBCHAPTER II—JOINDER

"§ 23–311. Joinder of offenses and of defendants

"(a) Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

"(b) Two or more offenses may be charged in the same indictment or information as provided in subsection (a) even though one or more is in violation of the laws of the United States and another is in violation of laws applicable exclusively to the District of Columbia and may be prosecuted as provided in section 11–502(3).

"(c) Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

"§ 23–312. Joinder of indictments or informations for trial

"The court may order two or more indictments or informations or both to be tried together if the offenses, and the defendants if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution were under such single indictment or information.

"§ 23–313. Relief from prejudicial joinder

"If it appears that a defendant or the government is prejudiced by a joinder of offenses or of defendants in an indictment or information or by such joinder for trial together, the court may order an election or separate trials of counts, grant a severance of defendants, or provide whatever other relief justice requires. In ruling on a motion by a defendant for severance the court may order the attorney for the government to deliver to the court for inspection in camera any statements or confessions made by the defendants which the government intends to introduce in evidence at the trial.

"§ 23–314. Joinder of inconsistent offenses concerning the same property

"An indictment or information may contain a count for larceny, a count for obtaining the same property by false pretenses, a count for embezzlement thereof, and a count for receiving or concealing the same property, knowing it to be stolen or embezzled, or any of such counts, and the jury may convict of any of such offenses, and may find any or all of the persons indicted guilty of any of said offenses.

"SUBCHAPTER III—SUFFICIENCY

"§ 23–321. Description of money

"In every indictment or information, except for forgery, in which it is necessary to make an averment as to any money or bank bill or notes, United States Treasury notes, postal and fractional currency, or other bills, bonds, or notes, issued by lawful authority and intended to pass and circulate as money, it shall be sufficient to describe such money, bills, notes, currency, or bonds simply as money, without specifying any particular coin, note, bill, or bond; and such allegation shall be sustained by proof that the accused has stolen or embezzled any amount of coin, or any such note, bill, currency, or bond, although the particular amount of species of such coin, note, bill, currency, or bond be not proved.

"§ 23–322. Intent to defraud

"In an indictment or information in which it is necessary to allege an intent to defraud, it shall be sufficient to allege that the party accused did the act complained of with intent to defraud, without alleging an intent to defraud any particular person or body corporate. On the trial of such an indictment or information it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove a general intent to defraud.

"§ 23–323. Perjury

"In every information or indictment for perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, and by what court, or before whom the oath was taken (averring such court, or person or persons, to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record of proceeding either in law or equity, other than as aforesaid; and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed; any law, usage, or custom to the contrary notwithstanding.

"§ 23–324. Subornation of perjury

"In every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed, any law, usage, or custom to the contrary notwithstanding.

"Chapter 5.—WARRANTS AND ARRESTS

SUBCHAPTER I—DEFINITIONS

"Sec.
"23–501. Definitions.

"SUBCHAPTER II—SEARCH WARRANTS

"23–521. Nature and issuance of search warrants.
"23–522. Applications for search warrants.
"23–523. Time of execution of search warrants.
"23–524. Execution of search warrants.
"23–525. Disposition of property.

"SUBCHAPTER III—WIRE INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

"23–541. Definitions.
"23–542. Authorization for interception of wire or oral communications.
"23–543. Procedure for interception of wire or oral communications.
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"SUBCHAPTER IV—ARREST WARRANT AND SUMMONS

"23–561. Issuance, form, and contents.
"23–562. Execution and return.
"23–563. Territorial and other limits.

"SUBCHAPTER V—ARREST WITHOUT WARRANT

"23–581. Arrests without warrant by law enforcement officers.
"23–582. Arrests without warrant by other persons.

"SUBCHAPTER VI—AUTHORITY TO BREAK AND ENTER UNDER CERTAIN CONDITIONS

"23–591. Authority to break and enter under certain conditions.

"SUBCHAPTER I—DEFINITIONS

"§ 23–501. Definitions

"As used in subchapters II, IV, and V of this chapter—

"(1) the term 'judicial officer' means a judge of the Superior Court of the District of Columbia or of the United States District Court for the District of Columbia, or a United States Commissioner or magistrate for the District of Columbia;

"(2) the term 'law enforcement officer' means an officer or member of the Metropolitan Police Department of the District of Columbia or of any other police force operating in the District of Columbia, or an investigative officer or agent of the United States;

"(3) the term 'prosecutor" means the United States attorney for the District of Columbia or his assistant, the Corporation Counsel of the District of Columbia or his assistant, or an attorney employed by, and who has entered an appearance on behalf of, the United States or the District of Columbia in a criminal case or in an investigation being conducted by a grand jury.

"SUBCHAPTER II—SEARCH WARRANTS

"§ 23–521. Nature and issuance of search warrants

"(a) Under circumstances described in this subchapter, a judicial officer may issue a search warrant upon application of a law enforcement officer or prosecutor. A warrant may authorize a search to be conducted anywhere in the District of Columbia and may be executed pursuant to its terms.

"(b) A search warrant may direct a search of any or all of the following:

"(1) one or more designated or described places or premises;

"(2) one or more designated or described vehicles;

"(3) one or more designated or described physical objects; or

"(4) designated persons.

"(c) A search warrant may direct the seizure of designated property or kinds of property, and the seizure may include, to such extent as is reasonable under all circumstances, taking physical or other impressions, or performing chemical, scientific, medical, or other tests or experiments of, from, or upon designated premises, vehicles, objects, or persons.

"(d) Property is subject to seizure pursuant to a search warrant if there is probable cause to believe that it—

"(1) is stolen or embezzled;

"(2) is contraband or otherwise illegally possessed;

"(3) has been used or is possessed for the purpose of being used, or is designed or intended to be used, to commit or conceal the commission of a criminal offense; or

"(4) constitutes evidence of or tends to demonstrate the commission of an offense or the identity of a person participating in the commission of an offense.

"(e) A search warrant may be addressed to a specific law enforcement officer, or to any law enforcement officer of a designated classification, or to any officer of the Metropolitan Police Department of the District of Columbia or other designated agency authorized to make arrests or execute process in the District of Columbia.

"(f) A search warrant shall contain—

"(1) the name of the issuing court, the name and signature of the issuing judicial officer, and the date of issuance;

"(2) the name, classification, or department or agency of the officer or agent to whom it is addressed;

"(3) a designation of the premises, vehicles, objects, or persons to be searched, sufficient for certainty of identification;

"(4) a description of the property whose seizure is the object of the warrant;

"(5) a direction that the warrant be executed during the hours of daylight or, on the basis of a request made in accordance with section 23–522(c), an authorization for execution at any time of day or night;

"(6) where the judicial officer has found cause therefor, including one of the grounds set forth in paragraph (1), (2), (3), or (5) of section 23–591(c) an authorization that the executing officer may enter premises or vehicles to be searched without giving notice of his identity and purpose; and

"(7) a direction that the warrant and an inventory of any property seized pursuant thereto be returned to the court on the next court day after its execution.

"§ 23–522. Applications for search warrants

"(a) Each application for a search warrant shall be made in writing upon oath or affirmation to a judicial officer.

"(b) Each application shall include—

"(1) the name and title of the applicant;

"(2) a statement that there is probable cause to believe that property of a kind or character described in section 23–521(d) may be found in designated premise in a designated vehicle or object, or upon designated persons;

"(3) allegation of fact supporting such statement; and

"(4) a request that the judicial officer issue a search warrant directing a search for and seizure of the property in question.

The applicant may also submit depositions or affidavits of other persons containing allegations of fact supporting or tending to support those contained in the application.

"(c) The application may also contain—

"(1) a request that the search warrant be made executable at any hour of the day or night, upon the reasonable belief that (A) it cannot be executed during the hours of daylight, (B) the property sought is likely to be removed or destroyed if not seized forthwith, or (C) the property sought is not likely to be found except at certain times or in certain circumstances; and

"(2) a request that the search warrant authorize the executing officer to enter premises or vehicles to be searched without giving notice of his identity and purpose, upon reasonable grounds to believe that one of the conditions set forth in paragraph (1), (2), (3), or (5) of section 23–591(c) may exist at the time and place at which such warrant is to be executed.

Any request made pursuant to this subsection must be accompanied and supported by allegations of fact supporting such statement.

"§ 23–523. Time of execution of search warrants

"(a) A search warrant shall not be executed more than ten days after the date of issuance and shall be returned to the court after its execution or expiration in accordance with section 23–521(f)(7).

"(b) A search warrant may be executed on any day of the week and, in the absence of express authorization in the warrant pursuant to section 23–521(f)(5), shall be executed only during the hours of daylight.

"§ 23–524. Execution of search warrants

"(a) An officer executing a warrant directing a search of a dwelling house, other building, or a vehicle shall, except as provided in sections 23–521(f)(6) or 23–591(c), give, or make reasonable effort to give, notice of his identity and purpose to an occupant thereof before breaking and entering therein.

"(b) An officer executing a warrant directing a search of a person shall give, or make reasonable effort to give, notice of his identity and purpose to the person, and, if such person thereafter resists or refuses to permit the search, may use such force against the person or any other person aiding his resistance or refusal as is necessary to execute the warrant.

"(c)(1) An officer or agent executing a search warrant shall write and subscribe an inventory setting forth the time of the execution of the search warrant and the property seized under it.

"(2) If the search is of a person, a copy of the warrant and of the return shall be given to that person.

"(3) If the search is of a place, vehicle, or object, a copy of the warrant and of the return shall be given to the owner thereof if he is present, or if he is not, to an occupant, custodian, or other person present; or if no person is present, the officer shall post a copy of the warrant and of the return upon the premises, vehicle, or object searched.

"(d) A copy of the warrant shall be filed with the court whose judge or magistrate authorized its issuance on the next court day after its execution, together with a copy of the return.

"(e) An officer or agent executing a search warrant may seize any property discovered in the course of such execution which he reasonably believes to be subject to seizure pursuant to section 23–521(d), even if the property is not enumerated in the warrant or the application therefor, and no additional warrant shall be required to authorize such seizure, if the property is fully set forth in the return. Such seizure may include taking physical or other impressions or performing chemical, scientific, or other tests or experiments.

"(f) An officer or agent executing a search warrant may take photographs and measurements during the execution.

"(g) An officer executing a warrant directing a search of premises or a vehicle may search any person therein (1) to the extent reasonably necessary to protect himself or others from the use of any weapon which may be concealed upon the person, or (2) to the extent reasonably necessary to find property enumerated in the warrant which may be concealed upon the person.

"§ 23–525. Disposition of property

"An officer or agent who seizes property in the execution of a search warrant shall cause it to be safely kept for use as evidence. No property seized shall be released or destroyed except in accordance with law and upon order of a court or of the United States attorney or Corporation Counsel for the District of Columbia or one of their assistants.

"SUBCHAPTER III—WIRE INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

"§ 23–541. Definitions

"As used in this subchapter—

"(1) the term 'wire communication' means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications;

"(2) the term 'oral communication' means any oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying the expectation;

"(3) the term 'intercept' means the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device;

"(4) the term 'electronic, mechanical, or other device' means any device or apparatus which can be used to intercept a wire or oral communication other than—

"(A) any telephone or telegraph instrument, equipment, or facility, or any component thereof, (i) furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties; or

"(B) a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

"(5) the term 'investigative or law enforcement officer' means any officer of the United States or of the District of Columbia who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this subchapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

"(6) the term 'contents', when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to the communication or the existence, substance, purport, or meaning of that communication;

"(7) the term 'judge' means a judge of the Superior Court of the District of Columbia, a judge of the District of Columbia, a judge of the District of Columbia Court of Appeals, a judge of the United States District Court for the District of Columbia, and a judge of the United States Court of Appeals for the District of Columbia;

"(8) the term 'judge of competent jurisdiction' means, in addition to the judges included in paragraph (7)—

"(A) a judge of a United States district court or a United States court of appeals not in the District of Columbia; and

"(B) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing interceptions of wire or oral communications;

"(9) the term 'aggrieved person' means a person who was a party to any intercepted

wire or oral communication or a person against whom the interception was directed; and

"(10) the term 'communication common carrier' has the same meaning which is given the term 'common carrier' by section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h)).

"§ 23-542. Authorization for interception of wire or oral communications

"(a) The United States attorney for the District of Columbia may authorize an application to a judge for, and the judge may grant, in conformity with section 2518, title 18, United States Code, and section 23-543 of this subchapter, an order authorizing or approving the interception of wire or oral communications by investigative and law enforcement officers when the interception may provide or has provided evidence of the commission of or a conspiracy to commit any of the following offenses:

"(1) Any of the offenses specified in the Act entitled 'An Act to establish a code of law for the District of Columbia', approved March 3, 1901, and listed in the following table:

"Offense:	Specified in—
Abortion	section 809 (D.C. Code, sec. 22-201).
Arson	sections 820, 821 (D.C. Code, secs. 22-401, 22-402).
Blackmail	section 819 (D.C. Code, sec. 22-2305).
Bribery	section 861 (D.C. Code, sec. 22-701).
Burglary	section 823 (D.C. Code, sec. 22-1801).
Destruction of property of value in excess of $200.	section 848 (D.C. Code, sec. 22-403).
Gambling	sections 863, 866, 869e (D.C. Code, secs. 22-1501, 22-1505, 22-1513).
Grand larceny	section 826 (D.C. Code, sec. 22-2201).
Kidnaping	section 812 (D.C. Code, sec. 22-2101).
Manslaughter	section 802 (D.C. Code, sec. 22-2405).
Murder	sections 798, 800 (D.C. Code, secs. 22-2401, 22-2403).
Obstruction of justice.	section 862 (D.C. Code, sec. 22-703).
Receiving stolen property of value in excess of $100.	section 829 (D.C. Code, sec. 22-2205).
Robbery	section 810 (D.C. Code, sec. 22-2901).

"(2) Bribery as specified (A) in the second paragraph under the center heading 'General Expenses' in the first section of the Act of July 1, 1902 (D.C. Code, sec. 22-702), and (B) in the Act of February 26, 1936 (D.C. Code, sec. 22-704).

"(3) Extortion and threats as specified in sections 1501 and 1502 of the Omnibus Crime Control and Safe Streets Act of 1968 (D.C. Code, secs. 22-2306, 22-2307).

"(4) Offenses involving dealing in narcotic drugs, marihuana, and other dangerous drugs as specified in sections 2 and 16 of the Uniform Narcotic Drug Act (D.C. Code, secs. 33-402, 33-416) and section 203 of the Dangerous Drug Act for the District of Columbia (D.C. Code, sec. 33-702).

"§ 23-543. Procedure for interception of wire or oral communications

"(a) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge and shall state the applicant's authority to make the application. Each application shall include—

"(1) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

"(2) a full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including (A) details as to the particular offense that has been, is being, or is about to be committed, (B) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (C) a particular description of the type of communications sought to be intercepted, and (D) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

"(3) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

"(4) a statement of the period of time for which the interception is required to be maintained, and if the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

"(5) a full and complete statement of the facts concerning all previous applications, known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the judge on each such application; and

"(6) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain results.

"(b) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

"(c) Upon application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire or oral communications within the District of Columbia, if the judge determines on the basis of the facts submitted by the applicant that—

"(1) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 23-542;

"(2) there is probable cause for belief that particular communications concerning that offense will be obtained through the interception;

"(3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

"(4) there is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the individual referred to in paragraph (1).

"(d) Each order authorizing or approving the interception of any wire or oral communication shall specify—

"(1) the identity of the person, if known, whose communications are to be intercepted;

"(2) the nature and location of the communication facilities as to which, or the place where, authority to intercept is granted;

"(3) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

"(4) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

"(5) the period of time during which the interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

"(e) No order entered under this section may authorize or approve the interception of any wire or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (a) of this section and the court making the findings required by subsection (c) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this subchapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days.

"(f) Whenever an order authorizing interception is entered pursuant to this subchapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Reports shall be made at such intervals as the judge may require.

"(g) Notwithstanding any other provision of this subchapter, any investigative or law enforcement officer, specially designated by the United States attorney for the District of Columbia, who reasonably determines that—

"(1) an emergency situation exists with respect to conspiratorial activities threatening the national security interest or to conspiratorial activities characteristic of organized crime that requires a wire or oral communication to be intercepted before an order authorizing the interception can with due diligence be obtained, and

"(2) there are grounds upon which an order could be entered under this subchapter to authorize interception,

may intercept the wire or oral communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, the interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event the application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this subchapter, and an inventory shall be served as provided for in subsection (h)(4) of this section on the person named in the application.

"(h) (1) The contents of any wire or oral communication intercepted by any means authorized by this subchapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subchapter shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, the recordings shall be made available to the judge issuing the order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of section 2517, title 18, United States Code, for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom under subsection (3) of section 2517 of title 18, United States Code.

"(2) Applications made and orders granted under this subchapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. The applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

"(3) Any violation of the provisions of subsection (h) may be punished as contempt of court.

"(4) Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under subsection (g) which is denied, or the termination of the period of any order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine, in his discretion, are necessary in the interest of justice, an inventory which shall include notice of—

"(A) the fact of the entry of the order or the application;

"(B) the date of the entry and the period of authorized, approved, or disapproved interception, or the denial of the application; and

"(C) the fact that during the period wire or oral communications were or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to the person or his counsel for inspection such portions of the intercepted communications, applications, and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge, the serving of the inventory required by this subsection may be postponed.

"(i) The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information.

"(j) (1) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States or the District of Columbia, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that—

"(A) the communication was unlawfully intercepted;

"(B) the order of authorization or approval under which it was intercepted is insufficient on its face, or

"(C) the interception was not made in conformity with the order of authorization or approval.

The motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this subchapter. The judge, upon the filing of the motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

"(2) In addition to any other right to appeal, the United States attorney shall have the right to appeal from an order granting a motion to suppress made under paragraph (1) of this subsection, or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying the application that the appeal is not taken for purposes of delay. Appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

"§ 23–544. Procedure for approval of interception of wire or oral communications

"When an investigative or law enforcement officer while engaged in intercepting wire or oral communications in the manner authorized by section 23–543, intercepts wire or oral communications relating either to offenses other than those specified in the order of authorization or to offenses other than those offenses for which interception was made pursuant to section 23–543(g), he shall make an application to a judge as soon as practicable for approval for disclosure and use of the information intercepted, in accordance with section 2517 of title 18, United States Code.

"SUBCHAPTER IV—ARREST WARRANT AND SUMMONS

"§ 23–561. Issuance, form, and contents

"(a) (1) A judicial officer may issue a warrant for the arrest of any person upon a sworn complaint which states facts constituting an offense over which the judicial officer has jurisdiction for trial or preliminary examination, and establishing probable cause to believe that the person committed the offense. More than one warrant may issue on the same complaint.

"(2) Upon request of the prosecutor a summons shall issue instead of an arrest warrant. More than one summons may issue on the same complaint. If a person fails to appear in response to a summons, a warrant shall issue for his arrest.

"(b) (1) An arrest warrant shall be signed by the judicial officer and shall state or contain the name of the issuing court, the date of issuance of the warrant, a description of the offense charged, and the name of the person to be arrested or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. It shall command that the person be arrested and brought before the issuing court or officer. If the complaint establishes reasonable grounds to believe that one of the conditions set out in paragraphs (1) through (5) of section 23–591(c) may exist at the time and place at which such warrant is to be executed, the warrant may contain an authorization that it be executed as provided in subsection (a) of section 23–591.

"(2) A summons shall be in the same form as an arrest warrant except that it shall summon the person named to appear before the issuing court or officer at a stated time and place.

"(c) An arrest warrant may be directed to a specific law enforcement officer, or to any law enforcement officer of a designated classification, or to any officer of the Metropolitan Police of the District of Columbia or other designated agency authorized to make arrests or execute process.

"(d) Each complaint shall be made in writing upon oath or affirmation. Except for good cause shown, no warrant shall be issued unless the complaint has been approved by an appropriate prosecutor.

"§ 23–562. Execution and return

"(a) (1) A warrant issued pursuant to this subchapter shall be executed by the arrest of the person named. The officer need not have the warrant in his possession at the time of the arrest, but upon request he shall show the warrant to the person as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall inform the person of the offense charged and of the fact that a warrant has been issued.

"(2) A summons shall be served upon a person by delivering a copy to him personally, or by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the person's last known address.

"(b) (1) The officer executing a warrant shall make return thereof to the judicial officer before whom the person is brought for preliminary examination. At the request of the appropriate prosecutor any unexecuted and unexpired warrant shall be returned to the issuing court or judicial officer and shall be canceled.

"(2) On or before the return day the person to whom a summons was delivered for service shall make return thereof to the court or officer before whom the summons is returnable.

"(3) At the request of the appropriate prosecutor made at any time while the complaint is pending, a warrant returned unexecuted and not canceled or expired or a summons returned unserved or a duplicate thereof may be delivered by the judicial officer to the marshall or other authorized person for execution or service.

"(c) (1) A law enforcement officer within the District of Columbia making an arrest under a warrant issued pursuant to this subchapter, making an arrest without a warrant, or receiving a person arrested by a special policeman or other person pursuant to section 23–582, shall take the arrested person without unnecessary delay before the court or other judicial officer empowered to commit persons charged with the offense for which the arrest was made. This subsection, however, shall not be construed to conflict with or otherwise supersede section 3501 of title 18, United States Code. When a person arrested without a warrant is brought before a judicial officer, a complaint or information shall be filed forthwith.

"(2) Before taking an arrested person to a judicial officer, a law enforcement officer shall perform all recording, fingerprinting, photographing, and other preliminary police duties required in the particular case, and if such duties are performed with reasonable promptness, the period of time required therefor shall not constitute a delay within the meaning of this section.

"§ 23–563. Territorial and other limits

"(a) A warrant or summons for an offense punishable by imprisonment for more than one year issued by the Superior Court of the District of Columbia may be served at any place within the jurisdiction of the United States.

"(b) No warrant or summons issued by the Superior Court of the District of Columbia for an offense punishable by imprisonment for not more than one year, or by a fine only, or by such imprisonment and a fine, may be executed at any place more than twenty-five miles from the place where the court is held, or more than one year after the date of issuance.

"(c) A person arrested outside the District of Columbia on a warrant issued by the Superior Court of the District of Columbia shall be taken before a judge, commissioner, or magistrate, and held to answer in the Superior Court pursuant to the Federal Rules of Criminal Procedure as if the warrant had been issued by the United States District Court for the District of Columbia.

"(d) When an application alleges that an act which would constitute a felony if committed by an adult has been committed by a child, and that the child may not with due diligence be found within the District of Columbia, a judicial officer may issue a warrant for the arrest of the child as if he were an adult. When the child is brought before the issuing court or officer pursuant to the warrant he shall be ordered transferred to the Family Division of the Superior Court pursuant to section 16–2302.

"SUBCHAPTER V—ARREST WITHOUT WARRANT

"§ 23–581. Arrests without warrant by law enforcement officers

"(a)(1) A law enforcement officer may arrest, without a warrant having previously been issued therefor—

"(A) a person whom he has probable cause to believe has committed or is committing a felony;

"(B) a person whom he has probable cause to believe has committed or is committing an offense in his presence;

"(C) a person whom he has probable cause to believe has committed or is about to commit any offense listed in paragraph (2) and, unless immediately arrested, may not be apprehended, may cause injury to others, or may tamper with, dispose of, or destroy evidence.

"(2) The offenses referred to in subparagraph (C) of paragraph (1) are the following:

"(A) The following offenses specified in the Act entitled 'An Act to establish a code of law for the District of Columbia', approved March 3, 1901, and listed in the following table:

"Offense:	Specified in—
Assault	section 806 (D.C. Code, sec. 22–504).
Petit larceny	section 827 (D.C. Code, sec. 22–2202).
Receiving stolen goods.	section 829 (D.C. Code, sec. 22–2205).
Unlawful entry	section 824 (D.C. Code, sec. 22–3102).

"(B) Attempts to commit the following offenses specified in such Act and listed in the following table:

"Offense:	
Burglary	section 823 (D.C. Code, sec. 22–1801).
Grand larceny	section 826 (D.C. Code, sec. 22–2201).
Unauthorized use of vehicles.	section 826b (D.C. Code, sec. 22–2204).

"(b) A law enforcement officer may, even if his jurisdiction does not extend beyond the District of Columbia, continue beyond the District, if necessary, a pursuit commenced within the District of a person who has committed an offense or whom he has probable cause to believe has committed or is committing a felony, and may arrest that person in any State the laws of which contain provisions equivalent to those of section 23–901.

"§ 23–582. Arrests without warrant by other persons

"(a) A special policeman shall have the same powers as a law enforcement officer to arrest without warrant for offenses committed within premises to which his jurisdiction extends, and may arrest outside the premises on fresh pursuit for offenses committed on the premises.

"(b) A private person may arrest another—

"(1) whom he has probable cause to believe is committing in his presence—

"(A) a felony, or

"(B) an offense enumerated in section 23–581(a)(3); or

"(2) in aid of a law enforcement officer or special policeman, or other person authorized by law to make an arrest.

"(c) Any person making an arrest pursuant to this section shall deliver the person arrested to a law enforcement officer without unreasonable delay.

"SUBCHAPTER VI—AUTHORITY TO BREAK AND ENTER UNDER CERTAIN CONDITIONS

"§ 23–591. Authority to break and enter under certain conditions

"(a) Any officer authorized by law to make arrests or to execute search warrants, or any person aiding such an officer, may break and enter any premises, any outer or inner door or window of a dwelling house or other building, or any part thereof, any vehicle, or anything within such dwelling house, building, or vehicle, or otherwise enter to execute search or arrest warrants, to make an arrest where authorized by law without a warrant, or where necessary to liberate himself or a person aiding him in the execution of such warrant or in making such arrest.

"(b) Breaking and entry shall not be made until after such officer or person makes an announcement of his identity and purpose and the officer reasonably believes that admittance to the dwelling house, building, or vehicle is being denied or unreasonably delayed.

"(c) An announcement of identity and purpose shall not be required prior to such breaking and entry if the warrant expressly authorizes entry without notice, or where such officer or person reasonably believes—

"(1) his identity or purpose is already known to any person in the premises;

"(2) such notice is likely to result in the evidence subject to seizure being easily and quickly destroyed, disposed of, or concealed;

"(3) such notice is likely to endanger the life or safety of the executing officer or another person;

"(4) such notice is likely to enable the party to be arrested to escape; or

"(5) such notice would otherwise be a useless gesture.

"(d) Whoever, after notice is given under subsection (b) or after entry where such notice is unnecessary under subsection (c), destroys, conceals, disposes of, or attempts to destroy, conceal, or dispose of, or otherwise prevents or attempts to prevent the seizure of evidence subject to seizure shall be fined not more than $5,000 or imprisoned for not more than 5 years, or both.

"(e) As used in this section, and in section 23–524(a), the terms 'break and enter' and 'breaking and entering' include any use of physical force or violence or other unauthorized entry but does not include entry obtained by trick or strategem.

"(f) With regard to (1) the execution of a warrant directing a search of a person under section 23–524(b), (2) the execution of a warrant directing the arrest of a person under subchapter IV of this chapter, or (3) an arrest authorized by law without a warrant under subchapter V of this chapter, the notice requirements of this section are applicable only where it is necessary to enter a dwelling house, building, or vehicle to effect such a search or arrest.

"Chapter 7.—EXTRADITION AND FUGITIVES FROM JUSTICE

"Sec.

"23–701. Warrants for the arrest of fugitives from justice.
"23–702. Procedure on arrest of fugitives.
"23–703. Failure to appear.
"23–704. Extradition.
"23–705. Removal proceedings and returns to foreign countries not affected.
"23–706. Confinement.
"23–707. Definitions.

"§ 23–701. Warrants for the arrest of fugitives from justice

"Whenever any person who is (1) within the District of Columbia, (2) charged with any offense committed in any State, and (3) liable by the Constitution and laws of the United States to be delivered over upon the demand of the Governor of that State, any judge of the Superior Court may, upon complaint on oath or affirmation of any credible witness, setting forth the offense, that the person is a fugitive from justice, and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the Superior Court, to answer the complaint.

"§ 23–702. Procedure on arrest of fugitives

"(a) Any person arrested upon a warrant issued pursuant to section 23–701, or arrested within the District of Columbia as a fugitive from justice without a warrant having been issued, shall be taken before the Criminal Division of the Superior Court for preliminary examination on a complaint charging him as a fugitive.

"(b) If, upon the examination of the person charged, it shall appear to the court that there is reasonable cause to believe that the complaint is true and that the person may be lawfully demanded of the chief judge, the person shall be detained or released according to law, in like manner as if the offense had been committed in the District of Columbia, to appear before the court at a future date, allowing thirty days to obtain a requisition from the Governor of the State from which the person is a fugitive. The complaint of fugitivity from another jurisdiction shall create a presumption that the person is unlikely to appear if released, which may be overcome only by clear and convincing proof.

"(c) If the person so released or detained shall appear before the court upon the day ordered, he shall be discharged, unless he shall be demanded by requisition pursuant to subsection (g) of this section or section 23–704, or unless the court shall find cause to detain or to release him as provided by subsection (b) until a later day; but regardless of whether the person shall be detained or released as provided in subsection (b) or discharged, his delivery to any person authorized by the warrant of the Governor shall be a discharge of any bond or obligation.

"(d) The Chief of Police of the Metropolitan Police Department shall give notice to the police official or sheriff of the city or county from which the person is a fugitive that the person is so held in the District of Columbia.

"(e) A person detained as provided by this section shall not be detained in jail longer than to allow a reasonable time for the person receiving the notice required by subsection (d) to apply for and obtain a proper requisition for the person detained according to the circumstances of the case and the distance of the place where the offense is alleged to have been committed.

"(f) (1) At any time prior to the filing of a requisition, a person arrested pursuant to this section may in open court waive further proceedings pursuant to this chapter.

"(2) Following waiver, a judge of the Superior Court may, in his discretion, if the United States attorney consents, release the person upon such conditions as the judge shall deem necessary to insure his appearance before the proper official in the State from which he is a fugitive, and shall otherwise order his return to the jurisdiction of that State in the custody of a proper official.

"(3) Following waiver, a person not released pursuant to paragraph (2) of this subsection shall be ordered to return to the jurisdiction from which he is a fugitive in the custody of a proper official, and may be detained to await return.

"(4) A person detained pursuant to paragraph (3) for more than three days (not including Saturdays, Sundays, and holidays) shall be returned to the court and shall thereupon be released pursuant to paragraph (2), unless the court shall find good reason to extend his detention for an additional three days to obtain the attendance of a proper official of the demanding jurisdiction.

"(g) If a person has not waived further proceedings pursuant to subsection (f), and a requistion from the Governor of the jurisdiction from which the person is a fugitive is presented to the court, the court shall order the requisition to be filed and referred to the chief judge for extradition proceedings pursuant to section 23–704, and shall order the person committed pending those proceedings.

"§ 23–703. Failure to appear

"Any person released pursuant to section 23–702 who fails to appear as required shall be punished by a fine not exceeding $5,000 or imprisonment for not more than five years, or both.

"§ 23–704. Extradition

"(a) In all cases where the laws of the United States provide that fugitives from justice shall be delivered up, the chief judge of the Superior Court shall cause to be apprehended and delivered up fugitives from justice who shall be found within the District of Columbia, in the same manner and under the same regulations as the executive authority of a State is required to do by the provisions of chapter 209 of title 18, United States Code, and all executive and judicial officers are required to obey the lawful precepts or other process issued for that purpose, and to aid and assist in that delivery.

"(b) The chief judge of the Superior Court may also surrender, on demand of the Governor of any State, any person in the District of Columbia charged in that State in the manner provided in subsection (a) of this section with committing an act in the District of Columbia, or in another State, intentionally resulting in a crime in the State whose executive authority is making the demand, even though the accused was not in that State at the time of the commission of the crime, and has not fled therefrom.

"(c) No person apprehended in accordance with the provisions of subsections (a) and (b) of this section shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken before the chief judge of the Superior Court of the District of Columbia who shall inform him of the demand made for his surrender, and of the crime with which he is charged, and that he has the right to demand and procure legal counsel.

"(d) If the person or his counsel shall state that he desires to test the legality of the person's arrest, the chief judge shall hold a hearing to determine whether the person shall be delivered over as demanded. At the hearing, the person shall have the same rights to challenge his detention and extradition as if the hearing were upon a writ of habeas corpus.

"(e) If the chief judge shall order the person delivered over, he may appeal, within twenty-four hours, from that order to the District of Columbia Court of Appeals if the chief judge who rendered the order, or a judge of the District of Columbia Court of Appeals, issues a certificate of probable cause. The appeal shall be expedited by the District of Columbia Court of Appeals. An application for a writ of habeas corpus on behalf of a person who is authorized to demand a hearing pursuant to this subsection shall not be entertained if it appears that the applicant has failed to demand such a hearing or that the chief judge, after hearing, has ordered him delivered over, unless it also appears that the remedy by hearing is inadequate or ineffective to test the legality of his detention.

"(f) Nothing contained in this subsection shall prevent a person from waiving his right to appear before the chief judge of the Superior Court and voluntarily returning in custody of a proper official to the jurisdiction of the State which is demanding him.

"(g) No person demanded by the Governor of a State pursuant to this section shall be released upon bond or other obligation except pursuant to an order of a court of the demanding state.

"(h) Any associate judge designated by the chief judge or acting chief judge shall have the same power to act pursuant to this section as the chief judge.

"§ 23–705. Removal proceedings and returns to foreign countries not affected

"Nothing contained in this chapter shall repeal, modify, or in any way effect existing law concerning the procedure for the return of any person apprehended in the District of Columbia to a Federal judicial district to answer a Federal charge, or repeal, modify, or affect existing law or treaty concerning the return to a foreign country of a person apprehended or detained in the District of Columbia as a fugitive from a foreign country.

"§ 23–706. Confinement

"(a) The agent of the demanding State to whom the prisoner may have been delivered in accordance with the provisions of section 23–704, may, when necessary, confine the prisoner in a facility of the District of Columbia Department of Corrections, and the Department of Corrections must receive and safely keep the prisoner for such reasonable time as will enable the officer or person having charge of him to proceed on his route, such officer or person being chargeable with the expense of keeping.

"(b) The officer or agent of a demanding State to whom a prisoner may have been delivered following extradition proceedings in another State, or to whom a prisoner may have been delivered after waiving extradition in the other State, and who is passing through the District of Columbia with a prisoner for the purpose of immediately returning the prisoner to the demanding State, may, when necessary, confine the prisoner in a facility of the Department of Corrections. The Department of Corrections must receive and safely keep the prisoner for such reasonable time as will enable the officer or agent to proceed on his route, such officer or agent being chargeable with the expense of keeping. That officer or agent shall produce and show to the Department of Corrections satisfactory written evidence of the fact that he is actually transporting the prisoner to the demanding State after a requisition by the executive authority of the demanding State. The prisoner shall not be entitled to demand a new requisition while in the District of Columbia.

"§ 23–707. Definitions

"For purposes of this chapter—

"(1) the term 'State' includes any territory or possession of the United States; and

"(2) the term 'Governor' means the executive authority of a State.

"Chapter 9.—FRESH PURSUIT

"Sec.

"23–901. Arrests in the District of Columbia by officers of other States.
"23–902. Hearing; commitment; discharge.
"23–903. 'Fresh pursuit' defined.

"§ 23–901. Arrests in the District of Columbia by officers of other States

"Any member of a duly organized peace unit of any State (or county or municipality thereof) of the United States who enters the District of Columbia in fresh pursuit and continues within the District of Columbia in fresh pursuit of a person in order to arrest him on the ground that he is believed to have committed a felony in such State shall have the same authority to arrest and hold that person in custody as has any member of any duly organized peace unit of the District of Columbia to arrest and hold in custody a person on the ground that he is believed to have committed a felony in the District of Columbia. This section shall not be construed so as to make unlawful any arrest in the District of Columbia which would otherwise be lawful.

"§ 23–902. Hearing; commitment; discharge

"If an arrest is made in the District of Columbia by an officer of another State in accordance with the provisions of section 23–901, he shall without unnecessary delay take the person arrested before a judge of the Superior Court of the District of Columbia, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judge determines that the arrest was lawful, he shall order the release or detention of the person arrested, pursuant to section 23–702, to await for a reasonable time, a requisition from the Governor of the State demanding the extradition of the person arrested. If the judge determines that the arrest was unlawful he shall order the person discharged.

"§ 23–903. 'Fresh pursuit' defined

"For purposes of this chapter, the term 'fresh pursuit' shall include fresh pursuit as defined by the common law, also the pursuit of a person who has committed a felony or one whom the pursuing officer has reasonable grounds to believe has committed a felony. It shall also include the pursuit of a person whom the pursuing officer has reasonable grounds to believe has committed a felony, although no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Such term shall not necessarily imply an instant pursuit, but pursuit without unreasonable delay.

"Chapter 11.—PROFESSIONAL BONDSMEN

"Sec.

"23–1101. Definitions.
"23–1102. Bonding business impressed with public interest.
"23–1103. Procuring business through official or attorney for a consideration prohibited.
"23–1104. Attorneys procuring employment through official or bondsman for a consideration prohibited.
"23–1105. Receiving other than regular fee for bonding prohibited; bondsmen prohibited from endeavoring to secure dismissal or settlement.
"23–1106. Posting names of authorized bondsmen; list to be furnished prisoners; prisoners may communicate with bondsmen; record to be kept by police.

"23-1107. Bondsmen prohibited from entering place of detention unless requested by prisoner; record of visit to be kept.
"23-1108. Qualifications of bondsmen; rules to be prescribed by courts; list of agents to be furnished; renewal of authority to act; detailed records to be kept; penalties and disqualifications.
"23-1109. Giving advance information of proposed raid prohibited.
"23-1110. Designation of official to take bail or collateral when court is not in session.
"23-1111. Penalties.
"23-1112. Enforcement.

"§ 23-1101. Definitions

"For purposes of this chapter—

"(1) the term 'bonding business' means the business of becoming surety for compensation upon bonds in criminal cases in the District of Columbia; and

"(2) the term 'bondsman' means any person or corporation engaged in the bonding business either as a principal or as an agent, clerk, or representative of another engaged in such business.

"§ 23-1102. Bonding business impressed with public interest

"The bonding business is impressed with a public interest.

"§ 23-1103. Procuring business through official or attorney for a consideration prohibited

"It shall be unlawful for any bondsman, either directly or indirectly, to give, donate, lend, contribute, or to promise to give, donate, lend, or contribute any money, property, entertainment, or other thing of value whatsoever to any attorney at law, police officer, deputy United States marshal, jailer, probation officer, clerk, or other attaché of a criminal court, or public official of any character, for procuring or assisting in procuring any person to employ the bondsman to execute as surety any bond for compensation in any criminal case in the District of Columbia. It shall be unlawful for any attorney at law, police officer, deputy United States marshal, jailer, probation officer, clerk, bailiff, or other attaché of a criminal court, or public official of any character, to accept or receive from a bondsman any money, property, entertainment, or other thing of value whatsoever for procuring or assisting in procuring a person to employ a bondsman to execute as surety any bond for compensation in a criminal case in the District of Columbia.

"§ 23-1104. Attorneys procuring employment through official or bondsman for a consideration prohibited

"It shall be unlawful for any attorney at law, either directly or indirectly, to give, loan, donate, contribute, or to promise to give, loan, donate, or contribute any money, property, entertainment, or other thing of value whatsoever to, or to split or to divide any fee or commission with, any bondsman, police officer, deputy United States marshal, probation officer, bailiff, clerk, or other attaché of any criminal court for causing or procuring or assisting in causing or procuring a person to employ the attorney to represent him in a criminal case in the District of Columbia.

"§ 23-1105. Receiving other than regular fee for bonding prohibited; bondsmen prohibited from endeavoring to secure dismissal or settlement

"It shall be lawful to charge for executing a bond in a criminal case in the District of Columbia, but it shall be unlawful for a bondsman, either directly or indirectly, to charge, accept, or receive a sum of money, or other thing of value, other than the regular fee for bonding, from a person for whom he has executed bond, for any other service whatever performed in connection with any indictment, information, or charge upon which the person is bailed or held in the District of Columbia. It also shall be unlawful for any bondsman to settle, or attempt to settle, or to procure or attempt to procure the dismissal of any indictment, information, or charge against any person in custody or held upon bond in the District of Columbia, with a court, or with the prosecuting attorney in a court in the District of Columbia.

"§ 23-1106. Posting names of authorized bondsmen; list to be furnished prisoners; prisoners may communicate with bondsmen; record to be kept by police

"A typewritten or printed list alphabetically arranged of all persons engaged under the authority of any of the courts of criminal jurisdiction in the District of Columbia in the business of becoming surety upon bonds for compensation in criminal cases shall be posted in a conspicuous place in each police precinct, jail, prisoners dock, house of detention, and every other place in the District of Columbia in which persons in custody of the law are detained, and one or more copies thereof kept on hand; and when a person who is detained in custody in a place of detention shall request a person in charge thereof to furnish him the name of a bondsman, or to put him in communication with a bondsman, the list shall be furnished to the person in charge of the place of detention within a reasonable time to put the person detained in communication with the bondsman selected, and the person in charge of the place of detention shall contemporaneously with that transaction make in the blotter or book of record kept in the place of detention, a record showing the name of the person requesting the bondsman, the offense with which the person is charged, the time at which the request was made, the bondsman requested, and the person by whom the bondsman was called, and preserve that as a permanent record in the book or blotter in which entered.

"§ 23-1107. Bondsmen prohibited from entering place of detention unless requested by prisoner; record of visit to be kept

"It shall be unlawful for a bondsman to enter a police precinct, jail, prisoner's dock, house of detention, or other place where persons in the custody of the law are detained in the District of Columbia for the purpose of obtaining employment as a bondsman, without having been previously called by a person detained or by some relative or other authorized person acting for or on behalf of the person detained. Whenever a bondsman enters a police precinct, jail, prisoner's dock, house of detention, or other place where persons in the custody of the law are detained in the District of Columbia, he shall forthwith give to the person in charge thereof his mission there and the name of the person calling him and requesting him to come to such place. That information shall be recorded by the person in charge of the place of detention and preserved as a public record, and the failure of the bondsman to give that information, or the failure of the person in charge of the place of detention to make and preserve a record of that information, shall constitute a violation of this chapter.

"§ 23-1108. Qualifications of bondsmen; rules to be prescribed by courts; list of agents to be furnished; renewal of authority to act; detailed records to be kept; penalties and disqualifications

"(a) It shall be the duty of the United States District Court for the District of Columbia and the Superior Court of the District of Columbia, each, to provide, under reasonable rules and regulations, the qualifications of persons and corporations applying for authority to engage in the bonding business in criminal cases in the District of Columbia, and the terms and conditions upon which the business shall be carried on, and no person or corporation shall, either as principal, or as agent, clerk, or representative of another, engage in the bonding business in either court until he shall, by order of the court, be authorized to do so. The courts, in making these rules and regulations, and in granting authority to persons to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person so applying, and no person shall be permitted to engage, either as principal or agent, in the bonding business, who has ever been convicted of an offense involving moral turpitude, or who is not known to be a person of good moral character. It shall be the duty of each of the courts to require every person qualifying to engage in the bonding business as principal to file with the court a list showing the name, age, and residence of each person employed by the bondsman as agent, clerk, or representative in the bonding business, and require an affidavit from each of these persons stating that he will abide by the terms and provisions of this chapter. Each of the courts shall require the authority of each of those persons to be renewed from time to time at such periods as the court may by rule provide, and before the authority shall be renewed the court shall require from each of those persons an affidavit that since his previous qualification to engage in the bonding business he has abided by the provisions of this chapter, and any person swearing falsely in any of the affidavits shall be guilty of perjury.

"(b) Each court shall prescribe such rules and regulations as may be necessary to insure that whenever a bondsman becomes surety for compensation upon a bond in a criminal case before the court, the bondsman shall make a record, which shall be accurate to the best of the maker's knowledge and belief and shall thereafter be open for inspection by the court or its designed representative, and by the designated representative of other law enforcement agencies of the District of Columbia, of the following matters:

"(1) the full name and address of the person for whom the bond is executed (referred to in this subsection as the 'defendant') and the full name and address of his employer, if any;

"(2) the offense with which the defendant is charged;

"(3) the name of the court or officer authorizing the defendant's admission to bail;

"(4) the amount of the bond;

"(5) the name of the person who called the bondsman, if other than the defendant;

"(6) the amount of the bondsman's charge for executing the bond;

"(7) the full name and address of the person to whom the bondsman presented his bill for the charge;

"(8) the full name and address of the person paying the charge; and

"(9) the manner of payment of the charge.

Whoever violates any rule or regulation prescribed under this subsection shall be fined not more than $500 or imprisoned not more than six months, or both, and if he is a bondsman shall be disqualified from thereafter engaging in any manner in the bonding business for such period of time as the trial judge shall order.

"§ 23-1109. Giving advance information of proposed raid prohibited

"It shall be unlawful for any police officer or other public official, in advance of any raid by police or other peace officers or public officials or the execution of any search warrant or warrant of arrest, to give or furnish, either directly or indirectly, any information

concerning the proposed raid or arrest to any person engaged in any manner in the bonding business, or to any attorney at law; but it shall not be unlawful for any police or other peace officer, in conducting any raid or in executing any search warrant or warrant of arrest, to communicate to any attorney at law or person engaged in the bonding business, any fact necessary to enable the officer to obtain from the attorney at law or person engaged in the bonding business information necessary to enable the officer to carry out the raid or execute the process.

"§ 23–1110. Designation of official to take bail or collateral when court is not in session

"(a) The judges of the Superior Court of the District of Columbia shall have the authority to appoint some official of the Metropolitan Police Department to act as a clerk of the court with authority to take bail or collateral from persons charged with offenses triable in the Superior Court at all times when the court is not open and its clerks accessible. The official so appointed shall have the same authority at those times with reference to taking bonds or collateral as the clerk of the Municipal Court had on March 3, 1933; shall receive no compensation for those services other than his regular salary; shall be subject to the orders and rules of the Superior Court in discharge of his duties, and may be removed as the clerk at any time by the judges of the court. The United States District Court for the District of Columbia shall have power to authorize the official appointed by the Superior Court to take bond of persons arrested upon writs and process from that court in criminal cases between 4 o'clock postmeridian and 9 o'clock antemeridian and upon Sundays and holidays and shall have power at any time to revoke the authority granted by it.

"(b) (1) An officer or member of the Metropolitan Police Department who arrests without a warrant a person for committing a misdemeanor may, instead of taking him into custody, issue a citation requiring the person to appear before an official of the Metropolitan Police Department designated under subsection (a) of this section to act as a clerk of the Superior Court.

"(2) Whenever a person is arrested without a warrant for committing a misdemeanor and is booked and processed pursuant to law, an official of the Metropolitan Police Department designated under subsection (a) of this section to act as a clerk of the Superior Court may issue a citation to him for an appearance in court or at some other designated place, and release him from custody.

"(3) No citation may be issued under paragraph (1) or (2) unless the person authorized to issue the citation has reason to believe that the arrested person will not cause injury to persons or damage to property and that he will make an appearance in answer to the citation.

"(4) Whoever willfully fails to appear as required in a citation, shall be fined not more than the maximum provided for the misdemeanor for which such citation was issued or imprisoned for not more than one year, or both. Prosecution under this paragraph shall be by the prosecuting officer responsible for prosecuting the offense for which the citation is issued.

"§ 23–1111. Penalties

"Any person violating any provision of this chapter shall be fined not less than $50 nor more than $100, or imprisoned for not less than ten nor more than sixty days, or both, where no other penalty is provided by this chapter; and if the person so convicted is (1) a police officer or other public official, he shall upon recommendation of the trial judge also be forthwith dismissed from office, (2) a bondsman, he shall be disqualified from thereafter engaging in any manner in the bonding business for such a period of time as the trial judge shall order, or (3) an attorney at law, he shall be subject to suspension or disbarment as attorney at law.

"§ 23–1112. Enforcement

"It shall be the duty of the Superior Court and of the United States District Court for the District of Columbia to see that this chapter is enforced, and upon the impaneling of each grand jury in the District of Columbia it shall be the duty of the judge impaneling such jury to charge it to investigate the manner in which this chapter is enforced and all violations thereof in connection with the matter under investigation by such jury.

"Chapter 13.—BAIL AGENCY AND PRETRIAL DETENTION

SUBCHAPTER I.—DISTRICT OF COLUMBIA BAIL AGENCY

"Sec.
"23–1301. District of Columbia Bail Agency.
"23–1302. Definitions.
"23–1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations.
"23–1304. Executive committee; composition; appointment and qualifications of Director.
"23–1305. Duties of Director; compensation; tenure.
"23–1306. Chief assistant and other agency personnel; compensation.
"23–1307. Annual reports to executive committee, Congress, and Commissioner.
"23–1308. Budget estimates.

"SUBCHAPTER II—RELEASE AND PRETRIAL DETENTION

"Sec.
"23–1321. Release in noncapital cases prior to trial.
"23–1322. Detention prior to trial.
"23–1323. Detention of addict.
"23–1324. Appeal from conditions of release.
"23–1325. Release in capital cases or after conviction.
"23–1326. Release of material witnesses.
"23–1327. Penalties for failure to appear.
"23–1328. Penalties for offenses committed during release.
"23–1329. Penalties for violation of conditions of release.
"23–1330. Contempt.
"23–1331. Definitions.
"23–1332. Applicability of subchapter.

"§ 23–1301. District of Columbia Bail Agency

"The District of Columbia Bail Agency (hereafter in this subchapter referred to as the 'agency') shall continue in the District of Columbia and shall secure pertinent data and provide for any judicial officer in the District of Columbia or any officer or member of the Metropolitan Police Department issuing citations, reports containing verified information concerning any individual with respect to whom a bail or citation determination is to be made.

"§ 23–1302. Definitions

"As used in this chapter—

"(1) the term 'judicial officer' means, unless otherwise indicated, the Supreme Court of the United States, the United States Court of Appeals for the District of Columbia Circuit, the District of Columbia Court of Appeals, United States District for the District of Columbia, the Superior Court of the District of Columbia or any justice or judge of those courts or a United States commissioner or magistrate; and

"(2) the term 'bail determination' means any order by a judicial officer respecting the terms and conditions of detention or release (including any order setting the amount of bail bond or any other kind of security) made to assure the appearance in court of—

"(A) any person arrested in the District of Columbia, or

"(B) any material witness in any criminal proceeding in a court referred to in paragraph (1).

"§ 23–1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations

"(a) The agency shall, except when impracticable, interview any person detained pursuant to law or charged with an offense in the District of Columbia who is to appear before a judicial officer or whose case arose in or is before any court named in section 23–1302(1). The interview, when requested by a judicial officer, shall also be undertaken with respect to any person charged with intoxication or a traffic violation. The agency shall seek independent verification of information obtained during the interview, shall secure any such person's prior criminal record which shall be made available by the Metropolitan Police Department, and shall prepare a written report of the information for submission to the appropriate judicial officer. The report to the judicial officer shall, where appropriate, include a recommendation as to whether such person should be released or detained under any of the conditions specified in subchapter II of this chapter. If the agency does not make a recommendation, it shall submit a report without recommendation. The agency shall provide copies of its report and recommendations (if any) to the United States attorney for the District of Columbia, to the Corporation Counsel of the District of Columbia (if pertinent), and to counsel for the person concerning whom the report is made. The report shall include but not be limited to information concerning the person accused, his family, his community ties, residence, employment, and prior criminal record (if any), and may include such additional verified information as may become available to the agency.

"(b) With respect to persons seeking review under subchapter II of this chapter of their detention or conditions of release, the agency shall review its report, seek and verify such new information as may be necessary, and modify or supplement its report to the extent appropriate.

"(c) The agency when requested by any appellate court or a judge or justice thereof, or by any other judicial officer, shall furnish a report as provided in subsection (a) of this section respecting any person whose case is pending before any such appellate court or judicial officer or in whose behalf an application for a bail determination shall have been submitted.

"(d) Any information contained in the agency's files, presented in its report, or divulged during the course of any hearing shall not be admissible on the issue of guilt in any judicial proceeding, but such information may be used in proceedings under sections 23–1327, 23–1328, and 23–1329, in perjury proceedings, and for the purposes of impeachment in any subsequent proceeding.

"(e) The agency, when requested by a member or officer of the Metropolitan Police Department acting pursuant to court rules governing the issuance of citations in the District of Columbia, shall furnish to such member or officer a report as provided in subsection (a).

"(f) The preparation and the submission by the agency of its report as provided in this section shall be accomplished at the earliest practicable opportunity,

"(g) A judicial officer in making a bail determination shall consider the agency's report and its accompanying recommendation, if any. The judicial officer may order such detention or may impose such terms and set such conditions upon release, including requiring the execution of a bail bond with

sufficient solvent sureties as shall appear warranted by the facts, except that such judicial officer may not order any detention or establish any terms or conditions for release not otherwise authorized by law.

"(h) The agency shall—

"(1) supervise all persons released on nonsurety release, including release on personal recognizance, personal bond, nonfinancial conditions, or cash deposit or percentage deposit with the registry of the court;

"(2) make reasonable effort to give notice of each required court appearance to each person released by the court;

"(3) serve as coordinator for other agencies and organizations which serve or may be eligible to serve as custodians for persons released under supervision and advise the judicial officer as to the eligibility, advisability, and capacity of such agencies and organizations;

"(4) assist persons released pursuant to subchapter II of this chapter in securing employment or necessary medical or social services;

"(5) inform the judicial officer and the United States attorney for the District of Columbia of any failure to comply with pretrial release conditions or the arrest of persons released under its supervision and recommend modifications of release conditions when appropriate;

"(6) prepare, in cooperation with the United States marshal for the District of Columbia and the United States attorney for the District of Columbia, such pretrial detention reports as are required by Rule 46 (h) of the Federal Rules of Criminal Procedure; and

"(7) perform such other pretrial functions as the executive committee may, from time to time, assign.

"§ 23–1304. Executive committee; composition; appointment and qualifications of Director

"(a) The agency shall function under authority of and be responsible to an executive committee of five members of which three shall constitute a quorum. The executive committee shall be composed of the respective chief judges of the United States Court of Appeals for the District of Columbia Circuit, the United States District Court for the District of Columbia, the District of Columbia Court of Appeals, the Superior Court, or if circumstances may require, the designee of any such chief judge, and a fifth member who shall be selected by the chief judges.

"(b) The executive committee shall appoint a Director of the agency who shall be a member of the bar of the District of Columbia Court of Appeals.

"§ 23–1305. Duties of Directors; compensation; tenure

"The Director of the agency shall be responsible for the supervision and execution of the duties of the agency. The Director shall receive such compensation as may be set by the executive committee but not in excess of the compensation authorized for GS–16 of the General Schedule contained in section 5332 of title 5, United States Code. The Director shall hold office at the pleasure of the executive committee.

"§ 23–1306. Chief assistant and other agency personnel; compensation

"The Director, subject to the approval of the executive committee, shall employ a chief assistant and such assisting and clerical staff and may make assignments of such agency personnel as may be necessary properly to conduct the business of the agency. The staff of the agency, other than clerical, shall be drawn from law students, graduate students, or such other available sources as may be approved by the executive committee. The chief assistant to the Director shall receive compensation as may be set by the executive committee, but in an amount not in excess of the amount authorized for GS–14 of the General Schedule contained in section 5332 of title 5 United States Code, and shall hold office at the pleasure of the executive committee. All other employees of the agency shall receive compensation, as set by the executive committee, which shall be comparable to levels of compensation established in such chapter 53. From time to time, the Director, subject to the approval of the executive committee, may set merit and longevity salary increases.

"§ 23–1307. Annual reports to executive committee, Congress, and Commissioner

"The Director shall on June 15 of each year submit to the executive committee a report as to the agency's administration of its responsibilities for the previous period of June 1 through May 31, a copy of which report will be transmitted by the executive committee to the Congress of the United States, and to the Commissioner of the District of Columbia. The Director shall include in his report, to be prepared as directed by the Commissioner of the District of Columbia, a statement of financial condition, revenues, and expenses for the past June 1 through May 31 period.

"§ 23–1308. Budget estimates

"Budget estimates for the agency shall be prepared by the Director and shall be subject to the approval of the executive committee.

"SUBCHAPTER II—RELEASE AND PRETRIAL DETENTION

"§ 23–1321. Release in noncapital cases prior to trial

"(a) Any person charged with an offense, other than an offense punishable by death, shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required or the safety of any other person or the community. When such a determination is made, the judicial officer shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or the safety of any other person or the community, or, if no single condition gives that assurance, any combination of the following conditions:

"(1) Place the person in the custody of a designated person or organization agreeing to supervise him.

"(2) Place restrictions on the travel, association, or place of abode of the person during the period of release.

"(3) Require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security as directed, of a sum not to exceed 10 per centum of the amount of the bond, such deposit to be returned upon the performance of the conditions of release.

"(4) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

"(5) Impose any other condition, including a condition requiring that the person return to custody after specified hours of release for employment or other limited purposes.

No financial condition may be imposed to assure the safety of any other person or the community.

"(b) In determining which conditions of release, if any, will reasonably assure the appearance of a person as required and the safety of any other person or the community, the judicial officer shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, the weight of the evidence against such person, his family ties, employment, financial resources, character and mental conditions, past conduct, length of residence in the community, record of convictions, and any record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

"(c) A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform such person of the penalties applicable to violations of the conditions of his release, shall advise him that a warrant for his arrest will be issued immediately upon any such violation, and shall warn such person of the penalties provided in section 23–1328.

"(d) A person for whom conditions of release are imposed and who, after twenty-four hours from the time of the release hearing, continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. Unless the conditions of release are amended and the person is thereupon released, the judicial officer shall set forth in writing the reasons for requiring the conditions imposed. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon application, be entitled to a review by the judicial officer who imposed the condition. Unless the requirement is removed and the person is thereupon released on another condition, the judicial officer shall set forth in writing the reasons for continuing the requirement. In the event that the judicial officer who imposed conditions of release is not available, any other judicial officer may review such conditions.

"(e) A judicial officer ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release, except that if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection (d) shall apply.

"(f) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(g) Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court.

"(h) The following shall be applicable to any person detained pursuant to this subchapter:

"(1) The person shall be confined, to the extent practicable, in facilities separate from convicted persons awaiting or serving sentences or being held in custody pending appeal.

"(2) The person shall be afforded reasonable opportunity for private consultation with counsel and, for good cause shown, shall be released upon order of the judicial officer in the custody of the United States marshal or other appropriate person for limited periods of time to perpare defenses or for other proper reasons.

"§ 23–1322. Detention prior to trial.

"(a) Whenever a judicial officer determines that no condition or combination of conditions of release will reasonably assure the safety of any other person or the community, he may, subject to the provisions of this section, order pretrial detention of a person charged with—

"(1) a dangerous crime as defined in section 23–1331(3);

"(2) a crime of violence, as defined in section 23–1331(4), if (i) the person has

been convicted of a crime of violence within the ten-year period immediately preceding the alleged crime of violence for which he is presently charged; or (ii) the crime of violence was allegedly committed while the person was, with respect to another crime of violence, on bail or other release or on probation, parole, or mandatory release pending completion of a sentence; or

"(3) any offense if such person, for the purpose of obstructing or attempting to obstruct justice, threatens, injures, intimidates, or attempts to threaten, injure, or intimidate any prospective witness or juror.

"(b) No person described in subsection (a) of this section shall be ordered detained unless the judicial officer—

"(1) holds a pretrial detention hearing in accordance with the provisions of subsection (c) of this section;

"(2) finds that—

"(A) there is clear and convincing evidence that the person is a person described in subsection (a) of this section;

"(B) based on the factors set out in subsection (b) of section 23–1321, there is no condition or combination of conditions of release which will reasonably assure the safety of any other person or the community; and

"(C) except with respect to a person described in paragraph (3) of subsection (a) of this section, on the basis of information presented by proffer or otherwise to the judicial officer there is a substantial probability that the person committed the offense for which he is present before the judicial officer; and

"(3) issues an order of detention accompanied by written findings of fact and the reasons for its entry.

"(c) The following procedures shall apply to pretrial detention hearings held pursuant to this section:

"(1) Whenever the person is before a judicial officer, the hearing may be initiated on oral motion of the United States attorney.

"(2) Whenever the person has been released pursuant to section 23–1321 and it subsequently appears that such person may be subject to pretrial detention, the United States attorney may initiate a pretrial detention hearing by ex parte written motion. Upon such motion the judicial officer may issue a warrant for the arrest of the person and if such person is outside the District of Columbia, he shall be brought before a judicial officer in the district where he is arrested and shall then be transferred to the District of Columbia for proceedings in accordance with this section.

"(3) The pretrial detention hearing shall be held immediately upon the person being brought before the judicial officer for such hearing unless the person or the United States attorney moves for a continuance. A continuance granted on motion of the person shall not exceed five calendar days, unless there are extenuating circumstances. A continuance on motion of the United States attorney shall be granted upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

"(4) The person shall be entitled to representation by counsel and shall be entitled to present information by proffer or otherwise, to testify, and to present witnesses in his own behalf.

"(5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(6) Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but such testimony shall be admissible in proceedings under sections 23–1327, 23–1328, and 23–1329, in perjury proceedings, and for the purposes of impeachment in any subsequent proceedings.

"(7) Appeals from orders of detention may be taken pursuant to section 23–1324.

"(d) The following shall be applicable to persons detained pursuant to this section:

"(1) To the extent practicable, the person shall be given an expedited trial.

"(2) Such person shall be treated in accordance with section 23–1321—

"(A) upon the expiration of sixty calendar days, unless the trial is in progress or the trial has been delayed at the request of the person; or

"(B) whenever a judicial officer finds that a subsequent event has eliminated the basis for such detention.

"(3) The person shall be deemed detained pursuant to section 23–1325 if he is convicted.

"(e) The judicial officer may detain for a period not to exceed five calendar days a person who comes before him for a bail determination charged with any offense, if it appears that such person is presently on probation, parole, or mandatory release pending completion of sentence for any offense under State or Federal law and that such person may flee or pose a danger to any other person or the community if released. During the five day period, the United States attorney or the Corporation Counsel for the District of Columbia shall notify the appropriate State or Federal probation or parole officials. If such officials fail or decline to take the person into custody during such period, the person shall be treated in accordance with section 23–1321, unless he is subject to detention under this section. If the person is subsequently convicted of the offense charged, he shall receive credit toward service of sentence for the time he was detained pursuant to this subsection.

"§ 23–1323. Detention of addict

"(a) Whenever it appears that a person charged with a crime of violence, as defined in section 23–1331(4), may be an addict, as defined in section 23–331(5), the judicial officer may, upon motion of the United States attorney, order such person detained in custody for a period not to exceed three calendar days, under medical supervision, to determine whether the person is an addict.

"(b) Upon or before the expiration of three calendar days, the person shall be brought before a judicial officer and the results of the determination shall be presented to such judicial officer. The judicial officer thereupon (1) shall treat the person in accordance with section 23–1321, or (2) upon motion of the United States attorney, may (A) hold a hearing pursuant to section 23–1322, or (B) hold a hearing pursuant to subsection (c) of this section.

"(c) A person who is an addict may be ordered detained in custody under medical supervision if the judicial officer—

"(1) holds a pretrial detention hearing in accordance with subsection (c) of section 23–1322;

"(2) finds that—

"(A) there is clear and convincing evidence that the person is an addict;

"(B) based on the factors set out in subsection (b) of section 23–1321, there is no condition or combination of conditions of release which will reasonably assure the safety of any other person or the community; and

"(C) on the basis of information presented to the judicial officer by proffer or otherwise, there is a substantial probability that the person committed the offense for which he is present before the judicial officer; and

"(3) issues an order of detention accompanied by written findings of fact and the reasons for its entry.

"(d) The provisions of subsection (d) of section 23–1322 shall apply to this section.

"§ 23–1324. Appeal from conditions of release

"(a) A person who is detained, or whose release on a condition requiring him to return to custody after specified hours is continued, section 23–1321(d) or section 23–1321(e) by a judicial officer, other than a judge of the court having original jurisdiction over the after review of his application pursuant to offense with which he is charged or a judge of a United States court of appeals or a Justice of the Supreme Court, may move the court having original jurisdiction over the offense with which he is charged to amend the order. Such motion shall be determined promptly.

"(b) In any case in which a person is detained after (1) a court denies a motion under subsection (a) to amend an order imposing conditions of release, (2) conditions of release have been imposed or amended by a judge of the court having original jurisdiction over the offense charged, or (3) he is ordered detained or an order for his detention has been permitted to stand by a judge of the court having original jurisdiction over the offense charged, an appeal may be taken to the court having appellate jurisdiction over such court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If the order is not so supported, the court may remand the case for a further hearing, or may, with or without additional evidence, order the person released pursuant to section 23–1321(a). The appeal shall be determined promptly.

"(c) In any case in which a judicial officer other than a judge of the court having original jurisdiction over the offense with which a person is charged orders his release with or without setting terms or conditions of release, or denies a motion for the pretrial detention of a person, the United States attorney may move the court having original jurisdiction over the offense to amend or revoke the order. Such motion shall be considered promptly.

"(d) In any case in which—

"(1) a person is released, with or without the setting of terms or conditions of release, or a motion for the pretrial detention of a person is denied, by a judge of the court having original jruisdiction over the offense with which the person is charged, or

"(2) a judge of a court having such original jurisdiction does not grant the motion of the United States attorney filed pursuant to subsection (c),

the United States attorney may appeal to the court having appellate jurisdiction over such court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If the order is not so supported, (A) the court may remand the case for a further hearing, (B) with or without additional evidence, change the terms or conditions of release, or (C) in cases in which the United States attorney requested pretrial detention pursuant to sections 23–1322 and 23–1323, order such detention.

"§ 23–1325. Release in capital cases or after conviction

"(a) A person who is charged with an offense punishable by death shall be treated in accordance with the provisions of section 23–1321 unless the judicial officer has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the property of others. If such a risk or flight or danger is believed to exist, the person may be ordered detained.

"(b) A person who has been convicted of an offense and is awaiting sentence shall be detained unless the judicial officer finds by clear and convincing evidence that he is not likely to flee or pose a danger to any other person or to the property of others. Upon such finding, the judicial officer shall treat the person in accordance with the provisions of section 23–1321.

"(c) A person who has been convicted of an offense and sentenced to a term of confinement or imprisonment and has filed an appeal or petition for a writ of certiorari shall be detained unless the judicial officer

finds by clear and convincing evidence that (1) the person is not likely to flee or pose a danger to any other person or to the property of others, and (2) the appeal or petition for a writ of certiorari raises a substantial question of law or fact likely to result in a reversal or an order for new trial. Upon such findings, the judicial officer shall treat the person in accordance with the provisions of section 23–1321.

"(d) The provisions of section 23–1324 shall apply to persons detained in accordance with this section.

"§ 23–1326. Release of material witnesses

"If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence by subpena, a judicial officer shall impose conditions of release pursuant to section 23–1321. No material witnesses shall be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

"§ 23–1327. Penalties for failure to appear

"(a) Whoever, having been released under this title prior to the commencement of his sentence, willfully fails to appear before any court or judicial officer as required, shall, subject to the provisions of the Federal Rules of Criminal Procedure, incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall, (1) if he was released in connection with a charge of felony, or while awaiting sentence or pending appeal or certiorari prior to commencement of his sentence after conviction of any offense, be fined not more than $5,000 and imprisoned not less than one year and not more than five years, (2) if he was released in connection with a charge of misdemeanor, be fined not more than the maximum provided for such misdemeanor and imprisoned for not less than ninety days and not more than one year, or (3) if he was released for appearance as a material witness, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Any failure to appear after notice of the appearance date shall be prima facie evidence that such failure to appear is willful. Whether the person was warned when released of the penalties for failure to appear shall be a factor in determining whether such failure to appear was willful, but the giving of such warning shall not be a prerequisite to conviction under this section.

"(c) The trier of facts may convict under this section even if the defendant has not received actual notice of the appearance date if (1) reasonable efforts to notify the defendant have been made, and (2) the defendant, by his own actions, has frustrated the receipt of actual notice.

"(d) Any term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 23–1328. Penalties for offenses committed during release

"(a) Any person convicted of an offense committed while released pursuant to section 23–1321 shall be subject to the following penalties in addition to any other applicable penalties:

"(1) A term of imprisonment of not less than one year and not more than five years if convicted of committing a felony while so released; and

"(2) A term of imprisonment of not less than ninety days and not more than one year if convicted of commiting a misdemeanor while so released.

"(b) The giving of a warning to the person when released of the penalties imposed by this section shall not be a prerequisite to the application of this section.

"(c) Any term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 23–1329. Penalties for violation of conditions of release

"(a) A person who has been conditionally released pursuant to section 23–1321 and who has violated a condition of release shall be subject to revocation of release, an order of detention, and prosecution for contempt of court.

"(b) Proceedings for revocation of release may be initiated on motion of the United States attorney. A warrant for the arrest of a person charged with violating a condition of release may be issued by a judicial officer and if such person is outside the District of Columbia he shall be brought before a judicial officer in the district where he is arrested and shall then be transferred to the District of Columbia for proceedings in accordance with this section. No order of revocation and detention shall be entered unless, after a hearing, the judicial officer finds that—

"(1) there is clear and convincing evidence that such person has violated a condition of his release; and

"(2) based on the factors set out in subsection (b) of section 23–131, there is no condition or combination of conditions of release which will reasonably assure that such person will not flee or pose a danger to any other person or the community.

The provisions of subsections (c) and (d) of section 23–1322 shall apply to this subsection.

"(c) Contempt sanctions may be imposed if, upon a hearing and in accordance with principles applicable to proceedings for criminal contempt, it is established that such person has intentionally violated a condition of his release. Such contempt proceedings shall be expedited and heard by the court without a jury. Any person found guilty of criminal contempt for violation of a condition of release shall be imprisoned for not more than six months, or fined not more than $1,000, or both.

"(d) Any warrant issued by a judge of the Superior Court for violation of release conditions or for contempt of court, for failure to appear as required, or pursuant to subsection (c)(2) of section 23–1322, may be executed at any place within the jurisdiction of the United States. Such warrants shall be executed by a United States marshal or by any other officer authorized by law.

"§ 23–1330. Contempt

"Nothing in the subchapter shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.

"§ 23–1331. Definitions

"As used in this subchapter:

"(1) The term 'judicial officer' means, unless otherwise indicated, any person or court in the District of Columbia authorized pursuant to section 3041, title 18, United States Code, or the Federal Rules of Criminal Procedure, to bail or otherwise release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court.

"(2) The term 'offense' means any criminal offense committed in the District of Columbia, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress.

"(3) The term 'dangerous crime' means (A) taking or attempting to take property from another by force or threat of force, (B) unlawfully entering or attempting to enter any premises adapted for overnight accommodation of persons or for carrying on business with the intent to commit an offense therein, (C) arson or attempted arson of any premises adaptable for overnight accommodation of persons or for carrying on business, (D) rape, carnal knowledge of a female under the age of sixteen, assault with intent to commit either of the foregoing offenses, or taking or attempting to take immoral, improper, or indecent liberties with a child under the age of sixteen years, or (E) unlawful sale or distribution of a narcotic or depressant or stimulant drug (as defined by any Act of Congress) if the offense is punishable by imprisonment for more than one year.

"(4) The term 'crime of violence' means murder, forcible rape, carnal knowledge of a female under the age of sixteen, taking or attempting to take immoral, improper, or indecent liberties with a child under the age of sixteen years, mayhem, kidnaping, robbery, burglary, voluntary manslaughter, extortion or blackmail accompanied by threats of violence, arson, assault with intent to commit any offense, assault with a dangerous weapon, or an attempt or conspiracy to commit any of the foregoing offenses, as defined by any Act of Congress or any State law, if the offense is punishable by imprisonment for more than one year.

"(5) The term 'addict' means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 so as to endanger the public morals, health, safety, or welfare.

"§ 23–1332. Applicability of subchapter

"The provisions of this subchapter shall apply in the District of Columbia in lieu of the provisions of sections 3146 through 3152 of title 18, United States Code.

"Chapter 15.—OUT-OF-STATE WITNESSES

"Sec.

"23–1501. Definitions.

"23–1502. Hearing on recall of out-of-State witnesses by State courts; determination; travel allowance; penalty.

"25–503. Certificate providing for attendance of witnesses at criminal prosecutions in the District of Columbia; travel allowance; penalty.

"23–1504. Exemption from arrest.

"§ 23–1501. Definitions

"As used in this chapter—

"(1) The term 'witness' includes a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution, or proceeding.

"(2) The term 'State' includes the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

"(3) The term 'summons' includes a subpena, order, or other notice requiring the appearance of a witness.

"§ 23–1502. Hearing on recall of out-of-State witnesses by State courts; determination; travel allowance; penalty

"(a) If a judge of a court of record in any State which by its laws has made provision for commanding persons within that State to attend and testify in the District of Columbia certifies under the seal of the court (1) that there is a criminal prosecution pending in that court, or that a grand jury investigation has commenced or is about to commence, (2) that a person within the District of Columbia is a material witness in the prosecution or grand jury investigation, and (3) that his presence will be required for a specified number of days, upon presentation of that certificate to any judge of the Superior Court of the District of Columbia, except as provided in subsection (c), such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

"(b) If at the hearing the judge determines that the witness is material and neces-

sary, that it will not cause undue hardship to the witness to attend and testify in the prosecution or grand jury investigation in the requesting State, and that the laws of such State and of any other State through which the witness may be required to pass by ordinary course of travel, will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the prosecution or grand jury investigation, as the case may be, at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

"(c) If the certificate presented under subsection (a) recommends that the witness be taken into immediate custody and delivered to an officer of the requesting State to assure his attendance, in the requesting State, the judge may in lieu of notification of hearing, direct that the witness be forthwith brought before him for a hearing. If the judge at the hearing is satisfied of the desirability of the custody and delivery of the witness, he may, in lieu of issuing subpena or summons, order the witness to be forthwith taken into custody and delivered to an officer of the requesting State. The certificate shall be prima facie proof of the desirablity of the custody and delivery of the witness.

"(d) Any witness who is summoned as above provided and, after being paid or tendered by some properly authorized person the fees and allowances authorized for witnesses in criminal cases in United States district courts, fails without good cause to attend and testify as directed in the summons, shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from the Superior Court.

"§ 23–1503. Certificate providing for attendance of witnesses at criminal prosecutions in the District of Columbia; travel allowance; penalty

"(a) If a person in any State, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions or grand jury investigations in the District of Columbia, is a material witness in such a prosecution or a grand jury investigation in the District of Columbia which has commenced or is about to commence, a judge may issue a certificate under seal stating these facts and specifying the number of days the witness will be required. The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of the United States or the District of Columbia to assure his attendance in the District of Columbia. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

"(b) If the witness is summoned to attend and testify in the District of Columbia he shall be tendered the fees and allowances authorized for witnesses in criminal cases in the United States district courts. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within the District of Columbia for a period longer than that specified in the certificate, unless otherwise ordered by the court. If the witness, after coming into the District of Columbia, fails without good cause to attend and testify as directed in the summons, he may be punished in the manner provided for the punishment of any other witness who disobeys a summons issued from the court in the District of Columbia where the prosecution has been instituted or the grand jury investigation has commenced or is about to commence.

"§ 23–1504. Exemption from arrest

"(a) Any person who comes into the District of Columbia in obedience to a summons directing him to attend and testify in the District of Columbia shall not, while in the District of Columbia, pursuant to the summons, be subject to arrest or the service of process, civil or criminal, in connection with any matter which arose before his entrance into the District of Columbia under the summons.

"(b) Any person who is in the process of passing through the District of Columbia for the purpose of proceeding to or returning from a State which has summoned him to attend and testify shall not be subject to arrest or the service of process, civil or criminal, in connection with any matter which arose at some other time.

"Chapter 17.—DEATH PENALTY

"Sec.
"23–1701. Capital punishment.
"23–1702. Provision for death chamber; appointment of executioner and assistants; fees.
"23–1703. Sentences to be in writing and certified copy furnished.
"23–1704. Who may be present at executions; fact of execution to be certified to clerk of court.
"23–1705. Place of execution.

"§ 23–1701. Capital punishment

"The mode of capital punishment in the District of Columbia shall be by the process commonly known as electrocution. The punishment of death shall be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of the current shall be continued until the convict is dead. The time fixed for the execution of the sentence shall not be considered an essential part of the sentence, and if it be not executed at the time therein appointed, by reason of the pendency of an appeal or for other cause, the court may appoint another day for carrying the same into execution.

"§ 23–1702. Provision for death chamber, appointment of executioner and assistants; fees

"The Commissioner of the District of Columbia shall provide a death chamber and necessary apparatus for inflicting the death penalty by electrocution and designate an executioner and necessary assistants, not exceeding three in number. The District of Columbia Council shall fix the fees for the executioner and his assistants.

"§ 23–1703. Sentences to be in writing and certified copy furnished

"If a person is sentenced to death for a conviction in the District of Columbia the presiding judge shall sentence the convicted person to death according to the terms of this chapter, and make the sentence in writing, such sentence shall be filed with the papers in the case against the convicted person, and a certified copy thereof shall be transmitted, by the clerk of the court in which such sentence is pronounced, to the District of Columbia Department of Corrections not less than ten days prior to the time fixed in the sentence of the court for the execution.

"§ 23–1704. Who may be present at execution; fact of execution to be certified to clerk of court

"At the execution of the death penalty there shall be present only the following persons: The executioner and his assistant; the prison physician and one other physician if the condemned person so desires; the condemned person's counsel and relatives, not exceeding three, if they so desire; the prison chaplain and such other ministers of the Gospel, not exceeding two, as may attend by desire of the condemned; the superintendent of the prison, or, in the event of his disability, a deputy designated by him; and not fewer than three nor more than five respectable citizens whom the superintendent of the prison shall designate, and, if necessary to insure their attendance, shall subpena to be present. The fact of execution shall be certified by the prison physician and the executioner to the clerk of the court in which sentence was pronounced, which certificate shall be filed by the clerk with the papers in the case. No person under the age of twenty-one years shall be allowed to witness any execution.

"§ 23–1705. Place of execution

"Any person adjudged to suffer death shall be executed within the walls of the designated facility of the Department of Corrections, or within the yard or inclosure thereof, and not elsewhere."

(b) The following provisions of law are repealed on the effective date of this Act, except with respect to rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this Act:

(1) Sections 397 and 398 of the Revised Statutes of the District of Columbia (D.C. Code, secs. 4–140, 4–141).

(2) The following provision of British law in effect in the District of Columbia: 23 Geo. II, chapter 11, sections 1 and 2 (D.C. Code, secs. 23–204, 23–205).

(3) The following sections of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901:

(A) Sections 911 to 914 (D.C. Code, secs. 23–301 to 23–304).

(B) Sections 915 to 917 (D.C. Code, secs. 23–201 to 23–203).

(C) Sections 918 to 924 (D.C. Code, secs. 23–107 to 23–113).

(D) Section 926 (D.C. Code, sec. 23–114).

(E) Sections 930 and 931 (D.C. Code, secs. 23–401, 23–402).

(F) Sections 932 and 933 (D.C. Code, secs. 23–101, 23–102).

(G) Sections 935 and 938 (D.C. Code, secs. 23–105, 23–106).

(H) Section 939 (D.C. Code, sec. 23–104).

(I) Section 1200 (D.C. Code, sec. 23–706).

(J) Section 1203 (D.C. Code, sec. 23–705).

(4) Act of January 30, 1925 (43 Stat. 798; D.C. Code, secs. 23–701 to 23–704).

(5) Act of April 21, 1928 (45 Stat. 440; D.C. Code, secs. 23–403 to 23–410).

(6) Act of March 3, 1933 (47 Stat. 1482; D.C. Code, secs. 23–601 to 23–612).

(7) Section 5 of the Act of April 5, 1938 (52 Stat. 198, 199; D.C. Code, sec. 23–305).

(8) Uniform Act on Fresh Pursuit (53 Stat. 1124; D.C. Code, secs. 23–501 to 23–504).

(9) Act of March 5, 1952 (66 Stat. 15; D.C. Code, secs. 23–801 to 23–804).

(10) Sections 207, 402, and 407(b) of the District of Columbia Law Enforcement Act of 1953 (67 Stat. 90, 96, 102, 106; D.C. Code, secs. 23–306, 23–115, and 23–411).

(11) The District of Columbia Bail Agency Act (80 Stat. 327; D.C. Code, secs. 23–901 to 23–909).

(12) Act of July 30, 1968 (82 Stat. 460; D.C. Code, sec. 23–101a).

TITLE III—PUBLIC DEFENDER

REDESIGNATION OF LEGAL AID AGENCY AS PUBLIC DEFENDER SERVICE

SEC. 301. The Legal Aid Agency for the District of Columbia is redesignated the District of Columbia Public Defender Service (hereafter in this title referred to as the "Service").

AUTHORITY OF SERVICE

SEC. 302. (a) The Service is authorized to represent any person in the District of Columbia who a District of Columbia court determines is financially unable to obtain adequate representation in each of the following categories:

(1) Persons charged with an offense punishable by imprisonment for a term of six months, or more.

(2) Persons charged with violating a condition of probation or parole.

(3) Persons subject to proceedings pursuant to chapter 5 of title 21 of the District of Columbia Code (Hospitalization of the Mentally Ill).

(4) Persons for whom civil commitment is sought pursuant to title III of the Narcotic Addict Rehabilitation Act of 1966 (42 U.S.C. 3411, et seq.) or the provisions of the Hospital Treatment for Drug Addicts Act for the District of Columbia (D.C. Code, sec. 24–601, et seq.).

(5) Juveniles alleged to be delinquent or in need of supervision.

(6) Persons subject to proceedings pursuant to section 7 of the Act of August 4, 1947 (D.C. Code, sec. 24–527) (relating to commitment of chronic alcoholics by court order for treatment).

Representation may be furnished at any stage of a proceeding, including appellate, ancillary, and collateral proceedings. Not more than 60 per centum of the persons annually determined to be financially unable to obtain adequate representation in each of the above categories may be represented by the Service, but the Service may furnish technical and other assistance to private attorneys appointed to represent persons described in the above-enumerated categories. The Service shall determine the best practicable allocation of its staff personnel to the courts where it furnishes representation.

(b) The Service shall establish and coordinate the operation of an effective and adequate system for appointment of private attorneys to represent persons specified in subsection (a), but the courts shall have final authority to make such appointments. The Service shall report to the courts at least quarterly on matters relating to the operation of the appointment system and shall consult with the courts on the need for modifications and improvements.

(c) Upon approval of its Board of Trustees, the Service may perform such other functions as are necessary and appropriate to the duties described above.

(d) The determination whether a person is financially unable to obtain adequate representation shall be based on information provided by the person to be represented and such other persons or agencies as the court in its discretion shall require. Whoever in providing this information knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined not more than $1,000 or imprisoned not more than one year, or both.

BOARD OF TRUSTEES OF SERVICE

SEC. 303. (a) The powers of the Service shall be vested in a Board of Trustees composed of seven members. The Board of Trustees shall establish general policy for the Service but shall not direct the conduct of particular cases.

(b) (1) Members of the Board of Trustees shall be appointed by a panel consisting of—

(A) the chief judge of the United States Court of Appeals for the District of Columbia Circuit;

(B) the chief judge of the United States District Court for the District of Columbia;

(C) the chief judge of the District of Columbia Court of Appeals;

(D) the chief judge of the Superior Court of the District of Columbia; and

(E) the Commissioner of the District of Columbia. The panel shall be presided over by the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit (or in his absence, the designee of such judge). A quorum of the panel shall be four members.

(2) Judges of the United States courts in the District of Columbia and of District of Columbia courts may not be appointed to serve as members of the Board of Trustees.

(3) The term of office of a member of the Board of Trustees shall be three years. No person shall serve more than two consecutive terms as a member of the Board of Trustees. A vacancy in the Board of Trustees shall be filled in the same manner as the original appointment. Any member 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.

(c) The trustees of the Legal Aid Agency for the District of Columbia in office on the effective date of this Act shall serve the unexpired portions of their terms as trustees of the Service.

(d) For the purposes of any action brought against the trustees of the Service, they shall be deemed to be employees of the District of Columbia.

DIRECTOR AND DEPUTY DIRECTOR OF SERVICE

SEC. 304. The Board of Trustees shall appoint a Director and Deputy Director of the Service, each of whom shall serve at the pleasure of the Board. The Director shall be responsible for the supervision of the work of the Service and shall perform such other duties as the Board of Trustees may prescribe. The Deputy Director shall assist the Director and shall perform such duties as he may prescribe. The Director and Deputy Director shall be members of the bar of the District of Columbia. The Board of Trustees shall fix the compensation to be paid to the Director and the Deputy Director, but such compensation shall not be less than $17,500 nor more than $27,500.

STAFF

SEC. 305. (a) The Director shall employ a staff of attorneys, clerical and other personnel necessary to provide adequate and effective defense services. The Director shall make assignments of the personnel of the Service. The salaries of all employees of the Service, other than the Director and the Deputy Director, shall be fixed by the Director, but shall not exceed the salaries which may be paid to persons of similar qualifications and experience in the Office of the United States Attorney for the District of Columbia. All attorneys employed by the Service to represent persons shall be members of the bar of the District of Columbia.

(b) No attorney employed by the Service shall engage in the private practice of law or receive a fee for representing any person.

FISCAL REPORTS

SEC. 306. (a) The Board of Trustees of the Agency shall submit a fiscal year report of the Service's operations to the Congress of the United States, to the chief judges of the Federal courts in the District of Columbia and of the District of Columbia courts, and to the Commissioner of the District of Columbia. The report shall include a statement of the financial condition of the Service and a summary of services performed during the year.

(b) The Board of Trustees shall annually arrange for an independent audit to be prepared by a certified public accountant or by a designee of the Administrative Office of the United States Courts.

APPROPRIATIONS

SEC. 307. For the purpose of carrying out the provisions of this title, there is authorized to be appropriated for each fiscal year, out of any moneys in the Treasury to the credit of the District of Columbia, such sums as may be necessary to implement the purposes of this title. Such sums shall be appropriated for the judiciary to be disbursed by the Administrative Office of the United States Courts to carry on the business of the Service. The Administrative Office in disbursing and accounting for such sums, shall follow, so far as possible, its standard fiscal practices. The budget estimate for the Service shall be prepared in consultation with the Commissioner of the District of Columbia.

TRANSITION PROVISION

SEC. 308. All employees of the Legal Aid Agency for the District of Columbia on the effective date of this Act shall be deemed to be employees of the District of Columbia Public Defender Service and shall be entitled to the same compensation and benefits as they are entitled to as employees of the Legal Aid Agency for the District of Columbia.

REPEAL

SEC. 309. The District of Columbia Legal Aid Act (D.C. Code, secs. 2–2201 to 2–2210) is repealed.

TITLE IV—ATTORNEY'S FEES IN ACTIONS FOR WRONGFUL ARREST BROUGHT AGAINST OFFICERS OR MEMBERS OF THE METROPOLITAN POLICE DEPARTMENT

ATTORNEY'S FEES IN ACTIONS FOR WRONGFUL ARREST

SEC. 401. (a) Chapter 7 of title 5 of the District of Columbia Code (relating to fees and costs) is amended by adding at the end the following new section:

"§ 15–717. Attorney's fees to be awarded in certain civil actions brought against members or officers of the Metropolitan Police Department

"In a civil action in the United States District Court for the District of Columbia or any District of Columbia court brought against a member or officer of the Metropolitan Police Department for damages resulting from an alleged wrongful arrest by such officer or member, the judgment of such court, whether for the plaintiff or the defendant, shall include an award of a reasonable attorney's fee to such member or officer."

(b) The table of sections for chapter 7 of title 15 of the District of Columbia Code is amended by adding at the end the following new item:

"15–717. Attorney's fees to be awarded in certain civil actions brought against members or officers of the Metropolitan Police Department."

EFFECTIVE DATE

SEC. 402. The amendments made by this title shall take effect with respect to civil actions in the United States District Court for the District of Columbia or any District of Columbia court brought after the date of enactment of this Act against a member or officer of the Metropolitan Police Department for damages resulting from an alleged wrongful arrest by such officer or member.

TITLE V—TRANSFER TO BUREAU OF PRISONS OF CERTAIN FACILITIES OF DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

TRANSFER

SEC. 501. (a) Section 2 of the Act entitled "An Act to create a Department of Corrections in the District of Columbia", approved June 27, 1946 (D.C. Code, sec. 24–442), is amended by striking out ", the Reformatory at Lorton in the State of Virginia,".

(b) Section 6 of the Act entitled "An Act to establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes", approved March 16, 1926 (D.C. Code, sec. 3–106), is amended by striking out "(b) the reformatory at Lorton in the State of Virginia;".

(c) All the functions, powers, and duties of the Commissioner of the District of Columbia and the District of Columbia Council with respect to (1) the institutions of the District of Columbia that are located in Fairfax County, Virginia, and are operated by the Department of Corrections of the gov-

ernment of the District of Columbia, and (2) the care, custody, discipline, instruction, and rehabilitation of persons committed to, or otherwise residing in, such institutions, are transferred to the Attorney General. The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions, powers, or duties transferred to him by this section by any officer, employee, or organizational entity of the Department of Justice.

(d) The personnel—

(1) who the Director of the Bureau of the Budget determines were employed in connection with any function, power, or duty transferred by this section, and

(2) who are subject to the provisions of title 5 of the United States Code governing appointment in the competitive service and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates

shall be transferred to the Attorney General and shall continue to have the employment privileges and rights they had under part III of title 5, United States Code, before their transfer under this section. The transfer of personnel pursuant to this section shall be without reduction in classification or compensation for one year after such transfer.

(e) For the purposes of the twenty-second paragraph under the center heading "UNITED STATES COURTS" in the first section of the Act of March 3, 1915 (D.C. Code, sec 24–424), each institution of the District of Columbia described in section 2 of this Act shall be considered a Federal penitentiary.

TITLE VI—ABOLITION OF COMMISSION ON REVISION OF THE CRIMINAL LAWS OF THE DISTRICT OF COLUMBIA

ABOLITION OF COMMISSION

SEC. 601. (a) Title IX of the Act entitled "An Act relating to crime and criminal procedure in the District of Columbia", approved December 27, 1967 (Public Law 90–226), is repealed.

(b) The Committees on the District of Columbia of the Senate and House of Representatives shall make a full and complete review and study of the statutory and case law applicable in the District of Columbia for the purpose of formulating a revised code of criminal law for the District of Columbia.

TITLE VII—INTERSTATE COMPACT ON JUVENILES

FINDINGS AND PURPOSE

SEC. 701. (a) The Congress finds that (1) juveniles who are not under proper supervision and control, or who have absconded, escaped, or run away, are likely to endanger their own health, morals, and welfare, and the health, morals, and welfare of others and (2) the cooperation of the District of Columbia with the States is necessary to provide for the welfare and protection of juveniles and other persons in the District of Columbia.

(b) The Congress intends, in authorizing the District of Columbia to adopt the Interstate Compact on Juveniles, to have the District of Columbia cooperate fully with the States (1) in returning juveniles to those States requesting their return, and (2) in accepting and providing for the return of juveniles who are residents of the District of Columbia and who are found or apprehended in a State.

AUTHORITY TO ENTER INTO COMPACT

SEC. 702 (a) The Commissioner of the District of Columbia (hereafter in this Act referred to as the "Commissioner") is authorized to enter into and execute on behalf of the District of Columbia a compact with any State or States legally joining therein in the form substantially as follows:

"THE INTERSTATE COMPACT ON JUVENILES

"The contracting states solemnly agree:

"ARTICLE I—Findings and Purposes

"That juveniles who are not under proper supervision and control, or who have absconded, escaped, or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of non-delinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the non-criminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

"ARTICLE II—Existing Rights and Remedies

"That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

"ARTICLE III—Definitions

"That, for the purposes of this compact, 'delinquent juvenile' means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of any agency or institution pursuant to an order of such court; 'probation or parole' means any kind of conditional release of juveniles authorized under the laws of the states party hereto; 'court' means any court having jurisdiction over delinquent, neglected or dependent children; 'state' means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and 'residence' or any variant thereof means a place at which a home or regular place of abode is maintained.

"ARTICLE IV—Return of Runaways

"(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as many be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

"Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian and litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks

the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such State, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all state party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

"(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

"(c) That 'juvenile' as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

"ARTICLE V—Return of Escapees and Absconders

"(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

"Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

"(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of the transportation costs of such return.

"ARTICLE VI—Voluntary Return Procedure

"That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

"ARTICLE VII—Cooperative Supervision of Probationers and Parolees

"(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called 'sending state') may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called 'receiving state') while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

"(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

"(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

"(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

"ARTICLE VIII—Responsibility for Costs

"(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be

construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

"(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivsion thereof may be responsible pursuant to Articles IV(b), V(b) or VII(d) of this compact.

"ARTICLE IX—Detention Practices

"That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

"ARTICLE X—Supplementary Agreements

"That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent junveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment, and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

"ARTICLE XI—Acceptance of Federal and other Aid

"That any state party to this compact may accept any and all donations: gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize, the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

"ARTICLE XII—Compact Administrators

"That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

"ARTICLE XIII—Excution of Compact

"That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

ARTICLE XIV—Reunification

"That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

"ARTICLE XV—Severability

"That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

(b) The Commissioner may enter into and execute on behalf of the District of Columbia the following additional articles to the Interstate Compact on Juveniles:

"ARTICLE XVI—Additional Provision Relating to Return of Minor Children

"This article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

"For the purposes of this article, 'child', as used herein, means any minor within the jurisdictional age limits of any court in the home state.

"When any child is brought before a court of a state of which such child is a resident, and such state is willing to permit such child's return to the home state of such child, such home state, upon being so advised by the state in which such proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to such child in such home state, and upon finding that such child is in fact a resident of said state and subject to the jurisdiction of the court thereof, shall within five days authorize the return of such child to the home state, and to the parent or custodial agency legally authorized to accept such custody in such home state, and at the expense of such home state, to be paid from such funds as such home state may procure, designate, or provide, prompt action being of the essence.

"ARTICLE XVII—Additional Provision Concerning Interstate Rendition of Juveniles Alleged to be Delinquent

"This article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

"All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition is such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed."

COMPACT ADMINISTRATOR

SEC. 703. (a) The Commissioner shall appoint or designate an officer of the government of the District of Columbia (hereafter in this Act referred to as the "compact administrator") to administer the compact. The compact administrator shall serve at the pleasure of the Commissioner.

(b) The compact administrator, acting jointly with like officers of party States, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall cooperate with all departments, agencies, and officers of the government of the District of Columbia in facilitating the proper administration of the compact or of any supplementary agreement entered into by the compact administrator under subsection (c) of this section.

(c) Subject to the approval of the Commissioner, the compact administrator may enter into supplementary agreements with appropriate State officials for the purpose of administering the compact.

(d) Subject to the approval of the Commissioner, the compact administrator may make or arrange for any payments necessary to discharge any financial obligations imposed upon the District of Columbia by the compact or by any supplementary agreement entered into under subsection (c) of this section.

ENFORCEMENT

SEC. 704. The courts, departments, agencies, and officers of the District of Columbia shall enforce the compact and shall take such action as may be necessary to carry out the purposes and intent of the compact which may be within their respective jurisdictions.

CONSTRUCTION OF COMPACT

SEC. 705. The compact shall not be construed to prohibit the adoption of any other plan or procedure for the District of Columbia for the return of any runaway juvenile.

CONGRESSIONAL AUTHORITY

SEC. 706. The right to alter, amend, or repeal this Act is hereby expressly reserved by the Congress.

TITLE VIII—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 801 (a) Except as provided in part E of title I, section 402, and subsection (b) of this section, this Act and the amendments made by this Act shall take effect on the first day of the seventh calendar month which begins after the date of its enactment.

(b) Section 601 shall take effect on the date of the enactment of this Act. The amendments made by sections 201 and 205 of this Act shall apply with respect to any person who commits an offense after the effective date of this Act.

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.

A similar House bill (H.R. 16196) was laid on the table.

AUTHORIZING CERTAIN CORRECTIONS TO BE MADE IN THE ENROLLMENT OF H.R. 11959

Mr. DORN. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 554)

and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 554

Concurrent resolution authorizing certain corrections to be made in the enrollment of H.R. 11959

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives is hereby authorized and directed, in the enrollment of the bill (H.R. 11959) to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons under such chapters, to make the following corrections, namely: In section 202 of the bill, delete the subsection designation "(a)" immediately after "Sec. 202.", and delete all of subsection (b) thereof; in section 1969(a) of the new subchapter added by section 204(a)(4) of the bill, delete "section 1682(b) of this title" and insert in lieu thereof "subsection (b) of this section"; and in the parenthetical matter contained in section 242(a) of the new subchapter added by section 214(a) of the bill, insert "need for" immediately after "including their".

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

Mr. GROSS. Mr. Speaker, reserving the right to object, do I correctly understand that this concurrent resolution provides no substantive changes in the legislation?

Mr. DORN. The gentleman is correct. The conference report passed the House unanimously on March 18. These are only technical corrections in the phraseology of the bill.

Mr. GROSS. There are no additions by way of substantive legislation?

Mr. DORN. Absolutely not.

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

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

There was no objection.

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

Mr. DORN. The concurrent resolution, Mr. Speaker, which I have just presented, is one which deals with errors in the conference report, House Report No. 91–918, on the bill H.R. 11959 which was adopted unanimously by the House last Wednesday, March 18. The matters are technical in nature and do not substantially alter the conference agreement or form the basis for any different action on the part of the House. They were simply oversights which occur when a report is being prepared under considerable pressure as was the case in this instance.

The corrections are as follows: First, a section relating to apprentice training, which the conferees agreed to remove, was erroneously left in the bill; second, this corrects an incorrect cross reference relating to the method of paying under the PREP program; and third, two words "need for" were erroneously omitted from section 242 relating to veterans' assistance offices.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FARBSTEIN CALLS FOR JUSTICE IN POSTAL CRISIS

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

Mr. FARBSTEIN. Mr. Speaker, the seriouness of the nationwide postal crisis is now apparent to all. Everyone acknowledges the fact that the carriers' action is illegal; everyone also acknowledges the legitimate grievances of the Nation's postal employees. The question confronting the President and the Members of Congress is what can be done to bring the men back to work.

I suggest that one principle and one principle alone must guide us in seeking a solution. That principle is justice. There has been much talk about the degree to which the mail is subsidized but no one has talked about who is really subsidizing postal operations. Postal operations have been chiefly subsidized by the postal workers, themselves who work for substandard wages.

Justice demands that the burden for subsidized postal operations be spread evenly among the population and not rest exclusively on the backs of hard-working postal employees.

Justice demands that Federal employees be paid a decent wage. It is criminal that postal wages are so low that 7 percent of the post office employees in New York must supplement their income with welfare payments.

Justice requires that the President and Members of Congress state unequivocally now their support for immediate and substantial wage increases with no penalties imposed on those who have not been at work.

Justice for post office employees will end the crisis now confronting us. The mail must move once again—but by justly compensated postal employees, not by the Army. The President and the Members of Congress, acting justly, have nothing to fear.

THE POSTAL STRIKE

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

Mr. FISHER. Mr. Speaker, the current illegal strikes by 20 percent of postal employees against the U.S. Government is most unfortunate and cannot be tolerated. Additional legislation designed to prevent a repetition is imperative.

The present prohibition against such work stoppages seems difficult to enforce, even though it carries a penalty of a year's imprisonment and a $1,000 fine, and the guilty employee must be dismissed and cannot be reemployed for 3 years. As the Washington Post on last Saturday pointed out:

Except in flagrant cases, this is law that is difficult to invoke.

Therefore, if the Congress is to meet its obligation to protect the public interest, and prevent a recurrence of this defiance of the law, it naturally follows that additional legislation is required.

Today I have introduced a bill which I believe will accomplish that purpose. It provides that any Government employee—including, of course, postal employees—who willingly engages in an illegal strike, that person shall then, automatically and by operation of law, be reduced in grade by one level, and a promotion will be prohibited for at least 2 years.

Mr. Speaker, recent events have demonstrated that this type of legislation is absolutely necessary if the Congress wants to be doubly certain that in the future there will be no more strikes against the Government of the United States.

POSSIBILITY OF STRIKE BY OTHER CIVIL SERVANTS

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

Mr. HAYS. Mr. Speaker, I read an article in the paper this morning that some civil servants in other departments—and it mentioned the Pentagon, the Departments of Agriculture and Health, Education and Welfare—are going to strike. Now, I think the postal strike can cause us a lot of trouble because most postal employees work, but I suggest that a strike by these others might be very helpful if they would stay off for about a week. Congress might then get the message that they do not do anything, that we do not need them, and we might invite them not to come back at all.

DANGER OF MOOD CONTROL DRUGS

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

Mr. HANNA. Mr. Speaker, a week or so ago I addressed the House on the question of mood control drugs. I brought up the problem we face in terms of the permissive toleration on the part of our society regarding mood control drugs. The problem effects both the adults who are using these drugs legally as well as the children who are using them illegally.

I was very impressed to find that Dr. James L. Goddard, the former Chief of the Food and Drug Administration, testifying before one of our committees, posed the problem that some American housewives are themselves "junkies." The housewife gulps pills to pep her up, others to calm her down, and still others to let her sleep.

On medical grounds Dr. Goddard says that we probably do not need over a million of the 8 billion amphetamine tablets produced annually. Of the 8 billion barbiturates and 4 billion tranquilizers, only a small percentage are really necessary. He proposes that we immediately tax these legally produced pills to provide funds with which we can then use to educate our people as to the medical effects of what we are doing both to our adult and to our child populations.

Perhaps we can then begin to unwind this problem that has been plaguing our society for some time.

WHY NOT DIVIDE MONEY POURED INTO CONGO AMONG POSTAL WORKERS?

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

Mr. DICKINSON. Mr. Speaker, I was very interested in reading in this morning's Post an article of Mobutu's Congo regime wherein it was pointed out with great pride the great stability that he has brought to that country of some 16 million people.

But, Mr. Speaker, I was also very amazed and surprised to learn that in the past 9 years the United States has poured in almost a half billion dollars into this country to bring it to its present state of stability.

I might say, Mr. Speaker, in view of the postal employees wildcat strike, that if we had taken just this money and divided it among the 750,000 postal employees, they could get an annual raise of $667 per postal employee or $255 more than the average increase at 5.4 percent per employee that was passed by the House.

We should have met the problem that has been plaguing us here at home instead of pouring $1½ billion down the rathole in the Congo. What priority should come first? Stability at home or stability in the Congo, financed by U.S. taxpayers? For my money, I prefer stability in the United States as the No. 1 priority.

NORTH CAROLINA POSTAL WORKERS COMMENDED

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

Mr. MIZELL. Mr. Speaker, during the past week, many parts of the Nation have been faced with a major crisis as a result of the massive walkout staged by postal workers in some of the major cities of the Northeast and Midwest. Labor negotiations are often very difficult, and postal workers, because of the importance of their jobs, are somewhat restricted as to the ways that they can legally express their desires. At a time these Federal employess are in need of financial consideration, and when emotions are running high in all areas of the country, I commend the postal workers in the Fifth District as well as throughout North Carolina for recognizing their responsibility to serve the people and for remaining on their job.

Inflation has taken its toll and these people deserve to be able to maintain a decent standard of living.

The need for wide-range postal reform is great, and I am happy to say that long awaited legislation designed to solve many of our postal problems has now been ordered out of the House Post Office and Civil Service Committee. When this legislation will reach the floor of the House, I cannot say. It is entirely up to the House leadership. I cannot overemphasize the immediate need for this vital reform, and it is my wish that the entire Congress have the opportunity to consider this legislation as soon as possible. In the meantime, I strongly commend our North Carolina postal employees for their patience and for recognizing their commitment to serve the people and the businesses of this Nation.

SENATOR MILTON R. YOUNG—25 YEARS IN THE SENATE

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

Mr. KLEPPE. Mr. Speaker, Thursday, March 19, marked the 25th consecutive year of distinguished service in the Senate of the United States by my good friend and fellow North Dakotan, Senator MILTON R. YOUNG.

Not many Members of the Congress have been privileged to serve for a quarter of a century. He is the first from North Dakota to achieve that mark.

Even more impressive than the length of his service is the quality of the dedicated service he has given to the people of his State and Nation, MILT YOUNG has been a doer and a mover since the first day he came to the Senate. His imprint is on virtually every piece of major legislation relating to farm programs, rural electrification, and conservation which has been enacted during the last quarter of a century.

Today, as ranking minority member of the Senate Appropriations Committee and second ranking minority member of the Senate Agriculture Committee, and as a man who has earned the highest respect of his colleagues, MILT YOUNG stands among the top leaders of the Senate. Before coming to Washington, he served with distinction in both the North Dakota House and Senate.

His own modesty would prevent him from thinking of himself as a statesman, but he is one, nevertheless. His integrity, his constant devotion to the best interests of his country have, I know, made him a statesman of first rank in the eyes of the people of North Dakota and all who know him.

No one has been more helpful to me than MILT YOUNG during my time in Washington. I have found his counsel, his broad knowledge of legislation, invaluable. For this and other reasons, I have an especially warm and personal friendship for him.

On his 25th year in the Senate, I wish him all the best and many, many more years of service to his State and Nation.

POSTAL SITUATION

(Mr. PUCINSKI asked and was given permission to address the House for 1 minute.)

Mr. PUCINSKI. Mr. Speaker, the President intends to announce to the Nation at 2 o'clock this afternoon what his plan is to break the tragic impasse between the postal workers and the Post Office Department which has stopped delivery of mail in this country.

It occurs to me that the most expeditious way to solve this problem would be for the President to advise the chairman of the Senate Post Office Committee and the chairman of the House Post Office Committee to send him up H.R. 13000 forthwith and he will sign it.

There is no reason why there should be this stoppage and impasse in this country. Nor can anyone defend or justify an illegal strike against the Government of the United States.

But, this House last October passed legislation providing for a two-step increase in postal salaries, 5½ percent retroactive to October 1, 1969, and another 5½ percent effective as of July 1 of this year.

The Senate on December 12 passed its own version, which provides a somewhat lower postal pay raise than the House version.

There is really no reason why we should have this work stoppage today. The postal workers saw this Chamber act 6 months ago, but the money is still not in their weekly paycheck. I honestly believe that if the President would separate the question of postal pay from postal reform—and I intend to support him on postal reform—but I think if the President would separate those two, then we could have mail flowing late this afternoon or early this evening. It is my hope that the President stop trying to come up with any more gimmicks and address himself to this fundamental problem.

Postal workers in the city of Chicago get less money than dishwashers in a restaurant. That is what this whole dispute is all about. The fact of the matter is that all of us know that they are underpaid and that the answer to this problem is to give them some money in their pay envelope, in their April 1 paycheck.

Mr. Speaker, I spoke to many of these postal workers during the weekend and they all say they are determined not to return merely on a promise of a pay raise. They want concrete proof the additional money will be forthcoming and that is why I believe the best approach now is to have the President state he will approve a pay raise now and work out details on postal reform as quickly as possible.

JETS TO ISRAEL

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

Mr. ADDABBO. Mr. Speaker, the President's decision to postpone the sale of additional jets to Israel is a serious error and a direct contradiction of statements by this administration that there has been no change in our Mideast policy.

I call on my colleagues on both sides of the aisle to speak out in bipartisan expression of our disappointment with the President's decision and to urge the President to reverse the current policy of retreating from the support of our ally, the nation of Israel. This decision is a blun-

der which will encourage Arab nations to pursue their policy of terrorism in the Middle East. The Congress must not allow this decision to destroy our close ties with Israel but rather we must assume the responsibility for correcting this mistake and healing diplomatic wounds inflicted on Israel by an administration which apparently does not understand the scope or implication of the Mideast crisis.

I believe that the majority of House Members disagree with the President's decision and will support efforts to change the President's mind on the Israel request for additional aircraft.

I cannot understand how the present administration can talk about balance while we train Arab pilots here in the United States and the President of France has recently announced the sale of 100 planes to Libya.

I call upon the President and his advisers to reassess their statements and position and bring them back into true and just balance, which must heed the needs of Israel.

PERMISSION FOR SUBCOMMITTEE ON FISHERIES AND WILDLIFE, COMMITTEE ON MERCHANT MARINE AND FISHERIES, TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Fisheries and Wildlife of the Committee on Merchant Marine and Fisheries may sit during general debate today.

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

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may sit during general debate today.

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

There was no objection.

THE RESPONSIBILITY IS WITH CONGRESS

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

Mr. RHODES. Mr. Speaker, I am sure that all Members of the House are desirous of ending the impasse in the postal delivery situation as rapidly as possible. The gentleman from Illinois has just made a point which I think is a good one, that there is legislation which is pending which can be sent to the White House. I suggest, however, that he has placed the responsibility for sending that legislation on the wrong shoulders. The Constitution provides for a separation of powers. The Congress sends legislation to the President which it deems wise and which it believes should be adopted. The President then either signs the bill or he vetoes it.

The President has never had a chance either to sign or veto this piece of legislation. I am suggesting to the gentleman from Illinois that the proper subject of his plea for action is the Congress of the United States and not the President.

I also suggest that it would not be wise—and I think the gentleman might agree with me—for any legislative action to be taken as long as an illegal strike is in progress, as long as the mails are being impeded, and not being delivered as a result of a wildcat, illegal strike.

I sincerely hope that this Congress and the administration will not act "under the gun." I think if we were to do so, it would constitute a precedent which would rise to haunt us for many, many years in the future.

PAN-AMERICAN DAY, APRIL 14, 1970

Mr. FASCELL. Mr. Speaker, I offer a resolution (H. Res. 889) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 889

Resolved, That the House of Representatives hereby designates Tuesday, April 14, 1970, for the celebration of Pan-American Day, on which day, after the reading of the Journal, remarks appropriate to such occasion may occur.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

MARCH 23, 1970.

The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR SIR: I have the honor to transmit herewith a sealed envelop addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's Office at 12:17 p.m., on Friday, March 20, 1970, and said to contain a message from the President concerning Small Business.

With kind regards, I am
Sincerely yours,
W. PAT JENNINGS,
Clerk, U.S. House of Representatives.
By W. RAYMOND COLLEY.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House a Message from the President of the United States.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

Mr. 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. 57]

Anderson, Calif.	Dulski	Monagan
Bell, Calif.	Eckhardt	Montgomery
Bevill	Edwards, La.	Moorhead
Biaggi	Eshleman	Morton
Bingham	Fish	Murphy, N.Y.
Blanton	Flowers	Obey
Blatnik	Flynt	Ottinger
Boggs	Foley	Podell
Bolling	Ford, Gerald R.	Powell
Brademas	Ford, William D.	Purcell
Brasco	Frelinghuysen	Reid, Ill.
Brown, Calif.	Fulton, Tenn.	Reid, N.Y.
Broyhill, N.C.	Fuqua	Roberts
Bush	Gallagher	Rostenkowski
Camp	Gray	St Germain
Carey	Halpern	St. Onge
Cederberg	Heckler, Mass.	Sandman
Chisholm	Hosmer	Scheuer
Clancy	Howard	Shipley
Clark	Jacobs	Sisk
Clay	Jarman	Slack
Colmer	Jones, Ala.	Steiger, Ariz.
Conte	Jones, N.C.	Steiger, Wis.
Conyers	Jones, Tenn.	Symington
Corbett	Kirwan	Taft
Coughlin	Kyros	Teague, Tex.
Cowger	Landgrebe	Tunney
Cramer	Lennon	Weicker
Cunningham	Lowenstein	Whalley
Daddario	Lukens	Wilson, Bob
Davis, Ga.	McCarthy	Wilson, Charles H.
Dawson	McKneally	Winn
Delaney	MacGregor	Wolff
Dent	Miller, Calif.	Wright

The SPEAKER pro tempore (Mr. PRICE of Illinois). On this rollcall 328 Members have answered to their names, a quorum.

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

SMALL BUSINESS ADMINISTRATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-284)

The SPEAKER pro tempore. The Clerk will read the message from the President to the Congress of the United States.

The Clerk read the message, as follows:

To the Congress of the United States:

Seventeen years ago President Eisenhower established the Small Business Administration (SBA). This marked the first peacetime recognition by the Federal Government of the special needs of small businesses.

—Today there are in the United States an estimated 5,400,000 independent businesses, of which 95 percent are small by SBA size standards.

—97 percent of our nation's firms employ fewer than 100 full-time workers.

—The small business sector of the economy contributes roughly 37 percent of the gross national product and is responsible for over 40 percent of U.S. employment.

We all know the almost legendary stories of men in the past and in our time who have started out in small business with little more than an idea and a belief in themselves and have gone on to great

financial success. Yet small business can also mean other things.

—It can mean for the nation a source of independent innovation which continually offers new products and services needed by any economy if it is to remain vital.

—It can mean the everyday success of the average businessman whether he owns his own retail or service enterprise or heads a small manufacturing concern. It is a quiet kind of success that doesn't make the big news on the financial page, but makes life more rewarding for millions of Americans. It is the kind of success that offers personal services to consumers—and personal satisfaction to the businessman.

—It can mean a chance for a young American to bring not only his talent but his individuality to the challenges of the business world.

—It can also mean an opportunity for dignity and for economic and social progress for many Americans previously without access to the economic system of our nation. Small business in a way to become a part of that system—and, after seeing it work, believe in it, in its promises and in its challenges.

THE REPORT OF THE TASK FORCE ON IMPROVING THE PROSPECTS OF SMALL BUSINESS

In order to discover ways in which we could help improve the prospects of small business in the United States, I appointed a Task Force, chaired by Mr. J. Wilson Newman of New York, to report to me. In line with recommendations in their report, I am:

—Directing the Small Business Administration to emphasize its role as the advocate of the interest of small business. I am further directing all agencies to take these interests fully into account in their activities affecting small business.

—Proposing legislation to expand research to provide a clear picture of the problems, the trends and the needs of small business and a clear picture of the impact of Government on small business.

—Proposing legislation to create a new position of Assistant Secretary in the Department of Commerce to assist in formulating policy for the Office of Minority Business Enterprise (OMBE). I established OMBE early in my Administration to coordinate programs and activities within the Federal Government aimed at assisting minorities to enter the American economic mainstream. This is an extremely important undertaking.

The Task Force identified three major problem areas that can be found in all parts of the small business community, including that of the disadvantaged entrepreneur:

—The need for capital and for recognition of the special financial problems small firms may face in their early years;

—The need for sound management counseling; and

—The need for people and especially for trained people.

In order to help small business in these areas, I am proposing a far-reaching legislative program.

FINANCIAL ASSISTANCE

The Small Business Task Force found in surveys of businessmen across the nation that one-fifth of those consulted ranked financing first among their problems. Interest assistance, incentives to make loans, tax reform, bonding for small contractors and Minority Enterprise Small Business Investment Companies (MESBIC) are five major areas for action.

INTEREST ASSISTANCE

The risk of failure for small business is high, and the early years are the most perilous. These are the years in which the small businessman most often finds himself short of working capital and when high interest rates can have their greatest impact. In order to help small businessmen in such crucial early years, I propose legislation to authorize the Small Business Administration to make grants to borrowers whose loans are guaranteed by the SBA. These grants would narrow the gap between the prevailing interest rates and the statutory interest rate for SBA direct loans.

INCENTIVES TO MAKE LOANS

Another problem area of financing is that of providing adequate incentives to the private sector to make high-risk loans to small business. The cost of processing a small loan may and often does equal or exceed the cost of processing a large loan. In order to help the man who needs a small loan that carries a higher-than-usual degree of risk, I am proposing legislation that would offer compensation in the form of tax incentives to those lenders who bear the additional cost of making such loans. The incentive would be an income tax deduction equal to 20 percent of the interest earned on SBA-guaranteed loans.

To further assist in this area, I am proposing legislation that the SBA be permitted to delegate to the banks to the full extent it deems advisable the authority to make loans that the SBA guarantees, provided the bank retains a portion of the risk. Also, the SBA is revising its procedures so that a bank, with SBA approval, can use its regular loan forms rather than the special SBA forms.

A variety of organizations other than banks—foundations, trusts, church groups, community groups and others—are also interested in assisting the small business efforts of the disadvantaged by loan programs. To encourage these efforts, I also propose legislation to give the SBA the authority to guarantee loans by such organizations.

TAX REFORMS FOR SMALL BUSINESS

The man who is willing to take the financial risks involved in beginning a small business should be encouraged. In recognition of these risks, I propose legislation to provide the following tax reforms:

—Revision of "Subchapter S" of the Internal Revenue Code to make it easier for small business to be treated like a partnership for tax purposes.

—A ten-year tax loss carry-forward period, instead of the present 5-year period. This extension will be of special use to those new businesses that find it necessary during the early years to spend large amounts of money on research and development.

BONDING

No treatment of the problems of small business—especially those problems in the inner city—would be complete without consideration of the problem of insurance, including crime and property protection and surety bonds for construction.

On June 30, 1970, the Federal Insurance Administrator will report on these matters as required by the Housing and Urban Development Act of 1968. However, the urgency of the need to provide assistance relative to surety bonds for small business calls for immediate action. Accordingly, I am proposing legislation that would enable the SBA to guarantee, for a fee, as much as 90 percent of surety bonds up to $500,000 for small contractors who are qualified by SBA standards but lack the resources to qualify for bonding in the open market. Additional action regarding bonding may be called for in the Federal Insurance Administrator's report.

MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANY

The MESBIC concept shows promise of becoming an important tool for the generation of capital and as a source of managerial assistance for the disadvantaged who need help in small business. The Federal government matches the MESBIC sponsor on a "2 for 1" basis. The "leverage" power of this concept can be seen in an example: If a sponsor puts $150,000 into his MESBIC, the government lends it $300,000. This $450,000, with the application of other loans it generates, can result in over $2 million for new enterprises. Of equal importance is the availability of the sponsor's managerial talents.

To provide additional tools to assist this program, I propose legislation to provide:

—Statutory authorization for a bank to become involved in the program as the sole sponsor of a MESBIC.

—Ordinary income tax deductions for contributions to MESBICs organized and operating under non-profit corporation statutes. This would provide a tax incentive for doubling the commitment of funds.

The legislation being proposed also reflects the intention that the program assist all the socially and economically disadvantaged who need such assistance.

PERSONNEL AND MANAGEMENT ASSISTANCE

In its survey, the Small Business Task Force discovered that two out of every five responses listed the quality and availability of personnel as a major problem. It also is probably the most difficult one to solve. However, there are steps that can be taken at this time.

JOBS PROGRAM

The Secretary of Labor is initiating an expansion of the Federal JOBS (Job Opportunities in the Business Sector) Program that will aid small business. The JOBS Program until now has been in practice suitable only to larger corporations. But under this new program, consortiums of small businessmen—with the cooperation of local organizations such as boards of trade and chambers of commerce—will receive Federal assistance to offset the extraordinary costs of training employees until they become fully productive.

STOCK OPTIONS

In order to offset the advantages large businesses have in attracting managerial talent, I am sending legislation to the Congress which would revise the tax rules for stock options as they relate to small business. The proposal would extend the qualified option exercise period from five to eight years and reduce the required holding period for the stock from three years to one year. This should substantially assist small, technically-oriented growth companies in their competition with larger companies for managerial and other talent.

MANAGERIAL TRAINING ASSISTANCE

In order to help disadvantaged entrepreneurs get the kind of business know-how needed for success in small business, I propose legislation that would provide management training for those among the disadvantaged who are entrepreneurs and prospective entrepreneurs. Assistance would be offered for extension courses, night school and other management training courses.

Small business is an important part of our national life; it has been an important part of my personal life as well. My father knew the challenges and the rewards of owning and operating a small store. To him—and to our family—that store meant more than a source of income; it meant a daily challenge, a place where we could work out the destiny of the family in our own way, taking the risks, and enjoying the satisfactions of ownership. Looking back on those years, I know now that our store was a success not only because of what it did for our family budget, but for what it did for our spirit. I know that today, in helping Americans in small business, we are helping their spirit—and the spirit of our nation.

RICHARD NIXON.

THE WHITE HOUSE, *March 20, 1970.*

The message was, without objection, referred by the Speaker pro tempore (Mr. PRICE of Illinois) to the Committee of the Whole House on the State of the Union and ordered to be printed.

CENTENNIAL OF THE NATIONAL WEATHER SERVICE

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

Mr. WOLD. Mr. Speaker, man has always watched the weather, sometimes praising, sometimes lamenting. Man, however, has never studied the weather more carefully and followed and reported its behavior more accurately than during the last 100 years in this country. The U.S. Weather Service, established in 1870, is enjoying its centennial.

I want to recognize and commend the men and women of this fine branch of the Department of Commerce who have provided this service. In Wyoming, a State in which adverse weather, if not accurately traced and predicted, can have devastating impact on the extensive agricultural industry, we are especially proud of our weather specialists, Mr. Thomas Rule and Mr. John Alyea, of Cheyenne; Mr. Diel Coulter, of Casper; Mr. Ivin Gee, of Lander, and Mr. William Troxler, of Sheridan. These men and their staffs are our important weather eyes and ears. We realize their importance and thank them for their fine work.

AUTHORIZING EXTENSION OF CERTAIN NAVAL VESSEL LOANS AND NEW LOANS

Mr. O'NEILL of Massachusetts. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 876 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 876

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. 15728) to authorize the extension of certain naval vessel loans now in existence and new loans, and for other purposes. 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 Armed Services, 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. O'NEILL of Massachusetts. 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 876 provides an open rule with 1 hour of general debate for consideration of H.R. 15728 to authorize the extension of certain naval vessel loans now in existence and new loans, and for other purposes.

The purpose of H.R. 15728 is to authorize the extension for an additional 5 years of existing loans of one submarine for Greece and one submarine to Pakistan and to authorize a new loan for two destroyer escorts to the Republic of Vietnam, two destroyers and two submarines to Turkey, and three submarines to the Republic of China.

The submarine loaned to Greece and the one loaned to Pakistan were loaned under the act of 1961 and each requires congressional authorization for the extension.

The 11 ships involved are not now required for the defense of the United States and may be recalled if necessitated.

Enactment of the legislation will involve the expenditure of approximately $17 million. In the case of Turkey, costs will be charged to funds programed for it under foreign aid or to funds provided by that country. The cost associated with the Republic of Vietnam would under existing procedures be absorbed within current available Navy funds. The cost associated with the Republic of China would be charged to that Government.

Mr. Speaker, I urge the adoption of House Resolution 876 in order that H.R. 15728 may be considered.

Mr. Speaker, I yield back the balance of my time.

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

Mr. Speaker, as stated by the distinguished gentleman from Massachusetts, House Resolution 876 does provide for 1 hour of general debate under the rule for consideration of the bill (H.R. 15728) to authorize the extension of certain naval vessel loans now in existence and new loans, and for other purposes.

The purpose of the bill is to extend our existing naval vessel loan program to several countries, and to authorize the broadening of the program to include other nations under the provisions.

Existing loans of one submarine to Greece and one submarine to Pakistan are continued by the bill. New loans are also authorized. These include the loan of two destroyer escorts to the Republic of Vietnam, two destroyers and two submarines to Turkey, and three submarines to the Republic of China.

The 11 ships on loan or to be loaned are not needed by the U.S. Navy. The loan program is in our best interest as well as that of the countries to whom the loans are made.

Cost of the legislation is estimated at $17 million. Part of this amount will be charged to funds already made available to the recipient country or will be absorbed within current Navy funds.

The Department of Defense supports the bill but was not consulted after the three submarines for the Republic of China were added to the bill.

There are no minority views.

Mr. Speaker, I urge adoption of House Resolution 876.

Mr. O'NEILL of Massachusetts. 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. RIVERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole on the State of the Union for the consideration of the bill (H.R. 15728) to authorize the extension of certain naval vessel loans now in existence and new loans, and for other purposes.

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

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. 15728, with Mr. DORN 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 South Carolina (Mr. RIVERS) will be recognized for 30 minutes and the gentleman from Indiana (Mr. BRAY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. RIVERS).

Mr. RIVERS. I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 15728.

This bill is one of the ship loan bills and would extend loans of one submarine to Greece and one submarine to Pakistan. It would also authorize new loans of two destroyer escorts to the Republic of Vietnam, two destroyers and two submarines to the Government of Turkey, and three submarines to the Republic of China.

Mr. Chairman, as you know, the Navy recently has removed a large number of ships from active service. These ships are still considered valuable enough to be carried on the Register of Naval Vessels. Loaning these ships to our allies will help put into effect the Nixon doctrine of letting our allies bear more responsibility for their local defenses. All of these ships will be available for antisubmarine warfare—ASW—operations at a time when our own ASW operations are being curtailed and when the Soviet submarine operations are expanding.

The Department of Defense regards as most important the achievement of a strong antisubmarine capability in the areas where these ships are loaned. This contribution by the recipient countries to offsetting a prospective submarine threat enhances the total defense capability of the free world. To the extent that recipient countries develop an antisubmarine capability, U.S. naval forces will be freed for other antisubmarine tasks.

Although the U.S. Navy Reserve Fleet is a source of great potential naval strength, this potentiality would be increased if all the ships could be adequately manned, operated, and maintained in an active status. The cost of such operation by the United States is prohibitive in peacetime. Operation and maintenance of the vessels by allies can assist in keeping the equipment ready for use and in good condition.

At the present time the Navy has had severe cuts in the size of its fleet. Within the past year the active fleet dropped from 894 to 722. Of the ships that have been retired from active service some of them have been found still to be capable of further use to the Navy as part of the Reserve Fleet. It is from this group of ships which are being retired that the additional ships involved in this bill will be drawn.

Of these additional ships, it is proposed to lend two destroyers and two submarines to the Government of Turkey. Turkey's strategic position astride the Bosporus makes it important that we continue to give her assistance. This is especially so in view of the large buildup of Soviet ships operating in the Mediterranean—most of which traverse the Bosporus. The destroyers and the submarines will be especially helpful to the United States in NATO antisubmarine warfare activities in the Mediterranean. The two submairnes authorized by this bill permit the retirement by Turkey of two submarines previously loaned which no longer have even a marginal capability.

The two destroyer escorts which are being loaned to the Republic of Vietnam will help the President's policy of Vietnamization of the war in Southeast Asia.

In the overall defense of the Western Pacific the Republic of China had undertaken a role of participating in antisubmarine-warfare activities. Permitting China to have three submarines does not introduce a new weapons system into the area but lets China replace the United States in the localization of the defense of an area where the Communist Chinese have over 30 *Whiskey* class submarines provided by the Soviets and flying the Red Chinese flag. In addition to helping to meet their threat, providing the submarines to China at this time will permit China to continue having submarines to use in ASW training since the services the United States has heretofore provided for this training are being curtailed. The area for which China is exercising some ASW responsibility is one of the areas where we will be providing reduced protection due to the cutbacks in our Pacific surface and submarine fleet.

I think it is important to note one thing about the bill at this time. This bill is an authorization. It is not a mandate. The Committee on Armed Services saw the need for the submarines for China at a time when it had a legislative bill before it. Rather than wait for the wheels of the executive branch to grind out a legislative proposal, we added the submarines for China. The need is there. If the President in his wisdom does not want to make use of this authorization, he need not. This bill gives him the power to go ahead but he will make the decision whether to use this power.

With respect to the ships whose loans are being extended by this legislation, the submarine which is being continued in Greece will also be available for NATO exercises in the Mediterranean while the submarine which is being continued in Pakistan will provide a small proxy for U.S. presence in the Indian Ocean at a time when the Soviets are now moving to fill the vacuum created by the withdrawal of British naval forces in that area.

Mr. Chairman, I urge passage of H.R. 15728.

Mr. ARENDS. Mr. Chairman, I rise in support of H.R. 15728. Over the period of years since 1951 the Congress has passed a number of bills under which we have loaned ships to allies. This bill would continue that practice as is required by section 7307 of title 10 in the United States Code.

This year we come before you with a bill which would renew the loan of one submarine to Greece and one to Pakistan. In addition, it would authorize new loans of two destroyers to Vietnam, two destroyers and two submarines to Turkey and three submarines to the Republic of China.

One of the biggest threats facing the United States at this time is the Soviet fleet of over 375 submarines. This bill which is before you today would allow each of the nations to participate a little more in antisubmarine warfare activities in their local areas and this will relieve the United States of this burden.

The lending of ships to our allies, while it started by statute in 1951, is also in support of the Nixon doctrine as announced at Guam. There he promised that we would provide material to those who are threatened in a non-nuclear-type situation but that the local country would have to be the primary source of manpower.

Because of the recent inactivation of a large number of ships in the U.S. Navy, we have ships which we can keep in operating condition by lending them to our allies in accordance with the provisions of this bill. Otherwise, these ships would be mothballed and laid up in storage. If they are needed in any future emergency we can, if we so desire, recall them for use with our own active fleet.

The loans to Greece and Pakistan are merely extensions of earlier loans. The destroyers to Vietnam are being turned over to that country as part of the effort in the Vietnamization of the war in Southeast Asia. The destroyers and submarines which would be loaned to Turkey would enable Turkey to protect its interest, particularly in the Bosporus. Both Greece and Turkey are members of NATO and will employ their ships in NATO exercises and NATO defenses. With respect to submarines to China, the committee saw the need for these in light of the withdrawal of U.S. submarines from the area and added the submarines out of the group being retired by the Navy. In this manner the committee is making available to the President the statutory authority to transfer these submarines to the Republic of China without having to wait for further legislative action. This bill merely authorizes the loan of the ships, it does not require it. If the President does not want to use this power he need not. However, having seen the problem at a time when we have the ship loan bill before us we thought it best to proceed.

Mr. Chairman, I strongly support H.R. 15728.

Mr. BRAY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I believe the matter has been fully explained by the distinguished chairman of the committee (Mr. RIVERS). All this legislation calls for is for renewed loans of one ship to Greece and one to Pakistan. It adds two destroyers to Vietnam, two destroyers and two submarines to Turkey, and three submarines to Nationalist China.

As has already been pointed out, these are ships that the United States does not need, ships that we are not now using, and ships, however, that can be valuable to the interests of the United States because they will be in the hands of friendly countries. In fact, as to Nationalist China, if it had not been for President Truman, and later President Eisenhower's action in furnishing equipment for the defense of that island, the country now probably would be under the Red Chinese, under the iron hand of a Communist government. Today Nationalist China is one of the most prosperous countries in Asia and is a friend of the United States.

Mr. Chairman, I do not think there was any opposition in the committee to

this. I yield back the balance of my time.

Mr. RIVERS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I rise to question the wisdom of providing in this bill for the loan of three submarines to the Republic of China. I think certain facts are undisputed; first, the Republic of China—Taiwan—has no submarines today; second, they lack trained personnel to operate the submarines; and, third, they lack the capability to repair the submarines.

It is also undisputed that the loan authority was not requested by the President.

Finally, it is clear to us, or to those of us who heard Under Secretary Elliot Richardson the other day that, at least, for his part, there has not been an adequate case made for this loan.

One of the questions that needs to be answered is: Is Taiwan threatened today by Red China? An examination of the deployment of the forces of mainland China indicates that they are deployed in a defensive posture. This is established in an analysis published by the Institute for Strategic Studies located in London.

Moreover, if one examines the naval capability of the Communist Chinese it becomes evident that they lack the capability to transport sufficient troops to adequately carry on any invasion. Admiral McCain last year indicated in testimony before the Foreign Affairs Committee that in his opinion an attack on Taiwan by mainland China would be foolhardy. He said that the Taiwanese have steadily developed their capability to deter the Chinese Communists from attempting an invasion.

With those facts reasonably well established in the record, the question arises, "Why should we not, nevertheless, loan the Taiwan Government these three submarines?"

In the first place, this introduces a new weapons system so far as the Republic of China is concerned. They do not have any submarines today and this would put at their disposal these U.S. submarines for their use and under their control and for their purposes—not under our control and for our purposes—but under their control for their purposes. That is an important distinction. It is true that in the Western Pacific there are submarines today, whether they be Soviet, United States, or Red Chinese—but to give to the Government of Taiwan, the Republic of China, submarines, puts into their hands a military capability, a new weapons system which they do not have today.

Now beyond this it adds to the cost of maintaining a military establishment in Taiwan. The estimates we have from the Department of Defense indicate that it would cost at least $6 million to bring these submarines up to the point where they would be transferred to the Government of Taiwan and then the annual operating costs of those submarines would be on the order of $7 million a year—closer to $8 million a year.

It is provided that in this bill that these costs would be borne by the Government of Taiwan, the Republic of China. The fact of the matter is that the Republic of China today continues to be the beneficiary of the military assistance program and there cannot be any doubt that whether this money is spent by the Government of Taiwan or whether it is considered to come out of our military assistance program, the effect is the same—it increases the cost of the Military Establishment being maintained by the Government of Taiwan by that amount.

Today the Government of Taiwan, the Republic of China, maintains some 400,000 army troops. I think it can be argued and I think the Department of State and the Department of Defense would say that this is larger than that government needs to maintain, for purely defensive purposes.

Were it not for the Vietnam war, we would be suggesting to that government that they ought to scale down and not to increase, but to scale down the size of the military establishment that they maintain, as being in excess of the needs for their defensive purposes and creating a burden which should not be placed either on the military assistance program or on the people of Taiwan.

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

Mr. FRASER. I yield to the gentleman.

Mr. YATES. In reading the report, I do not see any statement by the Department of Defense with respect to these submarines for Taiwan. Is the Department in favor or opposed to the grant?

Mr. FRASER. The Department of Defense, to my knowledge has not made any formal statement. The only statement from the administration which I am aware of is a statement by the Under Secretary last week, on the Hill, when he said that he did not believe a sufficient case had been made for the transfer of these submarines.

Mr. YATES. I thank the gentleman.

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

Mr. FRASER. I yield to the gentleman.

Mr. LOWENSTEIN. I want first to say how much I admire the effort of the gentleman from Minnesota to spotlight this issue and to get the House at least to think about what it will be doing if it votes to authorize the loan of these submarines. We are continually indebted to the gentleman from Minnesota for his unstinting work in the little grinding ways that make such a difference here in the long run, as well as for the courage and intelligence of his leadership on great problems.

One aspect of this proposed transaction that troubles me is the degree to which "loaning" submarines might involve the United States in further military activity on or near the Asian mainland. Does the gentleman have any idea of what would happen if Nationalist China used these submarines against Communist China and if Communist China then retaliated against Nationalist China? How deeply involved in defending Nationalist China would we then be? Might not our treaty commitments come into play? In short, might not the transfer of submarines—added to the transfer of the jet bombers—does all this not begin to smack of, or at least, risk, escalating the Chinese civil war in such a way as to make increased American involvement very likely?

Mr. FRASER. The United States does have a bilateral defense treaty with Taiwan supplemented by the Formosa resolution, all going back some years. But if a war breaks out in which Taiwan is attacked, we are under an obligation and I do not know the precise range of it, to be involved in her defense.

Mr. Chairman, I think that points up one of the problems we have here. This new weapons system is to be placed at the disposal of the Taiwan Government which is maintaining troop forces which are larger than it needs for defensive purposes. There is being placed at their disposal a means of harassing the mainland—harassing the mainland in a number of ways—by the harassment of shipping through covert means and by enabling her to land saboteurs and raiding parties on the mainland.

There may be some who think that is a good idea, but I doubt that it really is. Right now there is no hot war between the two Chinas. There remains an unfinished civil war.

Two percent of the Chinese population is on the island of Taiwan and the other 98 percent is on the mainland. Both sides agree that there is only one China, but thus far they have not sought to bring that conflict to an end through military means, and one would hope that so long as both sides persist in the one-China concept, they would look to a peaceful solution to the civil war.

It seems to me that the United States, bound by treaty to Taiwan, ought to attempt to insure that our involvement there would only come about in the event there were a major threat, followed by a real attack on Taiwan. We ought not put into the hands of the Taiwan government the offensive capabilities which could draw us into more military adventures in the far Pacific.

I do not advocate turning our backs on our treaty responsibilities to Taiwan, but I do advocate our urging that government to scale down its military forces. We certainly should not engage in an enlargement of the range and sophistication of the weaponry we give to Taiwan, particularly weaponry with offensive capabilities. We should not put those kinds of sophisticated weapons into the hands of the Taiwan government.

Mr. Chairman, at the appropriate time I will move to strike the authorization for the three submarines to Taiwan until such time as a better case has been made for them.

Mr. RIVERS. Mr. Chairman, I yield myself 1 minute. As I said in my earlier statement, the bill does not put anything into the hands of anybody. It merely gives the President the right to do these things.

Some time ago, when we had a ship construction bill, in 1967, the DOD did not ask for additional destroyers, but during consideration of the legislation the committee added three new ships, one destroyer for the Republic of China and two for Korea. The Department did not ask for them. The President, in his

wisdom, saw that we were further down the road than he was, and he implemented the authorization. The bill does not make him do anything. At the proper time I will answer this question more fully, but I wish to point out now that if these three submarines were used as the gentleman suggests, it would be the first time in the history of civilization that three submarines from a little island called Formosa invaded China, a place containing more than 800 million people. That would really be something for the books.

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

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

Mr. FINDLEY. I thank the gentleman for yielding. On page 9 of the report, the following statement appears:

> The Department of Defense and the Bureau of the Budget have no objection to this bill, except that they have not been asked about the submarines to China.

That language strikes me as a very curious statement. I wonder if you could inform us why the Departments were not asked to state their views on submarines to China.

Mr. RIVERS. Of course, we did not ask the DOD about it. We heard their witnesses. Let me answer you by saying that we do not rubberstamp the Department of Defense.

Mr. FINDLEY. I think that is commendable.

Mr. RIVERS. Of course it is commendable.

Mr. FINDLEY. The gentleman asked for their views on all other items except this one and you received an expression from them.

Mr. RIVERS. We have never followed that course and we never will. The Department of Defense submitted the basic bill. We questioned responsible witnesses. The Navy cut down the number of active ships in its fleet. If the gentleman was here when I was speaking at the outset of the debate, he heard me say that they have cut the number down at least 172 ships.

We are leaving the Taiwan Straits. If the President wants to stay out, there is nothing mandatory about this bill. The Navy would like to see this. What else does the gentleman want?

Mr. FINDLEY. I think the gentleman has somewhat weakened his case by failing to ask the Departments as to their reaction. The report sets forth that they have no objection to all other parts.

Mr. RIVERS. The Department of Defense does not operate anything. The Navy operates our ships. The Department of Defense forms the policy.

Mr. FINDLEY. Has the Navy set forth its position as to the other provisions in this bill?

Mr. RIVERS. I have told the gentleman the Navy would like to have these.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. BRAY. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in support of the proposed amendment offered by the gentleman from Minnesota (Mr. FRASER). At the outset I will state I do not like to get into someone else's bill. Unfortunately, I have had this same experience when we brought in our military assistance bill, and other people interfered in that one.

Also, I have great respect for the chairman of this committee and for the ranking minority member, and I thank the gentleman for giving me this opportunity to speak, but I am greatly concerned about this issue and that is why I take this time to support the amendment.

The proposal to loan these three subs to Taiwan to me looks like what something this body did with reference to the foreign aid bill. I refer, of course, to the fight we had over the giving of Phantom jets to China last December. As my colleagues will recall, I strongly opposed the gift of those jets. I am just as opposed at this time to the sub deal worked out by the Committee on Armed Services. The reasons for my opposition are many, and I would like to share them with my colleagues.

To begin with, the loan, as stated in this colloquy, was never requested by the administration. Moreover, the Armed Services Committee clearly states in its report:

> The three submarines for the Republic of China were added in committee before the views of the DOD were requested.

I repeat, the Department of Defense was not even asked about these subs. For that matter, a careful reading of the hearings indicates that the Department of Defense, which is charged with great responsibility in this area, does not support the loan. But even if this were not clear, I think it is obvious that Defense would require a great deal of time to think the proposed loan over because of all its ramifications.

One such ramification is the all-important foreign policy aspect. Here we are with President Nixon trying to improve relations with mainland China. So what do we do? We would not even give him or the Department of State a chance to see what this loan would do to that new, and very delicate, policy.

I would also remind my colleagues there is a very practical question that should be raised. Does China have the military capability to handle the subs we propose to loan it? They have no subs right now. They have no sub personnel. They have no sub training facilities. They have no sub repair facilities. In view of all this, I certainly think the question should be raised, and adequately answered, before we go ahead with these plans.

Mr. Chairman, I am very disturbed by the way in which this loan was included in the bill before us. As I read the hearings, I get the feeling that the committee was searching very hard for a reason to loan some subs to China. I feel as I did in the case of the jets last year. That is, if China needs these subs, then let a request for them come through normal and legitimate channels.

Let the Department of Defense come to us and say the subs are essential to both the Chinese and the U.S. military posture in the Far East. Let the Department of State come up and say they have studied the foreign policy implications of this loan, and they are satisfied it will not conflict with President Nixon's policy toward mainland China. Then give us a chance to study these positions and decide whether or not the proposed loan is justified.

Mr. Chairman, seldom before in the history of our great Nation have the processes of government come under such close scrutiny as they have today. As Members well know, seldom before has our military policy been so carefully analyzed and criticized.

No time is the right time for us, the elected representatives of all the people, to operate outside the established rules of this body. Today is obviously not the time to violate this principle of government.

I therefore urge my colleagues to support the amendment to be offered by the gentleman from Minnesota.

I might say here, Mr. Chairman, that only a few weeks ago we had General Warren up before our Committee on Foreign Aid. At that time my last inquiry to him was. "General, is this all you want for Formosa? I have been a great supporter of military assistance to Formosa, but I do not want to go down on the floor of the House in 2 months, when we bring this bill out, and be confronted by a secret document handled by a Member of this House saying that Formosa now needs some Phantom jets and they need some destroyers or they may need some other military equipment. Is this all you are asking in military assistance for Formosa?"

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

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

Mr. CONTE. He said, "Yes, this is it."

I realize that this is a loan and does not come under the MAP program, but he said, "Yes, this is all we need."

Let me tell the Members this: After we voted that military assistance bill in this House and finally knocked out those jets, Formosa was treated pretty well. They got a beautiful Christmas package, with over 30 C–119's. I will not give the exact figures, because they are classified. There were over 35 F–100's, over 20 F–104's, and they got a good many tanks. They got thousands of M–14 rifles. We treated Formosa pretty well. There was over $150 million in military goodies plus what we had in the bill for Formosa under the military assistance program.

All I am saying is, let us have hearings, so we could question these people handling this program to find out whether the subs actually are needed.

Mr. RIVERS. Mr. Chairman, I yield to the gentleman 1 additional minute.

Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from South Carolina.

Mr. RIVERS. Has the gentleman's own committee ever handled a ship loan bill?

Mr. CONTE. No. I mentioned that. We do not have the loan program. We only have the military assistance program.

Mr. BRAY. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Chairman, I stand here as a member of the Committee on Armed Services who asked and obtained permission for this bill to be delayed until such time as many of the explanations that have been asked here today were made by the proper authorities of the Department of Defense and certainly the Department of the Navy.

I have been thoroughly satisfied in my requests for this further information as to the mutual advantages of this foreign military loan, under one of the devices by which we may make these ships available to member nations of NATO and to other sovereign nations who will help us in our continually reduced ability to satisfy our security commitments around the world.

Those mutual advantages are as listed in the report, internal and external security, and a much-needed antisubmarine capability.

Mr. Chairman, there is nothing that helps to track another killer submarine as much as a submarine. Readiness and maintenance with prepositioning of equipment around the world and dispersion of our reserve fleet rather than the costly process of putting it in mothballs. Also a favorable extension of what is referred to in the Department of State as the U.S. influence.

I think it is terribly wrong to compare the loan of submarines or the sale of ships under the Foreign Military Sales Act to the Republic of China, to the question of the jet aircraft recently considered in the foreign aid bill and marked out in conference. This is a proposition to fill the vacuum left by the 7th U.S. Fleet which had been patrolling the Straits of Taiwan until recently but even more than that these ships were not available at the time the original bill came over to the Congress with the DOD or the U.S. Navy request. They have now been scheduled for deactivation. They are now available and hence have been added to this bill.

I think it must be borne in mind that up until now the Republic of China has had no submarine capability and certainly we can control these three submarines if we have to supply all the parts and replacements. This is standard whether it is aircraft, important ships of the Navy, or whatnot. The Republic of China on Taiwan does have a sizable surface antisubmarine warfare force which up to now has required a target submarine for training purposes. It is wrong to say that there is no aggression on the part of the aggressor when still on alternate days the islands of Quemoy and Matsu are being shelled from the Communist China mainland. These submarine target vessels have been previously furnished by the 7th Fleet. In the cutback and the pullout, with our naval forces spread thinner and thinner around the world, we can no longer do that. With the provision of these submarines the Republic of China on Taiwan can furnish this themselves. We can continue with our substantial reduction. We will also have prepositioned capable ments of our 7th Fleet.

I am thoroughly satisfied that with our capability for overhaul and repair plus follow-on parts, that it is a good thing. I hope that after this explanation there will be no amendment, because the overall defense of the western Pacific is vital to the peace of the entire world.

Mr. RYAN. Mr. Chairman, will the gentleman yield to me?

Mr. HALL. The Red Chinese have 30 *Whiskey* class submarines supplied of their own making or from Communists elsewhere around the world. That fact alone requires that, at the very least, we provide the Republic of China, a nation friendly to us and sharing the same ideals, with a capability of continuing to maintain its existing ASW capability. These submarines are essential if the Republic of China is to continue their capability, and we are to withdraw eleunits of our reserve fleet.

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

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

Mr. RYAN. Mr. Chairman, will the gentleman yield an additional minute to the gentleman from Missouri?

Mr. BRAY. I yield one additional minute to the gentleman from Missouri (Mr. HALL).

Mr. RYAN. Mr. Chairman, I should like to inquire of the gentleman from Missouri whether or not the Nationalist Chinese have any trained submarine personnel.

Mr. HALL. Mr. Chairman, I would state to the gentleman from New York that they do not have the trained personnel, and that we would furnish that training and remain the source of required spare parts and equipment. That is how, I will say in answer further to the question of the gentleman, we would maintain control of these three vessels proposed for loan to the Republic of China.

Mr. RYAN. So that in addition to the three submarines it would be necessary for the United States to set up a training course in order to train personnel to operate these submarines, is that correct?

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

Mr. RYAN. Mr. Chairman, will the gentleman yield to the gentleman from Missouri an additional minute in order to answer my last question?

Mr. BRAY. Mr. Chairman, I yield 1 additional minute to the gentleman from Missouri.

Mr. HALL. May I say to the gentleman that these people have had ASW training, they are running the antisubmarine patrol at this time. I happen to have been over there. I have flown over the island. I know their radar, their offensive capability, their defensive and sonar capability. The only thing that would be necessary would be for them, as the submarines are reconditioned, to be on board and take "on the job training," so to speak, in order to handle these ships for the patrol fleet. The gentleman must understand that we are not transferring our new sophisticated ASW submarines, and of course, these are not nuclear-powered submarines. These submarines, as I would hope the gentleman would recognize, are submarines of the vintage of the end of World War II.

Mr. RYAN. Mr. Chairman, I direct the attention of the gentleman to page 5853 of the hearings, where Captain Hagerman, U.S. Navy, Director, Foreign Military Assistance Division, stated one of the problems created by the proposed submarine loan. He said:

> But the problem is we have to set up special courses to train them. This could be done. I am just indicating a comment or two.

Mr. HALL. I am trying to indicate to the gentleman that the information I have tried to provide the committee is essentially along those lines, and updates the hearings.

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

Mr. BRAY. Mr. Chairman, I yield 1 additional minute to the gentleman from Missouri.

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

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

Mr. GUBSER. Mr. Chairman, I would like to inquire of the gentleman from Missouri as to whether or not the missions which these submarines will perform are now being performed with or without passage of this bill, and is not the question whether the Chinese are going to assume this mission with Chinese personnel, or whether it is going to go by default if it is not performed by the 7th Fleet with U.S. personnel?

Mr. HALL. Mr. Chairman, I am sure that the distinguished gentleman from California knows our capability, and our commitments. As I stated in my original statement, this has been previously performed by combatant ships of the 7th Fleet. I am sure that we all would agree how nice it would be, instead of having to provide this service ourselves, to have it performed by a friendly foreign nation. How much better it is to have these ships prepositioned and under use of our friendly allies than to have them scrapped or put in the expensive mothball fleet.

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

Mr. BRAY. Mr. Chairman, I yield 1 additional minute to the gentleman from Missouri.

Mr. FISHER. If the gentleman will yield further, throughout the debate there has been some concern expressed by some of the speakers that if this provision is not stricken out of this bill, and the submarines should be loaned to our friends on Formosa, it might hurt the feeling of Red China or Peking. I would like to ask the gentleman if he does not regard the Republic of China as one of the most dependable and probably one of the most valuable friends the United States has in this whole world today?

Mr. HALL. I not only so regard them, I want to say to the distinguished gentleman from Texas, but I admire them for what they have done, and how they have lifted themselves economically up by their own bootstraps so that now they no longer require economic aid.

I know they have performed beautifully, in a difficult geophysical and geoeconomic position, to the point where they are a staunch and capable ally and, indeed, are an outpost of freedom around the world.

Mr. FISHER. Would the gentleman agree with me that at this time when this great struggle for power is going on between the free world and the Communist world, it behooves us to examine a situation such as this with care and with concern, always anxious to help those who are in a position to help us in this great struggle?

Mr. HALL. I certainly do agree with the gentleman. It has been one of my duties and privileges to inspect our military assistance program around the world, in other sovereign nations' capitals, and determine the effectiveness of the use of this power. The prime part of this program is indeed a loan program, of the providing of ships, for example, that are no longer required by the active U.S. fleet. This action is tantamount to maintaining the balance of power in the free world versus our aggressors.

I think it is essential that we should do a thing like this, and this action has the additional advantage of prepositioning these ships in a location far better than the reserve fleet. I strongly recommend this bill.

Mr. FISHER. When we make a gesture of this kind, relatively small though it be, in behalf of our friend, the Republic of China, is it not true that over—even more important than just helping that one country that certainly needs it in a strategic position, that it is helping the United States and our overall strategic capability through strengthening the defenses of one of our most dependable allies.

Mr. HALL. I do not think the gentleman could say it any better unless he were to liken this action to a symbolic stretching of the arm of freedom of the Statue of Liberty around the world, because that is exactly what has happened.

I think it is most worthwhile. I have had the opportunity to provide this modicum of additional information in order to quiet some of the qualms that have been expressed today. But the real point is—it is the duty of those of the Committee on Armed Services who are appointed on the need-to-know basis to inquire into this type of situation and become fully advised, and then inform other members of the Committee on Armed Services and to try to exercise prudent judgment based on full information about the need to strengthen these dependable allies around the world so that we can maintain our defense posture despite reductions in the size of our fleet.

I, for one, am in strong favor of those countries who are willing to assist in and share in the protection of freedom around the world.

This is exactly what this bill does, and I thank the gentleman for his questions.

Mr. MONAGAN. Mr. Chairman, I have recorded my vote against this bill, not because I am opposed to the majority of the provisions therein nor because I disagree with the principle of the legislation, but because this bill is another example of the disregard of the regular legislative process which we saw previously with the foreign aid bill when provisions not passed upon in the regular process were pressed into the bill by short cut of the regular procedure.

While it is true that the Committee did take action here, nevertheless, the Defense Department did not recommend the addition of the ships for China nor did the Department of State and, therefore, I want to show unhappiness with this process especially in this field where weapons are spread throughout the world.

I do want to make clear, however, that I am for adequate defense and assistance in proper cases where the full process of departmental review and recommendation has been followed.

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

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

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 15728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 7307 of title 10, United States Code, or any other law, the President may extend on such terms and under such conditions as he deems appropriate the loan of ships, previously authorized as indicated, as follows: (1) Greece, one submarine (Act of October 4, 1961 (75 Stat. 815)) and, (2) Pakistan, one submarine (Act of October 4, 1961 (75 Stat. 815)).

MOTION OFFERED BY MR. KOCH

Mr. KOCH. Mr. Chairman, I offer a motion.

The Clerk read as follows:

Mr. KOCH moves to amend H.R. 15728 by striking the language on page 1, beginning with line 3 and ending with the period on line 9, and substituting the following therefor:

"That notwithstanding section 7307 of title 10, United States Code, or any other law, the President may extend on such terms and under such conditions as he deems appropriate the loan of one submarine to Pakistan previously authorized by the Act of October 4, 1961 (75 Stat. 851)."

Mr. KOCH. Mr. Chairman, I rise in support of my amendment for a very simple reason. It is this: I cannot in my mind justify our providing the Greek junta with arms and economic aid to oppress its own people. When we had the foreign aid bill before us last year, that was one of the items that I found most reprehensible and, indeed, incomprehensible. I do not even know yet how much moneys are being given to the Greek junta under that bill, because it is classified information. And when I discussed with colleagues the possibilities of doing something about striking out aid to Greece, they said it simply would be impossible to get the votes for such an amendment on the floor of the House.

I said to myself, "But why is it impossible to expect this Congress to bar military aid to Greece?"

It is not that we ought to require that every country be made over in our own image. It is not that before we give aid to a country it has got to have a democratic form of government. It would be nice if that were so, but, as far as I am concerned, this is not necessary. But I do believe that we should never provide moneys to a government that oppresses its own people.

I am not the only one who believes the Greek junta oppresses its own people. The Council of Europe, a very distinguished body that represents the countries of Europe, issued a report in November of 1969, and I quote them, when they said that "Torture is officially tolerated in Greece." That means that the Greek Government tortures its own people.

I am certain that no one in this room would ever say that they approve of torture, but it is happening and by supporting that government with military and economic aid we share the responsibility and we are condoning it. A NATO committee said—and we belong to NATO and we generally trot them out to talk about how we have to help our friends—that Greece is a "police state." Is there anyone in this Chamber who will stand up and say that we have a duty, an obligation to provide arms and aid to a state that oppresses its own people? We are not even talking about providing arms to Greece to prevent an external aggressive act against it.

I do not suggest that we depose the Greek junta. The people of Greece have got to do that. But, I suggest that we not aid the junta. We are asked to give them this submarine, just as we were asked to give them an unknown amount of assistance in the foreign aid bill last year, and I am sure we will be asked to do so again this year. I believe this is the time to call a halt. I, therefore, urge you to support this amendment.

Mr. RIVERS. I wonder if we can come to some kind of agreement on time. I ask unanimous consent that all debate on this motion and all amendments thereto expire in 10 minutes.

Mr. EDWARDS of California. I object.

Mr. RIVERS. Mr. Chairman, I ask unanimous consent that all debate on this motion and all amendments thereto expire in 20 minutes.

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

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, like other Members of this body, I have had a personal interview with Papadopoulos, the dictator of Greece. I have heard his story, and after hearing it, I assure you that I hold no brief for his regime. I think it is regressive, backward, and totalitarian. I think it is most unfortunate that Papadopoulos has not seen fit to schedule elections, to restore basic liberties, and to lift martial law.

But at the same time I think there is another overriding consideration here, and that is the importance of Greece to the NATO alliance. Greece occupies a very crucial position in that alliance. It is very clearly established, despite internal political deterioration, that so far as the alliance participation is concerned Greece has cooperated all the way through without any exceptions.

The submarine in question is a part of the Greek naval force. It has responsibilities well beyond its own waters. Greece occupies a very strategic position in the developing defense of the Mediterranean which has been so seriously threatened by Soviet advances.

Under these circumstances, while I admire the spirit in which this amendment was offered, I do think it would be a mistake to accept this amendment and thereby take away from the Greek fleet a vessel which does have military importance and which is now functioning as a part of our unified NATO military defense, which I might say is the most unique of all defense obligations any group of nations has ever pledged to each other. We have, in fact, pledged to go to war automatically to defend the territory of any member state of NATO which is attacked, and so has Greece. This is a very grave responsibility, and before we act to reduce the military effectiveness of any single member state of NATO, we ought to think very carefully—and I do not think this amendment reflects thinking.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LOWENSTEIN)

Mr. LOWENSTEIN. Mr. Chairman, I am deeply saddened by the comments of my friend, the very distinguished gentleman from Illinois. I think the whole concept that we are somehow strengthening NATO by assisting the present government of Greece is very wrong, is precisely backwards, in fact. I am among those millions of people who supported NATO since its inception, as a barrier against Communist aggression in Western Europe. What has done most to weaken NATO over the years is the realization that the danger of Communist aggression against Western Europe has receded. What can now finally destroy it is the sense that is becoming a prop for other kinds of totalitarian governments, just so they call themselves anti-Communist.

Freedom in Europe is not strengthened by the destruction of freedom in Greece. How then can it be in the interest of freedom in Europe to add to the military strength of those who destroyed freedom in Greece? There is no danger of a Communist invasion of Greece. The only danger to the Greek Government is from its own people, their liberty snuffed out, their king in exile, their political and cultural leaders in prison under terrible conditions or silenced by the fear of prison.

We weaken NATO by contributing anything to the maintenance of this kind of government in a NATO country.

Further, we weaken the position of the United States in Europe and elsewhere when we become the chief supplier of military aid to a government that has become a pariah among Western democracies and a symbol of totalitarian repression among men concerned about freedom everywhere.

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

Mr. LOWENSTEIN. I yield to the gentleman from Illinois for a question.

Mr. FINDLEY. Mr. Chairman, I want to add a point I failed to mention, and that is that the Nixon administration has very properly not seen fit to resume the shipment of tanks and other items of military hardware to Greece. I commend them for this policy.

But, Mr. Chairman, we are considering here a step which would take away something which is now part of the Greek military establishment.

Mr. LOWENSTEIN. Mr. Chairman, this House adopted a resolution not long ago that set free elections as our primary goal in Vietnam. What about free elections in Greece? Are we only for free elections where we have to send in half a million American troops and spend a hundred and thirty billion dollars to try unsuccessfully to force them on unwilling armies? If we are so big for free elections, could not we show our devotion to them where we could influence governments toward allowing them by withdrawing financial and military support instead of by pouring it in? Could not we start withdrawing such aid from Greece, where free elections have been snuffed out, and which faces no Communist aggression and so needs no further military aid—unless it is to be used against the Greek people?

The able gentleman from Ohio remarks that a submarine is not a tank and implies that therefore the Greek Government cannot use this piece of equipment against its own people. Who, in fact, can it be used against? Turkey? Is not it plain when you think about it that the chief purpose and value of leaving this submarine in the hands of the Greek Government at this moment is in fact to use it precisely against the Greek people, to advertise the fact that the U.S. Government supports their oppression? Is it not plain that this submarine is in fact designed to torpedo not Communist ships but democratic hopes?

This is generally a terrible bill. I must warn that if the Koch amendment fails, its bad effects will reach to the heart of NATO as well as to the heart of the Greek people.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I rise in support of the amendment of the gentleman from New York.

The amendment proposes to us a moral issue. It has been nearly 3 years since this small clique of colonels took over, seized in a coup d'état, the Government of Greece. There was no Communist threat at the time. This is something the Council of Europe determined officially.

The Greek military dictatorship is the first Fascist government to rise in Europe since the 1930's, since the governments of Hitler and Mussolini. It is really a very tragic thing to think that Greece would have that happen to her.

In the last 3 years there have been mass arrests, newspapers closed, and prison sentences, as well as savage torture—savage torture.

It really is a myth that there are Greek Armed Forces left to support us in NATO. Many of the NATO trained officers have been dismissed or are in jail, and they have been replaced by men whose only expertise might be in conspiracy.

The real problem is not one submarine, more or less. The real problem is that the people of Greece think that the CIA was heavily involved in the coup which took democracy away from Greece 3 years ago.

Our European friends who cherish democracy have expressed their disapproval of this position, but we have not.

We are still giving them large amounts of military aid. In 1966 it was $78 million. In 1967 it was $41 million. In 1968 it was $53 million. In 1969 it was $56 million.

We were warned by the gentleman from Illinois that Greece is a loyal NATO ally, but let us remember for a moment the preamble to the NATO constitution:

> The parties are determined to safeguard the freedom, common heritage and civilization of their peoples founded in the principles of democracy, individual liberty and the rule of law.

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

(By unanimous consent, Mr. YATES yielded his time to Mr. EDWARDS of California.)

Mr. EDWARDS of California. I thank the gentleman.

Does Greece qualify under the preamble? I believe the evidence is clear it does not.

Of course we should not intervene in Greece to try to restore democracy. We do not want another Vietnam.

As the gentleman from New York pointed out, this is Greece's problem more than ours, but we are intervening now by giving this police state large military aid, and the Greek people in the countryside and in the villages think that the United States is propping up the Junta.

The Senate, by a vote of 45 to 38, came close to removing military aid, to taking it away from Greece. I would hope we can do better than that in the House.

Approval of the amendment of the gentleman from New York would be a signal that America does still care about freedom and democracy in Greece, which is, after all, where democracy really began.

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

Mr. EDWARDS of California. I yield to my friend from California.

Mr. BURTON of California. I rise to commend my distinguished colleague from California (Mr. EDWARDS) and to associate myself with his remarks.

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

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

Mr. FINDLEY. I thank the gentleman for yielding.

I agree with the gentleman that our relationship with Greece does pose a very serious dilemma. The question is how far should we go in trying to impair the military capability in order to encourage reform of the Greek regime?

I would be curious to know how far the gentleman thinks we should go. Should we try to get Greece completely out of NATO? Would that not be the logical end result of the reasoning the gentleman has put forth? Does he believe we should go that far under these circumstances.

Mr. EDWARDS of California. We are asking only for a very simple thing, and that is to stop military aid to Greece. Perhaps that would be enough to give the signal to the people of Greece that this police state is not being supported 100 percent by the United States.

This is what all of the exiles would like us to do. The most distinguished citizens of Greece have been exiled and are living in Paris and Rome and all over Europe.

Mr. FINDLEY. The Nixon administration persisted in the policy of halting additional military hardware sales to the Greek Government.

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

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

Mr. YATES. The gentleman himself just read the statistics relating to the giving of ammunition and weapons by the Nixon administration to the present Government of Greece. This amendment is necessary to show that the United States does not believe the present Government of Greece ought to receive military assistance from us.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, it has been pointed out that some of our European friends are objecting to the structure of the present Greek Government. Most of these countries have socialist governments, and one is Sweden, which is a haven for deserters from the U.S. forces. Now, I suggest that the Greek Government is a matter of that country's own internal affairs, but the defense of the free world is very much our affair, and this amendment would hurt the defense of the free world.

I question that most of us will want to return at the Easter holidays to our friends of Greek extraction in our own districts and say to them almost on the occasion of the Greek Independence Day celebrations that we in the Congress refused to help the Greek nation in their efforts to remain independent. These valiant people are an anchor to NATO's south. Yet the military forces of Greece are far behind in modernization. One reason for this is that the United States has failed to keep its word to make available to them new and modern weapons. It would be extreme folly, Mr. Chairman, to compound this situation today by a direct affront to a stanch friend which has demonstrated its willingness to stand with the United States. We should be doing a great deal more than we are doing to help modernize the Greek forces, and we should not under any circumstances take away the very small amount of assistance that is proposed in the bill before us.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GROSS).

(By unanimous consent, Mr. GROSS yielded his time to Mr. HALL.)

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Chairman, let us get it crystal clear that in this proposed legislation we have asked for the renewal of a submarine loan for the Royal Hellenic Navy. In addition to that, Greece's task force and destroyers need modernization and they have actually requested replacement ships to fulfill their NATO commitments. However, we have not requested additional ships in view of the military assistance program restriction on furnishing additional major items to that country at this time.

I want to make it particularly clear that in addition to helping the alliance, NATO south, and thereby helping ourselves, that we are asking for a maintenance of access on the part of the U.S. forces. We do have commitments; it is necessary that we keep them. Perhaps it has been blown out of proportion, but psychologically, symbolically, and practically the Greeks expect us to keep these commitments.

Why is it important that we consider increases to Greece? First of all, because it is in the western end of the Mediterranean. Second, I need not remind you that we have recently lost the Wheelus Air Force Base in Libya. Third, I know that whenever we have asked the Greeks, whether it be before the junta or afterward, for flyover rights, or for communication needs, that it has been granted on the basis that we are allies, we are freedom lovers, and we are anti-Communist.

There are valuable secondary considerations involved in this area. Think with me for just a minute, Members of the Committee, about Greece's importance as a logistical and tactical base, and this has been highlighted in recent years with France's disengagement from the alliance and, as has been brought out by the fact of the more recent invasion of Czechoslovakia, by the Soviet Union, and third by the increased Soviet Union's naval activities in the eastern Mediterranean, the use of their amphibious and helicopter landing ships, including the *Moskva*, and fourth, by the greater political sensitivity in other sovereign nations relating to the American presence there.

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

Mr. HALL. Now, continued U.S. presence, including command control and all communications of the 6th Fleet, are vital.

Mr. Chairman, let me put it to you this way: Greece has cooperated without question on contact use of airfields and overfly rights in the air bridge that was established during the evacuation of U.S. refugees from Israel in 1967, and from the Congo previously. We had better keep our presence there in view of the situation in the Middle East at this time.

Second, the Royal Hellenic Navy has become an active participant in the NATO exercises and, more particularly, in support of the alliance in their area.

Finally, I want to point out that ports in Crete, in the Hellenic Islands, and the mainland, provide a safe haven for units of the 6th Fleet and their crews, as well as sources of POL and ammo storage and needed training facilities, targets, and ranges. So much needs to be said in making a decision to authorize the continuation of this loan as signifying the attitude on the part of the commitment of the U.S. Government, that I find difficulty expressing it adequately.

Now, I will be more than glad to yield, having made my statement.

Mr. SIKES. I thank the gentleman for yielding, and I would add to what the gentleman has said by stating that there are not many places left in that part of the world where the U.S. Fleet is welcome.

Mr. HALL. That is exactly what I was trying to point out, with the loss of our base in Libya, and with the decrease in the size of the 6th Fleet, and with the fluid situation of the world, and the nervousness of other sovereign nations about our presence, and finally the possible need to evacuate Israel, perhaps, or any other place where turmoil is liable to break out at any time, we must keep our 6th Fleet in places where we have suitable establishments.

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

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

The Chair recognizes the distinguished chairman of the committee, the gentleman from South Carolina (Mr. RIVERS), to close debate on this motion.

Mr. RIVERS. Mr. Chairman, to begin with Greece has this submarine now. This permits the President to extend the loan. Greece has spent a million dollars on the submarine getting it ready for continued service. Greece is on the border of Yugoslavia, Albania, and Bulgaria and they are infiltrating her borders every day. They do not need to assault Greece by armed force. They are doing it from within. The loan of submarine is designed to keep military forces in NATO. What more do you want? They are faithfully fulfilling their mission to NATO. On the other hand, there is Papandreou who would like to be the head of Greece and everyone knows which side he is on.

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

Mr. RIVERS. I yield to the gentleman, of course.

Mr. ARENDS. I am glad the gentleman is making this point for the simple reason is that anything we do here today that would prove in time detrimental to the NATO forces in that part of the world would be detrimental to the cause of peace.

Mr. RIVERS. Of course, have you forgotten that it was the same man in that country, when that same crowd began to take over? Do not be surprised. Do not be fooled. If you vote to take this submarine out, it will be a signal to the world that the Nixon doctrine is not working. Nixon is doing a lot of things that we cannot put out here and tell you about. He is trying to bring about a lot of things that we know about, and this is only one of them.

We do not have too many of our friends left in these other nations. We have to have a place where we can put our submarine in a base in a country that will be with us.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York (Mr. KOCH).

The question was taken; and on a division (demanded by Mr. KOCH), there were—ayes 10, noes 50.

Mr. KOCH. Mr. Chairman, I demand tellers.

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

The CHAIRMAN. The Chair will count.

Evidently a quorum is not present.

The Clerk will call the roll.

PARLIAMENTARY INQUIRY

Mr. HÉBERT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HÉBERT. Mr. Chairman, is it in order to call for a quorum when a call for a teller vote is asked for and should be in progress at that moment—you cannot interrupt a vote.

The CHAIRMAN. The Chair will state that the gentleman from New York made the point that a quorum was not present.

Mr. HÉBERT. No, no—the RECORD will show that he asked for a teller vote and then asked for a quorum.

The CHAIRMAN. It is the understanding of the Chair that the gentleman asked for a teller vote and then made the point of order that a quorum was not present.

Mr. HÉBERT. That is it—when he asked for a teller vote, he asked for a vote to be taken and that vote comes automatically. Having made that motion, he cannot get the other.

The CHAIRMAN. The Chair will advise the distinguished gentleman from Louisiana that the Committee cannot do business without a quorum, and since it has been established a quorum is not present, the Chair has directed the Clerk to call the roll.

The Clerk will call the roll.

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

[Roll No. 58]

Adams	Edwards, La.	Murphy, N.Y.
Anderson, Calif.	Eshleman	Obey
Bell, Calif.	Fish	O'Neill, Mass.
Bevill	Flowers	Ottinger
Biaggi	Flynt	Patman
Blanton	Ford, Gerald R.	Powell
Boggs	Fulton, Tenn.	Pucinski
Bolling	Gallagher	Purcell
Brademas	Goldwater	Railsback
Brasco	Gray	Reid, Ill.
Brown, Calif.	Halpern	Reid, N.Y.
Broyhill, N.C.	Hansen, Wash.	Reifel
Bush	Harsha	Rosenthal
Camp	Horton	Rostenkowski
Carey	Howard	St Germain
Cederberg	Jacobs	Scheuer
Celler	Jarman	Shipley
Chisholm	Jones, Ala.	Slack
Clancy	Jones, N.C.	Smith, Calif.
Clark	Jones, Tenn.	Steiger, Ariz.
Clausen, Don H.	Kee	Symington
Cohelan	Kirwan	Taft
Colmer	Kyros	Teague, Tex.
Corbett	Landgrebe	Tunney
Cowger	Lennon	Waggonner
Cramer	Lukens	Weicker
Cunningham	McCarthy	Whalley
Daddario	McKneally	Widnall
Davis, Ga.	MacGregor	Wiggins
Dawson	Michel	Wilson, Bob
Dent	Mikva	Winn
Diggs	Mills	Wolff
Dingell	Monagan	Wright
	Moorhead	
	Morton	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PRICE of Illinois) having resumed the chair, Mr. DORN, 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. 15728, and finding itself without a quorum, he had directed the roll to be called, when 329 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

PARLIAMENTARY INQUIRY

Mr. RIVERS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from South Carolina will state his parliamentary inquiry.

Mr. RIVERS. Is the first order of business the ordering of tellers?

The CHAIRMAN. The gentleman is correct. When the point of order was made that a quorum was not present, the gentleman from New York (Mr. KOCH) had demanded tellers. The question before the Committee is on the question of ordering tellers.

Tellers were refused.

So the motion was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. Notwithstanding section 7307 of title 10, United States Code, or any other provision of law, the President may lend two destroyer escorts to the Republic of Vietnam and two destroyers and two submarines to the Government of Turkey and three submarines to the Republic of China in addition to any ships previously authorized to be loaned to these nations, with or without reimbursement and on such terms and under such conditions as the President may deem appropriate. All expenses involved in the activation, rehabilitation, and outfitting (including repairs, alterations, and logistic support) of ships transferred under this section shall be charged to funds programed for the recipient government as grant military assistance under the provisions of the Foreign Assistance Act of 1961, as amended, or successor legislation, or to funds provided by the recipient government. The authority of the President to lend naval vessels under this section shall terminate on December 31, 1971.

AMENDMENT OFFERED BY MR. FRASER

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

The Clerk read as follows:

Amendment offered by Mr. FRASER:

On page 2, line 3, strike out "and three submarines to the Republic of China"

Mr. FRASER. Mr. Chairman, this is an amendment to strike the authorization in the bill which would provide for the transfer to the Government of Taiwan, the Republic of China, three submarines. As indicated earlier in the debate in the committee, there are certain facts which I think are beyond any dispute.

Let us lay those out on the table first: First, the Republic of China has no submarines at present; second, it lacks any trained personnel; and third, it has no capability to repair submarines.

Moreover, this authority was not asked for by President Nixon.

Under Secretary of State Elliot Richardson told us last week on a visit to the Hill that in his judgment there had not been a sufficient case made for the transfer of these three submarines to the Government of Taiwan.

Mr. Chairman, I think it is agreed that at the present time Red China is not readying an invasion of Taiwan. The deployment of mainland Chinese troops is essentially defensive. That government lacks a navy adequate to carry on an invasion.

The problem with the transfer of these submarines to Taiwan lies, therefore, in the fact that these are unnecessary and that they would be an unwarranted expense. We can say, as the committee report suggests, it would be an expense to the Government of Taiwan. But the fact of the matter is, we are subsidizing the military establishment in Taiwan. If we add to the cost of that defense establishment, it simply means our money is going into the maintenance of these submarines. We ought not to kid ourselves about that. If we will say we are not going to give Taiwan any more assistance, then we could argue they are going to take over the operation of these ships—which will run $8 million a year.

This places at the disposal of a foreign government a new offensive capability, a new weapons system for them to do as they choose.

Mr. Chairman, the people on Taiwan today do not enjoy the full range of fundamental rights that we would like to see them exercise, but I think that condition is changing. There are many who are familiar with Taiwan's development who hold out hope that one day there will emerge a substantial degree of democratic self-government—and perhaps to a greater degree than we might expect to find in other developing nations.

But, Mr. Chairman, today Taiwan is a poor nation. Despite the fact there is very good economic growth, the per capita income on Taiwan is still only $300 a year. They are trying to maintain an oversized army, far in excess of what they need for defensive purposes, and now we propose to add to the size of that military establishment.

Mr. Chairman, supposing the Soviet Union were to announce tomorrow they were going to give three submarines to Cuba. Would we think that a friendly act? Would we say, well, that is the way it is, or would we be concerned? I think the fact is we would be concerned. Similarly, Red China, I think can reasonably interpret our announcement that we are proposing to give Taiwan three submarines capable of interdicting or harassing, capable of landing parties on the mainland, including spies, saboteurs, and landing parties as a threatening act. They may see this in that light.

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

Mr. FRASER. Mr. Chairman, I ask unanimous consent that I may proceed for 3 additional minutes.

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

Mr. RIVERS. Mr. Chairman, of course, I will not object to this request, but in the future I will object.

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

There was no objection.

The CHAIRMAN. The gentleman from Minnesota is recognized for 3 additional minutes.

Mr. FRASER. Mr. Chairman, Red China today is hostile to the United States. Make no mistake about that. Red China today claims that Taiwan is an integral part of China. Make no mistake about that. But Taiwan agrees there is only one China.

The question is, Will the end of the Chinese civil war, which finds 2 percent of the Chinese population on Taiwan and 98 percent on the mainland, come in a blood bath, or will it come to an end with some kind of political accommodation or settlement?

I do not know the answer to that question.

But I want to say it is not in our interest nor in the interest of the Taiwan Chinese nor those on the Chinese mainland for us to exacerbate the situation.

The Taiwan Government does not need these submarines. Our President has not asked that they be transferred to Taiwan. This transfer comes at a time when I think, wisely, the Nixon administration is trying to build some bridges, trying to open some windows or some doors, if you will, to the mainland of China. As the Chinese acquire nuclear capability and the ability to deliver it against the United States, we must have the interests of the survival of this Nation in mind. We must try to moderate the Chinese regime and try to influence it to pursue an evolutionary course toward more openness and more moderation.

These three submarines go in the wrong direction. There is no good reason for loaning these submarines. They have not been requested by the President. There is every reason to put off this authorization until such time as the President asks for this authorization and until the matter is carefully reviewed.

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

Mr. FRASER. I am glad to yield to the gentleman from Michigan.

Mr. CONYERS. I should like to say the gentleman's statement is one of forthrightness. I believe it is clear. I am proud to associate myself with it. I hope many other Members, upon reflection, will do so as well.

Mr. FRASER. I thank the gentleman.

Mr. Chairman, all the amendment would do is to say, "Not this year. Let us wait until the President asks for this authorization; let us wait until we look at it with some care. Let us be sure, if we are going to do something of this kind, that it is consistent with our interests and promotes those interests as well as those of the Chinese."

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

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

Mr. ARENDS. Would the gentleman be inclined to vote for it if the President requested it?

Mr. FRASER. I should like to hear the President's reasons.

I might add, I have asked the President to indicate his position. The only response we have had is from the Under Secretary, Mr. Elliot Richardson, who has indicated he did not think a case had been made for the transfer.

Mr. RIVERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes.

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

Mr. CONYERS. Mr. Chairman, I object.

Mr. RYAN. Mr. Chairman, I object.

Mr. RIVERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes.

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

Mr. RYAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

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

Mr. Chairman, in my view the inclusion of the language about submarines to Taiwan is unfortunate. It raises once more an issue that, in all probability, will not redound to the advantage of our ally on Taiwan and, perhaps, it will not redound to the advantage of President Nixon, either, in his efforts to establish and promote a new policy toward Communist China. The experience of the Congress in dealing wth the question of fighter jets should have been an ample warning of what lies at hand right now. It is very true that this is permissive language. It does not impose a mandate upon the President. But when the Congress, which is asked to speak in a legislative way, does so, the result has weight. The statement is noted not only in Communist China and Taiwan, but elsewhere around the world. I think we ought to realize in voting against this amendment that those who vote against it inevitably will be interpreted as being in a position critical of the President's new initiatives toward Communist China. Very clearly——

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

Mr. FINDLEY. I am glad to yield, of course.

Mr. RIVERS. Of course, the gentleman is quite conversant with the mutual aid agreement and treaty that we have with Nationalist China and the fact this bill only gives the President this authority if he deems to exercise it. There is nothing mandatory about it.

Mr. FINDLEY. I understand that. The gentleman will agree with me, I am sure, that when the Congress speaks with language like this in behalf of even permissive authority of the President that it has great weight and will be noted throughout the world.

Mr. RIVERS. The gentleman can read this. This is not the first time that we did this. We gave the President authority to give two destroyers to South Korea although he did not ask for it, but it was authorized.

Mr. FINDLEY. The gentleman will agree with me that there is no program now that will give them the right——

Mr. RIVERS. Will the gentleman yield further?

Mr. FINDLEY. Of course.

Mr. RIVERS. There is not anybody who knows more about the discussions that the Navy has had with Nationalist China than the President with regard to the Taiwan Straits. He knows this.

Mr. FINDLEY. I will say to the gentleman that he made a very serious mistake, if that is the fact, in including in the committee report the language on page 9 which says that they, meaning the Department of Defense, have not been asked about the question of submarines to China. The only reasonable conclusion anyone can draw from the presence of that language is that the committee did not seek a response from the Department of Defense because you were sure that the response would be negative.

Mr. RIVERS. Will the gentleman yield to me further?

Mr. FINDLEY. Of course.

Mr. RIVERS. That is absolutely 100 percent wrong. The representative of the Department of Defense was the Navy Department, a Captain Hagerman.

Mr. FINDLEY. Is that not a part of the Department of Defense.

Mr. RIVERS. The Department of Defense never testified on a bill of this character. One branch of the military is delegated to handle it, and that is the Department of the Navy. When this representative came over——

Mr. FINDLEY. Why do you say in the report, then, that the Department of Defense has no objection to other parts of this bill if they were never asked for their opinion on this legislation? Why is DOD's view included?

Mr. RIVERS. If we had to go to the Department of Defense for everything, then we would not need the Committee on Armed Services, and we are just not a rubberstamp.

Mr. FINDLEY. Why go to them on 90 percent and skip the other 10 percent?

Mr. RIVERS. I did not go to them; they sent over their representative. We did not go to them. However, we interrogated their representative and their representative said, "I think it would be good for the United States." And based on his testimony we supported it 100 percent unanimously, and I am very glad to clear that up.

Mr. FINDLEY. Why did you put it in the committee report at all?

Mr. RIVERS. I am very glad to clear it up for the gentleman because he does not know how it operates.

Mr. FINDLEY. I guess that is the fact. It is quite clear to all of us that the committee did not seek and get the view of the Department of Defense on submarines to Taiwan, because it would have been negative.

Mr. RIVERS. The representative of the Department of Defense was asked what his personal opinion was on letting Nationalist China have these three submarines——

The CHAIRMAN. The time of the gentleman has expired.

MOTION OFFERED BY MR. RIVERS

Mr. RIVERS. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close at 3:45 p.m.

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

Mr. RYAN. Mr. Chairman, I demand tellers.

Tellers were refused.

So the motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. SIKES).

(By unanimous consent Mr. HÉBERT yielded his time to Mr. SIKES.)

(By unanimous consent, Mr. MONTGOMERY yielded his time to Mr. SIKES.)

(By unanimous consent, Mr. LONG of Maryland yielded his time to Mr. SIKES.)

(By unanimous consent, Mr. HAGAN yielded his time to Mr. SIKES.)

Mr. SIKES. Mr. Chairman, I am most appreciative of the courtesy of my colleagues in yielding me additional time. The President has said in effect that we are not going to continue to fight other people's wars but that we will help to strengthen our allies by providing the weapons and the supplies which most of them obviously are unable to manufacture or produce for themselves.

Mr. Chairman, I trust the amendment will be defeated.

Now, despite these assurances of help in weapons and equipment, the fact remains that we are doing very, very little in this field. Other than the South Vietnamese forces, U.S. military assistance has been limited and the equipment freqently is obsolescent. Everyone knows this but the American public, which sees no headlines that tell of the weakened defenses of most of our allies. Nor do we see headlines which tell the true facts of Communist support for the Iron Curtain countries. It is known that Communist military forces are, almost without exception, better equipped both from the standpoint of number of weapons and modernization than are allied forces. For instance, we and our allies in NATO hope to contain a thrust of 20,000 modern Soviet tanks with 7,000 allied tanks, many of them not fully modern, if war should come. Yet, next to South Vietnam, it is the NATO Forces North where the best and most modern allied equipment is found. Some of our allies are expected to make do on World War II equipment, and not much of that, notwithstanding the fact that two, and in some instances three, generations of new weapons and equipment have been developed since the days of World War II.

The amendment before the Committee to strike from the bill the authority to provide three submarines for Taiwan. Taiwan has no submarines, but it is well known that just across the straits are large Red Chinese naval forces which include more than 30 submarines. It is also true that Red China has capability and is manufacturing submarines with which to add to their already impressive fleet. Our own submarine fleet is spread thin. We have a worldwide commitment, and the threat to our fleet from Russian submarines is increasing daily. The Russians are again in the midst of a major submarine building program, and they are producing fully modern, quiet, fast submarines which are, in some particulars, better than anything we have.

This means that in time of serious trouble, our comparatively small fleet of modern submarines may be tied up elsewhere. In the early days of conflict, they could not be of much help to the Taiwanese forces. During those crucial first days, Taiwan could fall to an overwhelming strike by the Red Chinese. This their government recognizes. That is why they want even a limited number of submarines with which to counter the Red Chinese threat. It is not much that they are asking—just a few outmoded submarines which are of no more value to us. But the time may come when they will help Nationalist China to remain free and independent and to demonstrate that there are places in the world where capitalism still can succeed. It has been stated that the per capita income of Taiwan is only $300. It should be stated that this is several times as high as the per capita income of the Communist countries around Taiwan.

I would think that we would overwhelmingly support this effort to help a gallant friend; that we do not take a step which could help to cripple Taiwan's efforts to remain free of Communist control. Taiwan is one of the few countries in the world which has offered military forces to support the allied cause in Vietnam. Taiwan is one of the few countries in Southeast Asia which has no truck whatever with communism. Taiwan is one of the few places left where U.S. forces are welcome and where no strings are placed on our deployment or choice of weapons.

We do not have a better friend than Taiwan, and the presence of a strong, even though small, defense establishment in Taiwan provides one additional brake against Communist aggression. Adoption of this amendment would be a slap in the face to a country that demonstrates in every conceivable way its determination to stand with us and to combat communism.

There are some who say this is no time to help Taiwan. They do not want to risk offending Red China. Efforts are in progress ot establish better relations between the United States and China. If there is a way to establish better relations with Red China, it certainly does not lie in appeasement. It does not lie in weakening our friends. Red China is an outlaw nation. They are the principal supplier of weapons for North Vietnam. They are creating revolution in every country around their borders. They are building a military road deep into Laos and pointed at the border of Thailand, and to all intents and purposes, in this way they have annexed a big portion of Laos. They have shown no measurable interest in better relations with the West. They have done nothing to contribute to peace in the world. This is not a time to hurt a friend by helping an enemy. Taiwan is our friend. Red China is our enemy.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GROSS).

(By unanimous consent, Mr. GROSS yielded his time to Mr. HALL.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. RYAN).

(By unanimous consent, Mr. KOCH yielded his time to Mr. RYAN.)

Mr. RYAN. Mr. Chairman, the gentleman from Illinois (Mr. FINDLEY) asked a very significant question. Why was the Department of Defense not asked for a report on the submarine loan to Nationalist China? The answer to that question lies in the committee hearings at page 5857 when, in response to a request from our colleague, Congressman LENNON, that the committee obtain a written recommendation from the Department of Defense, the chairman said:

> If they (Department of Defense) come back and say they don't need it, then people on the floor latch onto it. I think we better do it our own way.

That clearly shows that the House Committee on Armed Services believed the Department of Defense would not make such a recommendation and, therefore, should proceed in its own way. I say it is time to stop that "own way." Doing it "our own way" added $54 million for a squadron of sophisticated jet fighter planes to Taiwan last December. Now it is submarines.

Let us look at another gem that appears in the hearings, I refer to page 5840, at which point our colleague, the gentleman from New York (Mr. PIKE) asked why the statement of the Director of the Bureau of Politico-Military Affairs, Department of State, had been classified, and in that discussion the chairman of the Committee on Armed Forces said:

> I tell you you can't trust these American people too much. Maybe you are right [to classify the statement]. Because it is pretty dangerous to give them any information. These are the only people you are denying this information to.

In other words, the only people being denied information are the American people. Who has the right to know the basis for military and foreign policy decisions if not the American people? I say, let us begin to trust the American people. Congress can no longer permit important decisions to be made behind closed doors without informing the American people of the justification.

These three submarines have not been requested by the Department of Defense; they are not needed militarily; and as a matter of foreign policy the proposed loan to Taiwan conflicts with the policy of the Nixon administration which is beginning to open the doors toward rapprochement with mainland China.

The President himself stated, in his state of the world message, that, in regard to mainland China:

> (I)t is certainly in our interest, and in the interest of peace and stability in Asia and the world, that we take what steps we can toward improved practical relations with Peking.

On March 16 the State Department spokesman, Robert J. McCloskey, announced a relaxation of the ban on American travel to China, stating that the United States would follow "a more liberal policy."

The sole justification for the loan of these three submarines is couched in military terms in the committee report—report No. 91-838, which states:

> This loan lets China (sic) replace the United States in the localization of the defense of an area where the communist Chinese have over 30 Whiskey class submarines and that providing the submarines

permits China (sic) to continue having submarines to use in ASW (anti-submarine warfare) training.

This assessment of the Republic of China's military needs is purely the creation of the House Armed Services Committee. There is no indication that the Department of Defense subscribes to this assessment. In fact, as I pointed out before, the record of the hearings held on February 3 specifically show that the chairman of the committee rejected the suggestion that a written recommendation be obtained from the Defense Department.

It is difficult to understand how a committee can undertake a move of such consequence and intentionally avoid consulting with the executive, for fear that the executive might disagree with it.

What is even more, there is not even any indication in the hearings and committee report that the Republic of China has itself requested, or needs, these three submarines. And even had it made such a request, the hearings make clear that there are no trained personnel to run the submarines and to maintain them. In fact, the United States would have to set up special courses to train them. Hearing page 5853.

Any move which entails such serious military and foreign affairs implications deserves the most stringent analysis. The record is so barren of any such analysis that passage of the authorization for these vessels cannot be a responsible action on the part of the House.

What is more, the manner in which this authorization has been included in H.R. 15728 calls into the most serious question the functioning of this House and its committees.

Once again, the House Armed Services Committee has undertaken to construct foreign and military policy. Once again, the China lobby has come to the fore. History repeats itself quickly; only last December we were faced with a proposed foreign assistance appropriation providing $54,500,000 for the purpose of providing a squadron of F–4D aircraft to the Republic of China in Taiwan.

Again, in that instance, there was no request for funds for these aircraft; again no justification was offered, in that case before the Foreign Affairs Committee. The $54,500,000 was a surprise amendment adopted on the floor of the House after some very fancy footwork.

In view of the lack of justification and the manner in which the submarine loan for Taiwan has been brought to the House, the amendment to delete the three submarines should be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I would like to make just two points: First, enactment by the Congress of the provision in this bill for three submarines for Taiwan is an act with acute foreign policy implications affecting our posture toward Nationalist China and the President's moves with regard to mainland China. Yet we have not officially heard from the Secretary of State, nor has the Committee on Foreign Affairs been given an opportunity to consider this important foreign policy question. This is irresponsible.

Second, argument has been made here that this transfer will simply relieve the U.S. Navy of the need for carrying out the same sort of a mission that these submarines will perform. But this overlooks the fact that in Nationalist Chinese hands, these submarines may conduct raids and other provocative action that could lead to extensive hostilities.

I hope the gentleman's amendment is adopted. If it is not, I will be constrained to vote against the bill as a whole.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

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

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

Mr. GILBERT. Mr. Chairman, I intend to vote in favor of the Fraser amendment to delete sending three submarines to Nationalist China.

I will do so because I believe there is little need by Nationalist China for submarines. But even more, the United States should use its resources to help Israel retain its freedom.

The present administration is fond of setting priorities, Mr. Chairman, and I think it is only proper to express my view of national priorities on the same day President Nixon expressed his.

The President has decided not to sell needed jet aircraft to Israel at this time. I disagree fundamentally with his reasoning. It is ironic at the least that on the very day he dashes the hopes and aspirations of a brave, heroic people, the Congress should consider extending the war force of a nation with less need than demonstrated by Israel.

If we must set priorities, then let us set them on the basis of human need, not on a cold and calculated diplomacy.

Mr. CONYERS. Mr. Chairman, I take this time not to discuss the substantive issues that have been raised by the Fraser amendment but rather to complain as one Member of the House of Representatives about the way it is being handled. For example, I have only three-quarters of a minute to express to you the fact that in the very brief period allotted for debate of this amendment, my colleague from Minnesota (Mr. FRASER), has stated his case most ably. But what of the other Members that seek to be heard? What contributions would they have made if there were no attempts to prematurely cut off debate on this subject? If supporting our allies and warding off the threat of international communism is so important, why, then, need we limit debate? There ought to be the fullest discussion of the merits of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York. (Mr. LOWENSTEIN).

Mr. LOWENSTEIN. Mr. Chairman, I believe we have now heard just about everything in the peculiar and continuing saga of gifts for Nationalist China. Evidently we are determined to make it Christmas all year-round in Taiwan. We cannot even sell jets to Israel, we cannot pay a living wage to our postal employees, but we can give an air force to the Chiangs. And now we are told it is "appeasement" if we do not hand over a navy as well.

Does everyone understand? If the House does not vote to authorize giving things to Nationalist China that neither the President nor the Department of Defense have asked us to authorize giving, we will be guilty of "appeasing" someone, presumably Red China. We will, in fact, be soft on communism. The President is not guilty of appeasement for not asking for such authorization. Neither is the Department of Defense. But if we do not vote to give what no one outside the House has asked us to give, we become appeasers. I wonder if anyone really believes it is Red China we are in danger of trying to appease when this matter comes to a vote.

We are told it is ridiculous to suggest that a tiny naval force like this one might invade mainland China. But we are not told what a tiny naval force like this one will, in fact, do. Perhaps it will only harrass mainland China. And then if the tiger whose tail is tweaked strikes back, will this tiny force be transformed into an armada powerful enough to defend itself and Taiwan against retaliation? Or does its tweaking lead to our fighting?

Is there some reason we should now risk—or perhaps, seek—another battlefront in Asia? Are all these gifts to the Chiangs really only a kind of deranged and dangerous charity? Or are they, possibly, traces of a shrewd and deliberate effort to involve us in a new and grander confrontation with Communist China? Either way, this proposal does not have much to commend it. The President tells us we are trying to normalize relations with Red China. And surely it is clear by now that we should not be courting more wars involving Americans on or near the mainland of Asia. In view of these facts, is there any rational purpose that can be served by placing American naval and airpower under the direction of a government that is committed to waging a war of revenge against Red China?

If it is appeasement not to give the President authority he has not asked for to give ships to a foreign government pledged to use them in ways contrary to our own national interest, can you imagine what it would be if we do not fight to defend that government's right to use our ships against our national interest?

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. FRASER. Mr. Chairman, I do not think there is too much to add to this debate. I am sorry that we do not have fuller participation under a more generous time arrangement than we have. One of the reasons I thought it was important to offer this amendment is so that we do not start automatically turning over military equipment to the different governments around the world. If our idea of how we are to relate to the rest of the world does not get looked at more carefully than we have looked at it in the past, we will find this country involved in military adventures which are not our

interest, which the American people are going to be unhappy about. We need to look at these matters carefully and think about them as they affect our own security interest, and not just react automatically every time somebody calls for more military assistance.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. BRAY).

(By unanimous consent, Mr. BRAY yielded his time to Mr. HALL.)

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Chairman, I am sure that no Member of this body would want any member of the committee to think that these are new submarines we are suggesting be supplied to the Republic of China on Taiwan. They are old ones and, in fact, the reason that they were not included in the original request, according to information I have at hand and available to any Member to see, is that they were not in the reserve situation due to it being prior to the cutback in connection with this year's austerity.

I also want everyone to understand that this is not comparable to the question of jets to the Republic of China. Furthermore, I think this relieves the 7th Fleet from its patrol duty in the Straits of Formosa. I think it provides the Nationalist Chinese the capability of providing their own subsurface target ship for already in being antisubmarine warfare detection capability that they have from the air.

This is good. If it is not supplied by this means of depleting our Reserve Forces, rather than scraping them or putting them in mothballs, we will have to do it with the 7th Fleet in order to maintain this capability.

I repeat these are old, beyond the *Whiskey*-class-type submarines. At the present time the Chinese Navy does not contain this capability. We will maintain control, as I said in general debate, by the act of maintaining follow-on supplies and repairs of the submarines. These Chinese are people who fly jets, and they have one of the better armies of the world, and they have defended Quemoy and Matsu and their own shoreline of Taiwan against invasion, and they have the technical know-how to handle our sophisticated tanks, so certainly they can control our old *Whiskey*-class submarines and use them for detection of subsurface vessels, by their aircraft submarine detection system and warning setup.

Mr. Chairman, it will enable us to make our forces more thin and to deploy our Reserve Forces farther around the world. I certainly recommend this amendment be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, I rise in opposition to the amendment. I commend the committee for inclusion of these submarines for the Republic of China.

As the distinguished gentleman from Missouri made clear, there is a need.

As far as foreign policy is concerned, nothing could be better now—today—than that this Congress should say to the people of Nationalist China, that we do stand behind them, and although our President does seek to communicate with the Communist government on the mainland of China, this does not mean that we are turning away from or equivocating in our support of Taiwan.

The government of Red China is the most repressive in the world, and is possessed of a leadership as irrational as it is tyrannical. On the other hand, the government and the people on Taiwan are the depositories of the culture of China. The best hope for all the people of China is vested in the survival of those great values conserved in Taiwan even as Mao has sought to systematically destroy them on the mainland. In vivid contrast to the chaos and poverty of the mainland. Taiwan is blossoming like a rose, and is in many ways a model for the entire world of developing nations. If we are concerned about the welfare of all the people of China, we could render them no greater service than by underlining our continued support for the Republic of China, and our continued concern for the security of the government and people on Taiwan.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, for some months I have been calling attention to the spiraling international trade in arms. This trade has so often led to military adventures which could escalate into major wars.

I would like to go on record as being opposed to the authorization for the loan of three submarines to the Republic of China—Taiwan—which was included in the House Armed Services Committee report.

It would apear from the report, that the committee should have considered this authorization with more scrutiny. The Departments of State and Defense were not consulted about this particular authorization. There are various foreign policy implications in this particular loan and I would hope that before we decide this matter, that the appropriate departments would be given the time to evaluate this entire situation.

It is also interesting to note that the Nationalist Chinese do not have any submarines. They have no trained submarine personnel, nor do they have submarine training facilities or repair facilities at their disposal. I find it hard to comprehend the effectiveness of this authorization under the given circumstances.

Rather this authorization appears to be part of our "nonpolicy" toward the international arms trade and another step in the escalation of that trade.

I am hopeful that my fellow Members of Congress will see the implications that are involved in an unrestrained international trade in arms and I suggest that we vote in favor of deleting these submarines from H.R. 15728, until an appropriate and timely investigation can be made in this matter.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina (Mr. RIVERS) to close debate on this amendment.

Mr. RIVERS. Mr. Chairman, I rise in opposition to the motion. The opposition to the loan of three submarines to China is based on the fear that the Chinese might use them to land saboteurs and infiltrators on the mainland of China.

Let me remind you that there is an existing mutual defense treaty between the United States and the Republic of China, signed on December 2, 1954.

This treaty pledges that the parties:

> Separately and jointly by self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack and communist subversive activities directed from without against their territorial integrity and political stability.

In addition, article 5 provides, in part:

> Each party recognizes that an armed attack in the West Pacific Area directed against the territories of either of the parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

This is a valid and binding commitment for the United States to help the Republic of China.

In ratifying the treaty, the Senate had the same fear that China might carry out raids against the mainland as is now expressed in connection with the submarines. Therefore, in the report on the treaty the Senate Committee on Foreign Relations said:

> It is the understanding of the Senate that the obligations of the parties under Article 5 apply only in the event of external armed attack; and that military operations by either party from the territories held by the Republic of China shall not be undertaken except by joint agreement.

Thus, the opposition's fear was taken care of by the Foreign Relations Committee in its report in 1954. This understanding was cemented by an exchange of notes dealing with this very point between the United States and the Republic of China as set forth in the Foreign Relations Committee report.

How would the opposition prevent the Chinese Communists from using its existing fleet of over 30 Soviet-built submarines from landing parties on Taiwan? We are giving the Republic of China the ability to provide its antisubmarine defenses against such raids.

In the President's recent report on the U.S. foreign policy for the 1970's, President Nixon again reasserted his Guam doctrine which held that in types of nonnuclear aggression the United States would furnish military and economic assistance but we would "look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense." That is exactly what we are doing in this case except we are providing China with the submarines, we hope in time, for China to learn how to operate them. They are being given to China at a time when our defenses are being diminished in the Western Pacific for fiscal and not diplomatic reasons.

All we are doing is carrying out the Nixon doctrine to help the Republic of

China in its defense against an existing Communist Chinese threat of over 30 submarines already provided to Red China by the Soviets.

Mr. Chairman, we have a mutual agreement with Nationalist China which Nationalist China has faithfully upheld. She has never made an offensive move to embarrass us despite the aid we have given her.

Do Members want the world to believe that with three submarines—which will turn out to be training submarines—this country will invade China? How ridiculous can we get? They have planes and they can move with them every day, based on what is happening at Quemoy.

We questioned a representative of the Department of Defense. The U.S. Navy wants these. How far shall we go? How far must we go? We have hidden nothing from Members. It was unanimous from our committee. To knock these three submarines out now would be the most open and outrageous violation of the friendship existing between the two nations.

Building bridges to China? That is like building bridges to Cuba. We could not build a bridge to China if we stayed here forever. This is so ridiculous, it is ridiculous.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRASER).

The question was taken; and on a division (demanded by Mr. FRASER) there were—ayes 27, noes 84.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 3. All new loans and loan extensions executed under this Act shall be for periods not exceeding five years, but the President may in his discretion extend such loans for an additional period of not more than five years. Any agreement for a new loan or for the extension of a loan executed under this Act shall be made subject to the condition that the agreement may be terminated by the President if he finds that the armed forces of the borrowing country have engaged, at any time after the date of such agreement, in acts of warfare against any country which is a party to a mutual defense treaty ratified by the United States. All loans and loan extensions shall be made on the condition that they may be terminated at an earlier date if necessitated by the defense requirements of the United States.

SEC. 4. No loan may be made or extended under this Act unless the Secretary of Defense, after consultation with the Joint Chiefs of Staff, determines that such loan or extension is in the best interest of the United States. The Secretary of Defense shall keep the Congress currently advised of all loans made or extended under this Act.

SEC. 5. The President may promulgate such rules and regulations as he deems necessary to carry out the provisions of this Act.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair (Mr. DORN) 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. 15728) to authorize the extension of certain naval vessel loans now in existence and new loans, and for other purposes, pursuant to House Resolution 876, he reported the bill back to the House.

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

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

Mr. RIVERS. Mr. Speaker, on that I demand the yeas and nays.

PARLIAMENTARY INQUIRY

Mr. FRASER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FRASER. I was on my feet seeking recognition for the purpose of making a motion to recommit at the time the Speaker was beginning to move to the point of putting the question.

The SPEAKER. The Chair wants to be absolutely fair. The Chair believes the Members know that.

Without objection, the action taken on the question of the passage of the bill will be vacated.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CONTE. I certainly am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit the bill H.R. 15728 to the Committee on Armed Services.

Mr. RIVERS. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

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

Mr. RIVERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 281, nays 66, not voting 83, as follows:

[Roll No. 59]

YEAS—281

Abbitt	Broomfield	Daddario
Abernethy	Brotzman	Daniel, Va.
Adair	Brown, Mich.	Daniels, N.J.
Addabbo	Brown, Ohio	Davis, Wis.
Albert	Broyhill, Va.	de la Garza
Alexander	Buchanan	Delaney
Anderson, Ill.	Burke, Fla.	Denney
Anderson, Tenn.	Burke, Mass.	Dennis
Andrews, Ala.	Burleson, Tex.	Derwinski
Andrews, N. Dak.	Burlison, Mo.	Devine
Annunzio	Burton, Utah	Dickinson
Arends	Byrne, Pa.	Dingell
Ashbrook	Cabell	Donohue
Aspinall	Caffery	Dorn
Baring	Carter	Dowdy
Beall, Md.	Casey	Downing
Belcher	Celler	Dulski
Bennett	Chamberlain	Duncan
Betts	Chappell	Dwyer
Blackburn	Clancy	Edmondson
Blatnik	Clark	Edwards, Ala.
Bow	Clawson, Del	Erlenborn
Bray	Cleveland	Esch
Brinkley	Collier	Evans, Colo.
Brock	Collins	Evins, Tenn.
Brooks	Corbett	Fallon
	Cowger	Fascell
	Crane	Feighan
	Findley	McClure
	Fisher	McCulloch
	Flood	McDade
	Foreman	McDonald, Mich.
	Fountain	McEwen
	Frelinghuysen	McFall
	Frey	McMillan
	Friedel	Macdonald, Mass.
	Fulton, Pa.	Madden
	Fuqua	Mahon
	Galifianakis	Mailliard
	Garmatz	Mann
	Gaydos	Marsh
	Gettys	Martin
	Giaimo	Mathias
	Goldwater	Matsunaga
	Gonzalez	May
	Goodling	Mayne
	Green, Oreg.	Meeds
	Griffin	Melcher
	Gross	Michel
	Grover	Miller, Calif.
	Gubser	Miller, Ohio
	Gude	Mills
	Hagan	Minish
	Haley	Minshall
	Hall	Mize
	Hamilton	Mizell
	Hammer-schmidt	Mollohan
	Hanley	Montgomery
	Hanna	Morgan
	Hansen, Idaho	Murphy, Ill.
	Hansen, Wash.	Myers
	Harsha	Natcher
	Harvey	Nelsen
	Hastings	Nichols
	Hays	O'Konski
	Hébert	O'Neal, Ga.
	Henderson	O'Neill, Mass.
	Hicks	Passman
	Hogan	Patman
	Holifield	Patten
	Horton	Pelly
	Hull	Pepper
	Hungate	Perkins
	Hunt	Pettis
	Hutchinson	Philbin
	Ichord	Pickle
	Johnson, Calif.	Pirnie
	Johnson, Pa.	Poage
	Jonas	Poff
	Kazen	Pollock
	Kee	Preyer, N.C.
	Keith	Price, Ill.
	King	Price, Tex.
	Kleppe	Pryor, Ark.
	Kluczynski	Quie
	Kuykendall	Quillen
	Kyl	Randall
	Landrum	Rarick
	Langen	Reifel
	Latta	Rhodes
	Lloyd	Rivers
	Long, La.	Roberts
	Lujan	Robison
	McClory	Rodino
	McCloskey	Rogers, Colo.
		Rogers, Fla.
		Rooney, N.Y.
		Rooney, Pa.
		Roth
		Roudebush
		Ruth
		Sandman
		Satterfield
		Saylor
		Schadeberg
		Scherle
		Schwengel
		Scott
		Sebelius
		Shriver
		Sikes
		Sisk
		Skubitz
		Smith, Calif.
		Smith, Iowa
		Smith, N.Y.
		Snyder
		Springer
		Stafford
		Staggers
		Stanton
		Steed
		Steiger, Wis.
		Stephens
		Stratton
		Stubblefield
		Stuckey
		Sullivan
		Talcott
		Taylor
		Teague, Calif.
		Thompson, Ga.
		Thomson, Wis.
		Udall
		Ullman
		Vander Jagt
		Vigorito
		Waggonner
		Wampler
		Watkins
		Watson
		Watts
		Weicker
		Whalen
		White
		Whitehurst
		Whitten
		Widnall
		Wiggins
		Williams
		Wilson, Charles H.
		Wold
		Wydler
		Wylie
		Wyman
		Yatron
		Young
		Zablocki
		Zion
		Zwach

NAYS—66

Adams	Fraser	O'Hara
Ashley	Gibbons	Olsen
Biester	Gilbert	Pike
Bingham	Green, Pa.	Podell
Boland	Griffiths	Rees
Burton, Calif.	Harrington	Reuss
Button	Hathaway	Riegle
Clay	Hawkins	Roe
Cohelan	Hechler, W. Va.	Rosenthal
Conable	Heckler, Mass.	Roybal
Conte	Helstoski	Ruppe
Conyers	Karth	Ryan
Corman	Kastenmeier	St. Onge
Coughlin	Koch	Schneebeli
Culver	Leggett	Stokes
Diggs	Long, Md.	Thompson, N.J.
Eckhardt	Lowenstein	Tiernan
Edwards, Calif.	Mink	Van Deerlin
Eilberg	Morse	Vanik
Farbstein	Mosher	Waldie
Foley	Moss	Yates
Ford, William D.	Nedzi	
	Nix	

NOT VOTING—83

Anderson, Calif.	Bolling	Chisholm
Ayres	Brademas	Clausen, Don H.
Barrett	Brasco	Colmer
Bell, Calif.	Brown, Calif.	Cramer
Berry	Broyhill, N.C.	Cunningham
Bevill	Bush	Davis, Ga.
Biaggi	Byrnes, Wis.	Dawson
Blanton	Camp	Dellenback
Boggs	Carey	Dent
	Cederberg	

Edwards, La.	Landgrebe	Reid, N.Y.
Eshleman	Lennon	Rostenkowski
Fish	Lukens	St Germain
Flowers	McCarthy	Scheuer
Flynt	McKneally	Shipley
Ford, Gerald R.	MacGregor	Slack
Fulton, Tenn.	Meskill	Steiger, Ariz.
Gallagher	Mikva	Symington
Gray	Monagan	Taft
Halpern	Moorhead	Teague, Tex.
Hosmer	Morton	Tunney
Howard	Murphy, N.Y.	Whalley
Jacobs	Obey	Wilson, Bob
Jarman	Ottinger	Winn
Jones, Ala.	Powell	Wolff
Jones, N.C.	Pucinski	Wright
Jones, Tenn.	Purcell	Wyatt
Kirwan	Railsback	
Kyros	Reid, Ill.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Kyros for, with Mr. McCarthy against.
Mr. Lennon for, with Mr. Monagan against.
Mr. Teague of Texas for, with Mr. Mikva against.
Mr. Biaggi for, with Mr. Brown of California against.
Mr. Anderson of California for, with Mr. Brademas against.
Mr. Boggs for, with Mr. Carey against.
Mr. Cunningham for, with Mrs. Chisholm against.
Mr. Cramer for, with Mr. Powell against.
Mr. Bob Wilson for, with Mr. Railsback against.

Until further notice:

Mr. Ottinger with Mr. Dellenback.
Mr. Symington with Mr. Ayres.
Mr. Murphy of New York with Mr. Halpern.
Mr. Gallagher with Mr. Bell of California.
Mr. Gray with Mr. Byrnes of Wisconsin.
Mr. Barrett with Mr. Eshleman.
Mr. Bevill with Mr. Camp.
Mr. Brasco with Mr. Fish.
Mr. Jones of North Carolina with Mrs. Reid of Illinois.
Mr. Howard with Mr. Hosmer.
Mr. Tunney with Mr. Don H. Clawson.
Mr. Wolff with Mr. McKneally.
Mr. Wright with Mr. Bush.
Mr. Moorhead with Mr. Meskill.
Mr. Pucinski with Mr. MacGregor.
Mr. Flynt with Mr. Landgrebe.
Mr. Edwards of Louisiana with Mr. Berry.
Mr. Rostenkowski with Mr. Gerald R. Ford.
Mr. St Germain with Mr. Morton.
Mr. Slack with Mr. Lukens.
Mr. Jarman with Mr. Broyhill of North Carolina.
Mr. Jacobs with Mr. Taft.
Mr. Colmer with Mr. Whalley.
Mr. Davis of Georgia with Mr. Winn.
Mr. Dent with Mr. Wyatt.
Mr. Obey with Mr. Reid of New York.
Mr. Flowers with Mr. Cederberg.
Mr. Fulton of Tennessee with Mr. Shipley.
Mr. Jones of Tennessee with Mr. Kirwan.
Mr. Jones of Alabama with Mr. Blanton.
Mr. Scheuer with Mr. Dawson.
Mr. Purcell with Mr. Steed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

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

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

There was no objection.

PERMISSION FOR HOUSE MANAGERS TO FILE CONFERENCE REPORT ON H.R. 4148

Mr. KLUCZYNSKI. 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. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

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

There was no objection.

PERSONAL STATEMENT

Mr. PUCINSKI. Mr. Speaker, on the rollcall just concluded I was unavoidably detained on hearings on the impact bill. We had educators from all over the country before the committee. Had I been present, I would have voted "yea."

PERSONAL STATEMENT

Mr. DON H. CLAUSEN. Mr. Speaker, I was unavoidably detained in the Committee on Interior and Insular Affairs at the time of the last rollcall. Had I been present during the recording of the vote just passed, I would have voted "yea."

STOP BLACKJACKING THE POSTAL WORKERS

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

Mr. KOCH. Mr. Speaker, I believe it would be outrageous to call in the Army or National Guard to break the strike of the postal unions. The strike is illegal and I do not condone it; however, the actions of the Chief Executive of this country, President Nixon, and his Postmaster General, Winton Blount, in bringing us to this impasse and in refusing to negotiate with the postal workers pending their return to work, while not illegal, must be condemned.

There is nothing in the law which prohibits the President from negotiating with the postal workers at this time even while some of their members are still striking. The postal workers are so correct in their demands for pay increases that I have yet to meet a single individual in the city of New York or here in Congress who does not agree that they are entitled to the immediate pay increases so long requested and so long deferred. This Congress is also not without blame. The respective committees of the House and Senate have permitted the President to use the pay increases as a blackjack to obtain the consent of the postal unions to the President's postal corporation bill. And the Senate succumbed to the President's threat of a veto. There is no question that postal reform is long overdue but it must stand on its own merits and should not be tied to the equitable salary demands of the postal workers.

I urge the President and his Cabinet members not to tarry and dillydally but to work through the day and night without letup over the bargaining table and arrive at an equitable salary agreement with the postal workers.

Instead of lagging so far behind in setting wage rates the Federal Government has an obligation to be a pacesetter so that it can encourage private industry to pay fair and reasonable wages. Unfortunately, the Federal Government is paying sweatshop wages to Federal employees so that some of them are eligible for welfare. It is to this country's shame that an estimated 7 percent of New York City's postmen are receiving welfare benefits because their salaries for full-time employment are so low.

Let us not add to the shame of this Government the additional blot which would never be forgiven or forgotten by calling out the troops.

POSTAL PAY INCREASES

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

Mr. OLSEN. Mr. Speaker, the House has functioned very well on the proposition of hearing the postal workers on their request for a pay increase. As a matter of fact, we had hearings most of last year on the subject. My own bill, H.R. 10000, would have remedied their situation. It was introduced on April 19 and was heard by the House Committee on Post Office and Civil Service. That bill would have increased the postal employees' beginning salary to $7,500 per year from the present $6,176 starting point and would have increased their top pay after 6 years service from what is now $8,442 to $10,000. The present pay commences at $6,176 and after 21 years becomes $8,442. My bill would have changed the pay to commence it at $7,500 per year and after 6 years service reach $10,000. The bill approved by the House on October 18 was H.R. 13000. This bill would change the $6,176 commencement pay to $6,588 and after 6 years service reach $8,706.

H.R. 13000 went to the Senate and was passed on December 12 but was passed at a very reduced rate. I think the postal employees would have even accepted that bill passed in December by the Senate, but I do not think they will now.

I am inserting in my remarks an analysis of the provisions with a comparison of those between H.R. 13000 passed by the House and H.R. 13000 as it came out of the Senate for the benefit of all Members, but I want to say that because of this great time lag between last spring and now, with no adjustment in salaries, the postal employees have been grievously wronged, and we should correct the situation.

We should be very busy about pay and separate it from postal reform. Postal reform should stand on its own feet. This Congress should not be blackjacked into discussing postal reform and postal pay at the same time. We should discuss them each on their own merits and separately.

I have outlined the differences in my statement between H.R. 10000 and H.R. 13000 as passed by the House. Supplementing my remarks I set forth H.R. 10000; H.R. 13000 as passed by the House and by the Senate together with a text of comparison between H.R. 13000 as passed by the House and by the Senate.

The material follows:

H.R. 10000

A bill to reclassify certain positions in the postal field service, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3512A of title 39, United States Code, is amended by changing the title to read:

"§ 3512A. Positions in salary level 3".

(b) Section 3513 of title 39, United States Code, is amended by changing the title to read:

"§ 3513. Positions in salary level 4".

(c) Section 3514 of title 39, United States Code, is amended by changing the title to read:

"§ 3514. Positions in salary level 5".

(d) Section 3515 of title 39, United States Code, is amended by changing the title to read:

"§ 3515. Positions in salary level 6".

(e) Section 3516 of title 39, United States Code, is amended by changing the title to read:

"§ 3516. Positions in salary level 7".

(f) Section 3517 of title 39, United States Code, is amended—

(1) by striking out

"§3517. Positions in salary level 7";

and

(2) by redesignating paragraphs (a) and (b) as paragraphs (f) and (g), respectively, and such redesignated paragraphs shall become a part of section 3516 of title 39, United States Code, as amended by this section.

(g) Section 3515(b)(2) of title 39, United States Code, is amended by striking out clause (J) and redesignating clauses (K), (L), and (M) as clauses (J), (K), and (L), respectively.

SEC. 2. (a) Section 3542(a) of title 39, United States Code, is amended to read as follows:

"(a) There is established a basic compensation schedule for positions in the postal field service which shall be known as the Postal Field Service Schedule and for which the symbol shall be 'PFS'. Except as provided in sections 3543 and 3544 of this title, basic compensation shall be paid to all employees in accordance with such schedule.

"POSTAL FIELD SERVICE SCHEDULE

	Per annum rates and steps					
"PFS	1	2	3	4	5	6
1	$5,000	$5,250	$5,500	$5,750	$6,000	$6,250
2	5,250	5,550	5,850	6,150	6,450	6,750
3	5,800	6,100	6,400	6,700	7,000	7,300
4	6,500	6,850	7,200	7,550	7,900	8,250
5	7,000	7,500	8,000	8,500	9,000	9,500
6	7,500	8,000	8,500	9,000	9,500	10,000
7	8,000	8,500	9,000	9,500	10,000	10,500
8	8,500	9,000	9,500	10,000	10,500	11,000
9	9,000	9,500	10,000	10,500	11,000	11,500
10	9,500	10,000	10,500	11,000	11,500	12,000
11	10,500	11,025	11,550	12,075	12,600	13,125
12	11,500	12,025	12,550	13,075	13,600	14,125
13	13,000	13,550	14,100	14,650	15,200	15,750
14	14,000	14,550	15,100	15,650	16,200	16,750
15	15,500	16,050	16,600	17,150	17,700	18,250
16	17,000	17,600	18,200	18,800	19,400	20,000
17	18,500	19,150	19,800	20,450	21,100	21,750
18	20,000	20,750	21,500	22,250	23,000	23,750
19	22,500	23,300	24,100	24,900	25,700	26,500
20	25,000	25,850	26,700	27,550	28,400	29,500
21	28,000	29,000	30,000	31,000	32,000	".

(b) Section 3543(a) of title 39, United States Code, is amended to read as follows:

"(a) There is established a basic compensation schedule which shall be known as the Rural Carrier Schedule and for which the symbol shall be 'RCS'. Compensation shall be paid to rural carriers in accordance with this schedule.

"RURAL CARRIER SCHEDULE

	Per annum rates and steps					
	1	2	3	4	5	6
Fixed compensation per annum	$3,420	$3,800	$4,180	$4,560	$4,940	$5,320
Compensation per mile per annum for each mile up to 30 miles of route	126	130	138	142	146	* 146
For each mile of route over 30 miles	25	25	25	25	25	25".

(c) Chapter 45 of title 39, United States Code, is amended—

(1) by adding a new section to read as follows:

"§ 3558. Longevity step increases

"(a) There are established for each employee longevity steps A, B, and C. For each promotion to a longevity step, each employee shall receive $500 per annum.

"(b) Each employee shall be assigned to—

"(1) longevity step A at the beginning of the pay period following completion of eight years of service;

"(2) longevity step B at the beginning of the pay period following eleven years of service; and

"(3) longevity step C at the beginning of the pay period following the completion of fourteen years of service.

For the purposes of this section, 'service' includes service performed by an employee before, on, or after the date of enactment of this section."; and

(2) by inserting in the table of contents—

"3558. Longevity step increases."

immediately above—

"3559. Promotions.".

SEC. 3. (a) Section 3574 of title 39, United States Code, is amended to read as follows:

"§ 3574. Nightwork

"(a) Nightwork is any work between the hours of 6 postmeridian and 6 antemeridian, standard or daylight saving time, depending upon which time is observed where the work is performed, and includes—

"(1) periods of absence with pay during such hours due to holidays; and

"(2) periods of leave with pay during such hours.

"(b) An employee shall be paid extra compensation for each hour of nightwork at the rate of 20 per centum of his hourly rate of basic compensation.".

(b) Section 3573(h) of title 39, United States Code, is amended by adding a new clause to read as follows:

"(4) 'basic compensation' means the rate of annual or hourly compensation specified by law plus extra compensation for nightwork."

SEC. 4. (a) Each employee subject to the Postal Field Service Schedule or Rural Carrier Schedule, as the case may be, immediately prior to the effective date of this section, shall be given full credit for all prior satisfactory service and assigned—

(1) to numerical step 1, 2, 3, 4, 5, or 6, on the basis of one step higher for each 52 calendar weeks of prior satisfactory service;

(2) to longevity step A, B, or C, on the basis of eight, eleven, or fourteen years, respectively, of prior satisfactory service; or

(3) to the same numerical step which he had attained immediately prior to the effective date of this section if in steps 1 through 6;

whichever is appropriate and results in assignment to the higher step. Service credit in excess of the credit used to assign an employee to the appropriate step shall be preserved for further step-increase purposes.

(b) The assignment of an employee to a higher step or level by reason of the enactment of this Act shall not be deemed to be an equivalent increase within the meaning of section 3552(a) of title 39, United States Code.

SEC. 5. The foregoing provisions of this Act shall become effective on the first day of the first pay period which begins on or after the date of enactment of this Act.

H.R. 13000

A bill to implement the Federal employee pay comparability system, to establish a Federal Employee Salary Commission and a Board of Arbitration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Salary Comparability Act of 1969".

SEC. 2. Sections 5301 and 5302 of title 5, United States Code, are amended to read as follows:

"§ 5301. Policy

"(a) It is the policy of Congress that rates of pay for employees within the purview of this section be based on the principles that—

"(1) there be equal pay under each pay system for substantially equal work;

"(2) pay distinctions be maintained in keeping with work distinctions; and

"(3) rates of pay be comparable, on a national basis, with private enterprise rates of pay for the same levels of work.

"(b) Rates of pay shall be adjusted annually, in accordance with the policy set forth in subsection (a) of this section and the procedures prescribed by section 5302 of this title, for those employees subject to—

"(1) section 5332 of this title, relating to employees under the General Schedule;

"(2) part III of title 39, relating to employees in the postal field service;

"(3) sections 867 and 870 of title 22, relating to officers, staff officers, and employees in the Foreign Service of the United States; and

"(4) section 4107 of title 38, relating to physicians, dentists, and nurses in the Department of Medicine and Surgery, Veterans' Administration.

"§ 5302. Federal Employee Salary Commission; Federal Employee Salary Board of Arbitration

"(a) There is established, as a permanent agency of the Government, a Federal Employee Salary Commission, referred to as the 'Commission'.

"(b) The Commission shall be composed of 8 members and 3 associate members, as follows:

"(1) the Chairman of the Civil Service Commission or, in his absence, his designee, who shall be Chairman;

"(2) 1 designated by the Director of the Bureau of the Budget;

"(3) 1 designated by the Secretary of Defense;

"(4) 1 designated by the Postmaster General;

"(5) 1 designated by the organization of employees having the largest number of members in the General Schedule;

"(6) 2, one designated by each of the 2

employee organizations having the largest number of members in the postal field service;

"(7) 1 designated by an employee organization, other than an organization designating a member pursuant to paragraph (5) or (6) of this subsection, selected each year by the Chairman of the Civil Service Commission on a rotating basis after consultation with representatives of such employee organizations as the Chairman determines appropriate; and

"(8) 3 associate members, one each designated by employee organizations, other than organizations designating members pursuant to paragraph (5), (6), or (7) of this subsection, selected each year by the Chairman of the Civil Service Commission on a rotating basis after consultation with representatives of such employee organizations as the Chairman determines appropriate.

A member of the Commission has—

"(A) 1 vote, if designated under paragraph (2), (3), (4), (5), or (7) of this subsection;

"(B) one-half vote, if designated under paragraph (6) of this subsection; or

"(C) 1 vote to be cast only to break a tie vote of the Commission, if serving under paragraph (1) of this subsection.

Each associate member of the Commission is entitled to attend all meetings of, consult with, and be heard by, the Commission, on all matters, but does not have a vote.

"(c) The Commission shall, in accordance with the policy set forth in section 5301(a) of this title, after consultation with representatives of such agencies and employee organizations as it determines appropriate—

"(1) prescribe, and revise from time to time as it deems appropriate, a comparability pay survey—

"(A) which will develop valid comparisons of (i) the rates of pay for employees within the purview of section 5301(b) of this title and (ii) the rates of pay for the same levels of work in private industry; and

"(B) which shall be conducted annually by the Bureau of Labor Statistics in the Department of Labor;

"(2) prepare annually a comparative statement of the rates of pay for such employees and the rates of pay for the same levels of work in private industry as disclosed by the comparability pay survey;

"(3) determine and prescribe, on the basis of information and data disclosed by the annual comparability pay survey, the exact national rates of pay for such employees which are necessary to effect the policy set forth in section 5301(a) of this title;

"(4) review, annually, the comparability of the rates of pay and step increase policies within and between the various pay systems for such employees, taking into consideration such matters as the Commission determines have affected or may affect the comparability, including, but not limited to—

"(A) within-grade rates of pay employees are receiving due to differing length of service requirements for step increases, step increases without regard to length of service, or different number of within-grade steps;

"(B) different rates of pay under the various pay systems for the same level of work;

"(C) pay distinctions not being maintained in keeping with work distinctions, the degree of responsibility placed, the scope and variety of tasks involved, or the extent of decisionmaking authority required; and

"(D) premium pay policies; and

"(5) except as provided in subsection (e) and subsection (g) of this section, prepare and submit annually to the Congress a report setting forth—

"(A) the comparison of rates of pay prepared pursuant to paragraph (2) of this subsection;

"(B) the exact national rates of pay for such employees prescribed by the Commission in accordance with paragraph (3) of this subsection; and

"(C) recommendations or legislation as may be necessary to achieve the comparability policy set forth in section 5301(a) of this title or to achieve comparability within and between pay systems for employees within the purview of section 5301(b) of this title.

"(d)(1) In the exercise of the authority and the performance of the duties vested in and imposed upon the Commission by this section, the Commission—

"(A) shall seek the views, in such manner as the Commission may provide, of such employee organizations as the Commission considers appropriate; and

"(B) give thorough consideration to those views.

"(2) All decisions of the Commission shall be by a majority vote. The votes shall be recorded. A record shall be maintained of the views, assenting or dissenting, of the members of the Commission. The record of votes and views shall be available for public inspection and copying pursuant to section 552 of this title.

"(e) If a member of the Commission determines, and advises the Commission, that the rates of pay applicable to the appropriate pay system, as the rates are prescribed by the Commission, are not in conformity with the policy set forth in section 5301(a) of this title, the Commission shall submit, not later than February 1 following that determination, the rates of pay to the Board established by subsection (f) of this section for consideration by the Board.

"(f)(1) There is established, as a permanent agency of the Government, a Federal Employee Salary Board of Arbitration, referred to as the 'Board', which shall be composed of 7 members as follows:

"(A) 2 Members of the United States Senate designated by the President pro tempore of the Senate, each from a different political party;

"(B) 2 Members of the United States House of Representatives designated by the Speaker of the House, each from a different political party;

"(C) 1 designated by the Chairman of the Civil Service Commission;

"(D) 1, who may serve not more than 2 consecutive years, designated by a majority vote of the presidents of the four employee organizations which have designated members currently serving on the Commission under paragraph (5), (6), or (7) of subsection (b) of this section with each president of the employee organization under paragraph (5) or (7) having one vote and each president of the organizations under paragraph (6) having one-half vote; and

"(E) 1 designated by a majority of the members of the Board referred to in paragraphs (A) to (D), inclusive, of this subsection from the membership of the American Arbitration Association, who shall be Chairman of the Board.

"(2) The Board shall consider the rates of pay submitted to it by the Commission pursuant to subsection (e) of this section and determine whether or not the rates of pay conform with the policy set forth in section 5301(a) of this title. If the Board determines that the rates of pay do not so conform, the Board shall prepare the rates of pay as will conform with that policy. The Board shall transmit to the Commission not later than the 30th day following the date the Board received the rates of pay submitted to it by the Commission, a report setting forth—

"(A) the decision of the Board with respect to the rates of pay submitted by the Commission;

"(B) the reasons for the decision of the Board; and

"(C) such rates of pay as the Board shall have determined to be necessary to conform with the policy set forth in section 5301(a) of this title.

The decision of the Board, and such rates of pay as it may prepare in accordance with this paragraph, shall be final and conclusive.

"(g)(1) Except as provided in paragraph (2) of this subsection, the Commission shall submit to the Congress the first report pursuant to paragraph (5) of subsection (c) of this section, based on the 1969 national survey of professional, administrative, technical, and clerical pay, not later than February 1, 1970, and subsequent reports pursuant to such paragraph (5) not later than February 1 of each year thereafter.

"(2) In the case of the submission of rates of pay by the Commission to the Board pursuant to subsection (e) of this section, the Commission, immediately upon receipt of the final and conclusive decision of the Board, shall submit to the Congress the decision of the Board and such rates of pay as the Board shall have determined to be necessary to conform with the policy set forth in section 5301(a) of this title.

"(h)(1) Except as provided in paragraph (2) of this subsection, all or part (as the case may be) of the rates of pay submitted to the Congress as provided in subsection (c)(5) or subsection (g) of this section become effective at the beginning of the first pay period that begins on or after the first day of the year in which the rates of pay are submitted; but only to the extent that, within 30 days after the rates of pay are submitted to the Congress—

"(A) there has not been enacted into a law a statute establishing rates of pay other than those proposed by all or part of such recommendations,

"(B) neither House of Congress has passed a resolution specifically disapproving all or part of the recommendations, or

"(C) both.

"(2) Any part of the recommendations, in accordance with express provisions of the recommendations, may be made operative on a date earlier than the date on which the recommendations otherwise are to take effect.

"(3)(A) The rates of pay of United States attorneys and assistant United States attorneys whose annual salaries are fixed pursuant to section 548 of title 28 shall be increased, effective on the first day of the first pay period which begins on or after the first day of the year in which increases become effective pursuant to this section by amounts equal, as nearly as may be practicable, to the increases provided pursuant to this section for corresponding rates of pay.

"(B) Notwithstanding section 665 of title 31, the rates of pay of employees of an Executive agency and of the government of the District of Columbia whose rates of pay are fixed by administrative action pursuant to law and are not otherwise increased pursuant to this section are hereby authorized to be increased, effective on the first day of the first pay period which begins on or after the first day of the year in which increases become effective pursuant to this section, by amounts not to exceed the increases provided pursuant to this section for corresponding rates of pay in the appropriate schedule or scale of pay.

"(C) This section does not authorize any increase in the rates of pay of employees whose rates of pay are fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates or practices.

"(D) This section does not impair any authority pursuant to which rates of pay may be fixed by administrative action.

"(4) Retroactive pay shall be paid by reason of this section only in the case of an individual in the service of the United States (including service in the armed forces) or the government of the District of Columbia on the day immediately following the close of the 30-day period specified in subsection (h)(1) of this section, except that such retroactive pay shall be paid—

"(A) to an employee who retired, during the period beginning on the first day of the

first pay period which began on or after January 1, and ending on the day immediately following the close of the 30-day period specified in subsection (h)(1) of this section, for services rendered during that period, and

"(B) in accordance with subchapter VIII of chapter 55 of this title, relating to settlement of accounts, for services rendered, during the period beginning on the first day of the first pay period which began on or after January 1, and ending on the day immediately following the close of the 30-day period specified in subsection (h)(1) of this section, by an employee who died during that period.

Such retroactive pay shall not be considered as basic pay for the purposes of subchapter III of chapter 83 of this title, relating to civil service retirement, or any other retirement law or retirement system, in the case of any such retired or deceased employee.

"(5) For the purposes of paragraph (4) of this section, service in the armed forces, in the case of an individual relieved from training and service in the armed forces or discharged from hospitalization following such training and service, includes the period provided by law for the mandatory restoration of the individual to a position in or under the Government of the United States or the government of the District of Columbia.

"(i) Each member and each associate member of the Commission and each member of the Board is entitled to travel expenses, including a per diem allowance in accordance with section 5703(b) of this title. Each such member or associate member who is not a Member of Congress or an employee is entitled to pay at a rate equal to the per diem equivalent of the maximum rate of basic pay of the General Schedule for each day he is engaged in the performance of services for the Commission or the Board, as the case may be, except that the member from the American Arbitration Association may be paid the usual fees prescribed by that Association.

"(j)(1) Without regard to the provisions of this title governing appointments in the competitive service and of chapter 51 of this title and subchapter III of this chapter, relating to classification and General Schedule pay rates—

"(A) the Commission and the Board each may appoint an Executive Director and fix his basic pay at the rate provided for level V of the Executive Schedule by section 5316 of this title; and

"(B) with the approval of the Commission or the Board, as appropriate, the Executive Director may appoint and fix the basic pay (at respective rates not in excess of the maximum rate of the General Schedule) of such additional personnel as may be necessary to carry out the functions of the Commission or of the Board, as applicable, and may obtain services of experts or consultants in accordance with section 3109 of this title, but at rates for individuals not to exceed that of General Schedule 18.

"(2) Upon the request of the Commission or of the Board, the head of any department, agency, or establishment of any branch of the Government of the United States may detail, on a reimbursable basis, any of the personnel of such department, agency, or establishment to assist the Commission or the Board, as appropriate, in carrying out its functions.

"(k) The Commission and the Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(l) The Administrator of the General Services shall provide administrative support services for the Commission and the Board on a reimbursable basis.

"(m) The rates of pay that take effect under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"(1) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such rates (other than any provision of law enacted in the 30-day period in paragraph (1) of subsection (h) of this section with respect to such rates); and

"(2) any prior recommendations or adjustments which took effect under this section or prior provisions of law.

"(n) The rates of pay that take effect under this section shall be printed in—

"(1) the statutes at large in the same volume as public laws;

"(2) the Federal Register; and

"(3) the Code of Federal Regulations.

"(o) Any increase in rates of pay that takes effect under this section is not an equivalent increase in pay within the meaning of section 5335 of this title or section 3552 of title 39.

"(p) Any rate of pay that takes effect under this section shall be initially adjusted, effective on the effective date of such rate of pay, under conversion rules prescribed by the President or by such agency as the President may designate.

(q) The rates of pay of personnel subject to sections 210 and 213 (except subsections (d) and (e)) of the Federal Salary Act of 1967 (81 Stat. 633, 635; Public Law 90–206), and any minimum or maximum rate, limitation, or allowance applicable to any such personnel, shall be adjusted, effective on the first day of the first pay period which begins on or after the first day of the year in which increases become effective pursuant to this section, by amounts which are equal, insofar as practicable and with such exceptions as may be necessary to provide for appropriate relationships between positions, to the amounts of the adjustments made pursuant to this section, by the following authorities—

"(1) the Director of the Administrative Office of the United States Courts, with respect to the judicial branch of the Government; and

"(2) the Secretary of Agriculture, with respect to individuals employed by the county committees established under section 590h (b) of title 16.

Such adjustments shall be made in such manner as the appropriate authority concerned deems advisable and shall have the force and effect of statute.".

SEC. 3. The table of contents of subchapter I of chapter 53 of title 5, United States Code, is amended by striking out—

"5302. Annual reports on pay comparability."

and inserting in lieu thereof—

"5302 Federal Employee Salary Commission; Federal Employee Salary Board of Arbitration.".

SEC. 4. Section 3552(a) of title 39, United States Code, is amended to read as follows:

"(a)(1) Each employee subject to the Postal Field Service Schedule and each employee subject to the Rural Carrier Schedule who has not reached the highest step for his position shall be advanced successively to the next higher step as follows:

"(A) to steps 2, 3, 4, 5, 6, and 7—at the beginning of the first pay period following the completion of 26 calendar weeks of satisfactory service; and

"(B) to steps 8 and above—at the beginning of the first pay period following the completion of 52 calendar weeks of satisfactory service.

"(2) The receipt of an equivalent increase during any of the waiting periods specified in this subsection shall cause a new full waiting period to commence for further step increases.

"(3) An employee subject to the Postal Field Service Schedule who returns to a position he formerly occupied at a lower level may, at his request, have his waiting periods adjusted, at the time of his return to the lower level, as if his service had been continuous in the lower level.".

SEC. 5. (a) Each employee in levels 1 through 11 of the Postal Field Service Schedule and each employee subject to the Rural Carrier Schedule—

(1) who is in a step below the 2 top steps of his level shall be advanced 2 steps; or

(2) who is in either of the 2 top steps of his level shall receive basic compensation at a rate equal to his rate of basic compensation in effect immediately prior to the effective date of this subsection plus the amount of 2 step increases of his level.

Changes in levels or steps which would otherwise occur on the effective date of this subsection without regard to the enactment of this subsection shall be deemed to have occurred prior to adjustments under this subsection. Each such employee who receives an adjustment under this subsection shall commence a new full waiting period, for further step increase purposes under section 3552(a) of title 39, United States Code, on the first day of the first pay period which begins on or after July 1, 1970, and service by such an employee on or after the effective date of this section and prior to the beginning of such pay period in July 1970 shall not be credited for such step increase purposes.

(b) For the purposes of the initial application of section 3552(a) of title 39, United States Code, as amended by section 4 of this Act, credit for satisfactory service performed by an employee in levels 12 or above of the Postal Field Service Schedule since his last step increase prior to the effective date of section 4 of this Act, shall be granted in an amount not in excess of the amount of service required for a one step increase applicable to the step category of the employee.

(c) The Postmaster General shall advance each employee in level 12 or above of the Postal Field Service Schedule—

(1) who was in level 12 or above on the effective date of this section and who did not receive a two-step increase pursuant to this section;

(2) who is senior with respect to total postal service to an employee in the same post office (A) who received a two-step increase pursuant to this section and (B) who is promoted to the same level on or after the effective date of this section; and

(3) who is in a step in the same level below the step of the junior employee described in clauses (A) and (B) of subparagraph (2) of this subsection.

Such advancement by the Postmaster General shall be to the highest step which is held by any such junior employee. Any increase under the provisions of this subsection is not an equivalent increase within the meaning of section 3552 of title 39, United States Code. Credit earned prior to advancement under this subsection for advancement to the next step shall be retained for step increase purposes under such section 3552.

SEC. 6. Section 5545(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amount of irregular, unscheduled, overtime duty with the employee generally being responsible for recognizing, without supervi-

sion, circumstances which require him to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is determined as an appropriate percentage, not less than 10 per centum nor more than 25 per centum, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS–10, by taking into consideration the frequency and duration of irregular unscheduled overtime duty required in the position.".

SEC. 7. (a) Section 5942 of title 5, United States Code, is amended to read as follows:

"§ 5942. Allowance based on duty at remote worksites

"Notwithstanding section 5536 of this title, an employee of an Executive department or independent establishment who is assigned to duty, except temporary duty, at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable amount of expense, hardship, and inconvenience on the part of the employee in commuting to and from his residence and such worksite is entitled, in addition to pay otherwise due him, to an allowance of not to exceed $10 a day. The allowance shall be paid under regulations prescribed by the President establishing the rates at which the allowance will be paid and defining and designating those sites, areas, and groups of positions to which the rates apply.".

(b) Notwithstanding section 5536 of title 5, United States Code, and the amendment made by subsection (a) of this section, and until the effective date of regulations prescribed by the President under such amendment—

(1) allowances may be paid to employees under section 5942 of title 5, United States Code, and the regulations prescribed by the President under such section, as in effect immediately prior to the effective date of this section; and

(2) such regulations may be amended or revoked in accordance with such section 5942 as in effect immediately prior to the effective date of this section.

(c) The table of contents of subchapter IV of chapter 59 of title 5, United States Code, is amended by striking out—

"5942. Allowance based on duty on California offshore islands or at Nevada Test Site."

and inserting in lieu thereof—

"5942. Allowance based on duty at remote worksites.".

SEC. 8. (a) Subchapter IV of chapter 59 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5947. Quarters, subsistence, and allowances for employees of the Corps of Engineers, Department of the Army, engaged in floating plant operations

"(a) An employee of the Corps of Engineers, Department of the Army, engaged in floating plant operations may be furnished quarters or subsistence, or both, on vessels, without charge, when the furnishing of the quarters or subsistence, or both, is determined to be equitable to the employee concerned, and necessary in the public interest, in connection with such operations.

"(b) Notwithstanding section 5536 of this title, an employee entitled to the benefits of subsection (a) of this section while on a vessel, may be paid, in place of these benefits, an allowance for quarters or subsistence, or both, when—

"(1) adverse weather conditions or similar circumstances beyond the control of the employee or the Corps of Engineers prevent transportation of the employee from shore to the vessel; or

"(2) quarters or subsistence, or both, are not available on the vessel while it is undergoing repairs.

"(c) The quarters or subsistence, or both, or allowance in place thereof, may be furnished or paid only under regulations prescribed by the Secretary of the Army.".

(b) The table of sections of subchapter IV of chapter 59 of title 5, United States Code, is amended by adding—

"5947. Quarters, subsistence, and allowances for employees of the Corps of Engineers, Department of the Army, engaged in floating plant operations."

immediately below—

"5946. Membership fees; expenses of attendance at meetings; limitations.".

(c) The Act entitled "An Act to authorize the furnishing of subsistence and quarters without charge to employees of the Corps of Engineers engaged on floating plant operations", approved May 13, 1955 (69 Stat. 48; Public Law 35, Eighty-fourth Congress) is repealed.

SEC. 9. (a) This section, the first section, and sections 2 and 3 of this Act shall become effective on the date of the enactment of this Act.

(b) Sections 5, 6, 7, and 8 of this Act shall become effective on the first day of the first pay period which begins on or after October 1, 1969.

(c) Section 4 of this Act shall become effective on the first day of the first pay period which begins on or after July 1, 1970.

COMPARATIVE ANALYSIS OF HOUSE AND SENATE ACTION ON H.R. 13000

FEBRUARY 1970

HOUSE	SENATE
Salary adjustment	*Salary adjustment*
A 2-step within grade adjustment for postal employees in levels 1 through 11 effective October 1, 1969, representing increases averaging 5.4 percent. (Sec. 5, p. 19).	A pay increase effective in January 1970 for employees under the four statutory salary systems (Postal, General Schedule, Veterans, and Foreign Service). The increases in the GS schedule, which also apply in similar amounts in other schedules, are as follows: 4 percent, GS 1–9; 3 percent, GS 10–12; 2 percent, GS 13–14; 1 percent, GS 15; and no increases in GS–16, –17, and –18. (Sec. 2–8, p. 26.)
Higher level employees (PFS–12 and above) will be given an earned step advancement on July 1, 1970, as a part of the accelerated advancement program authorized under sec. 4. (Sec. 5(b), p. 20).	
Cost: Fiscal year 1970, $254.2 million; fiscal year 1971, $352.7 million.	Cost: Fiscal year 1970, $360 million.
Federal Employees Salary Commission established as a permanent agency to prescribe the guidelines for the annual pay comparability survey and to recommend adjustments annually, beginning February 1970, to the Congress for pay adjustments under the four statutory pay systems (Postal Service, General Schedule, Veterans' Administration, and Foreign Service).	No comparable provision, however the Federal Salary Comparability provisions (5 U.S.C. 5302) are amended to authorize the appointment of 4 representatives of employee organizations to participate directly in all phases of evaluating the pay comparability presentation to the President. (Sec. 9, p. 35).
The Commission composed of 8 members: 4 from the Executive Branch, the Chairman of the Civil Service Commission, the Director of the Bureau of the Budget, the Secretary of Defense, and the Postmaster General (or a designee of each); and 4 from employee organizations, 1 designated by the organization having the largest number of employees in the General Schedule, 2 designated by the two organizations having the largest number of employees in the Postal Field Service, and 1 additional member representing an individual employee organization. Each member would have 1 vote with the exception of the 2 designated from postal employee organizations who have one-half vote each. (Sec. 2, p. 2).	
Federal Employee Salary Board of Arbitration established to rule on matters referred from the Salary Commission when there is a disagreement on the recommendations by a member of the Commission.	**No provision.**
The Board will consist of 7 members, 2 from the House, 2 from the Senate, 1 designated by the Chairman of the Civil Service Commission, 1 designated by an employee organization, 1 designated by employee organizations and a chairman selected by the 6 from the American Arbitration Association. (Sec. 2(f)(1), p. 7).	
Pay adjustments recommended by the Commission, or the Board as appropriate, will be submitted to the Congress each February, beginning in 1970, but the adjustments will become effective only after adoption by both Houses of Congress, within 60 days after submission, of a concurrent resolution approving such rates. (Sec. 2, p. 10).	Authorizes the President to make a comparability adjustment in July 1970 of the salaries under the four statutory pay systems based on the 1969 Bureau of Labor Statistics survey. Such adjustment may not be less than 3 percent. (Sec. 10, p. 36).
Cost: No estimate.	Cost: Fiscal year 1971, $720 million.

COMPARATIVE ANALYSIS OF HOUSE AND SENATE ACTION ON H.R. 13000—Continued
FEBRUARY 1970

Miscellaneous fringe benefits	*Miscellaneous fringe benefits*
Postal employee step advancement will be revised to permit employees to reach the top pay step in 8 years instead of the present 21 years (Sec. 4, p. 18). Presently (39 U.S.C. 35552(a)) provides within grade waiting periods as follows: steps 2 through 7, 52 week between each step; steps 8 and above, 156 weeks between each step. The revision would reduce the waiting period to 26 weeks for steps 2 through 7, and to 52 weeks for steps 8 and above. Cost: Fiscal year 1971, $207 million. When fully implemented, $425 million per year.	No provision.
Premium pay is authorized for certain employees for Sunday, night, holiday, for overtime work. This provision applies primarily to border patrolmen, deputy U.S. marshals, Customs and Internal Revenue personnel, and Federal Bureau of Investigation. (Sec. 6, p. 21).	**No provision.**
Allowance at remote worksites is authorized, not to exceed $10 per day, to defray expenses of civilian employees assigned to duty at remote worksites. (Sec. 7, p. 22).	**No provision.**
Allowances for floating plant operations will be authorized for employees in the Corps of Engineers engaged in floating plant operations when the employees are prevented from boarding the vessel under circumstances beyond their control such as hazardous weather conditions, or while the vessel is in a shipyard for repairs. (Sec. 8, p. 23).	**No provision.**

LON C. HILL—AMERICAN

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

Mr. DE LA GARZA. Mr. Speaker, a remarkable citizen of south Texas celebrated his 81st birthday March 14.

I am speaking of Mr. Lon Carrington Hill, the distinguished son of a distinguished father, known familiarly in south Texas as "Mr. Mose." His father established the town of Harlingen in what is now the 15th Congressional District of Texas. The son is a second-generation empire builder whose contributions to south Texas reach productively across the fields of agriculture, education, finance, industry, and human well-being.

Through a period of half a century Lon C. Hill has blazed trails of progress, economic development, and prosperity in my region. To his rugged determination and devoted leadership is due much of the credit for the fact that south Texas today is a pulsating empire with a population of more than 1 million, with a diversified and sound economy, and with an unlimited future.

This man deserves to be called Mr. South Texas, and this name is given him for many reasons. Mr. Speaker, the lifeline of our area is water—and "Mr. Mose" has done more to enlighten the people of our area about the necessity for conservation and careful utilization of the available water by building dams than any other single person. Years ago he sponsored and advocated the construction of Falcon Dam on the Rio Grande—a remarkable achievement. This was followed by the construction of Amistad Dam—and only recently he was responsible for raising money to pay the area's share of a project to remove the salinity from Rio Grande water—a problem which had threatened the very lifeblood of the area.

With all his personal attention to solving the problems of the area, this outstanding gentleman also worked brilliantly and diligently in the business world. Mr. Hill served as president of Central Power & Light Co. from 1939 until 1954 and as chairman of the company's board of directors until 1959. During this 20-year period the company grew and prospered—and so did south Texas, becoming an area of tremendous industrial strength and a new tourism frontier of national significance. Naturally, Lon Hill was in the midst of the action. He was instrumental in helping eastern industrialists to locate plant sites along the Texas coast, in boosting the south Texas tourist trade, and in joining wholeheartedly in a multitude of worthwhile civic endeavors.

South Texans honor Lon Hill for his service as chairman of the Corpus Christi Area Development Committee, member of the board of regents of Texas College of Arts and Industries in Kingsville, president of the Coastal Bend Tourist Association and the Corpus Christi Area Convention and Tourist Bureau, president of the Tex-Mex Holiday Council, trustee of the Southwest Research Institution and the Southwest Agricultural Institute of San Antonio, director of the Texas Research League, president of the Lower Rio Grande Valley Historical Society, member of the executive committee of the Lower Rio Grande Water Committee, and first honorary counselor of the Texas A. & M. Research Foundation. He has headed many successful fund drives for civic projects.

His honors have been many. All were well deserved.

"Mr. Mose" is a devoted family man—a husband and father whose prideful joy is his family.

He is loyal to his friends—and they are a multitude.

I am proud to salute Lon C. Hill on the occasion of his birthday—and proud to call him my friend. He is a great human being.

THE LOS ANGELES SCHOOL DESEGREGATION CASE

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

Mr. CORMAN. Mr. Speaker, a recent Los Angeles Superior Court decision—the case of Crawford against Board of Education of the City of Los Angeles—has been given considerable attention nationally.

Judge Gitelson, who wrote the decision, has been subject to criticism and rebuke by a number of people, including the Secretary of the Department of Health, Education, and Welfare, Robert Finch. I suspect that much of this abusive comment comes from persons who may not have had an opportunity to read the decision in detail.

The subject matter involved in this case is of national importance. It deals with the constitutional right of every American child to be treated equally under the law. Although the text is long, I urge my colleagues to read it because it raises issues that are important to each of us in the House.

Neither I nor any other lawyer can predict what may happen to this case on appeal, but it does seem to me that the judge's decision is rooted in sound constitutional law and basic morality.

As for those who may be assessing political winds, I would hope that they too would avail themselves of an opportunity to read the decision carefully before making Justice Gitelson a prime target of their criticism.

The full text of the decision follows:

[Superior Court of the State of California for the County of Los Angeles, Feb. 11, 1970; Hon. Alfred Gitelson, judge]

MINUTE ORDER OF COURT'S INTENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT, AND FOR PEREMPTORY WRIT OF MANDATE

(*No. 822, 854—Mary Ellen Crawford, a Minor by Helen Crawford, her Guardian Ad Liten; Dollie Ruth Miles, a Minor, by Anne Mary Miles, her Guardian Ad Litem; et al., for and on behalf of themselves and all similarly situated pupils attending schools within the Los Angeles School District, Petitioners, Board of Education of the City of Los Angeles, Respondent.*)

This cause came on duly and regularly for trial (prior hearings having been had on December 14, 1967 and April 29, August 9, 13 and 15, and October 11, 1968) in this Department 19, Alfred Gitelson, Judge presiding without a jury, trial by jury having been duly and regularly waived, on October 28, 1968, and was heard on said day and on the 29, 30, 31 days of October, November 1, 4, 6, 12, 13, 14, 15, 19, 20, 21, 22, 25, 26, 27 and 29, of 1968, and February 3, 4, 5, 6, 19, and March 4, 5, 6, 7, 10, 11, 12, 13, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, and April 1, 2, 3, 4, 7, 8, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, 30, and May 1 and 2, and June 9, of 1969.

Petitioners [Petnrs. or Students] appeared by Bayard F. Berman, Sol Rosenthal, Michael Bergman, A. L. Wirin, Fred Okrand, Thomas G. Neuson, Samuel C. Sheats, Herbert A. Bernhard, Lawrence Sperber, and Edward Medvene, by Bayard F. Berman, and during a portion of the time Sol Rosenthal, Michael Bergman and Loren Miller, Jr., their Counsel. (Messrs. William Pintala and Peter Smoot on "PETITIONERS' POST-TRIAL MEMORANDUM ON THE EVIDENCE". The Court is indebted to them therefor.)

Respondent [Board] appeared by Dr. Robert E. Kelley, Assistant Superintendent of Education, Dr. Robert Purdy, Associate Superintendent of Education, Sam Hammerman, Assistant Superintendent of Education, and by John D. Maharg, County Counsel, Clarence H. Langstaff, Assistant County Counsel, Raymond W. Schneider, Deputy County Counsel, Alfred C. De Flon, Deputy County Counsel, Ronald J. Apperson, Deputy County Counsel, Jerry F. Halverson, Legal Advisor to Board, by Jerry Halverson, Clarence H. Langstaff and Raymond W. Schneider, on or about December 29, 1968, and thereafter Alfred Charles De Flon took his place, its Counsel.

This cause was tried and heard upon:

(1) The "SECOND AMENDED AND SUPPLEMENTAL PETITION FOR WRIT OF MANDATE" [Pet.] (filed July 6, 1966) [the original "COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTION" was filed August 1, 1963]. On July 19, 1966 the parties executed and filed their "STIPULATION * * * FOR WAIVER OF OBJECTION TO CONSIDERATION OF FACTS OCCURRING SUBSEQUENT TO FILING OF COMPLAINT". Thereby they did, among other things stipulate:

"(4) The parties hereto shall not file or make any motion herein or take any other steps intended or resulting in precluding any party from introducing in evidence or in precluding the court from considering as material and relevent, evidence pertaining to events occurring subsequent to the date upon which the first complaint was filed herein merely because said events occurred subsequent to the date which the first complaint was filed herein. The rights of petitioners, if any, and the duties of respondent, if any, shall be determined as of the time or trial."

On July 23, 1968, it was ordered: That though by the Stipulation (filed June 6, 1968) a dismissal without prejudice had been filed and entered as to the original Petitioner, Mary Ellen Crawford (first named), that because from the date of the filing of the Complaint (August 1, 1963) the action had been designated thereby and all filings made thereunder, the caption of the cause should retain for identification purposes only as the first named Petitioner the name Mary Ellen Crawford;

(2) "AMENDMENT TO PETITIONER'S SECOND AMENDED AND SUPPLEMENTAL PETITION FOR WRIT OF MANDATE" (filed June 11, 1969) [Amm. Pet.] [The Petition and Amendment thereto are hereafter collectively designated as Pet. unless otherwise expressly stated.]

It was stipulated by Petitioners and ordered (June 9, 1969), that all of the allegations of the Amm. Pet. should be by Board deemed denied, both generally and specifically, and all affirmative defense existing under law deemed pleaded thereto;

(3) "ANSWER OF DEFENDANT TO SECOND AMENDED PETITION FOR WRIT OF MANDATE" (filed October 14, 1966) [Ans.]. (The "SIXTH FURTHER AND SEPARATE DEFENSE" (page 5 of Ans.) was by the Court on August 9, 1968 overruled:

(4) "REPLY TO RESPONDENT'S ANSWER TO SECOND AMENDED PETITION FOR WRIT OF MANDATE" (filed July 23, 1968) [Rep.]:

(5) It was ordered: (a) That the rights, duties, and obligations of the parties shall be those existing at the time of trial and therefore no Supplemental Petitions of Answers need be filed; and (b) (12/14/67) That the period of time commencing on or about the first day of May 1963 (Report of the Ad Hoc Committee on Equal Educational Opportunities made to Los Angeles City Board of Education (Court's Exh. 5A)) and thereafter shall be the period of time to be first tried and heard as to the issues involved; that no evidence prior to said date need be or should be offered by either party, and that in the event either party shall desire to do so, such party shall make a motion for leave to so do; and it would then be ruled upon by the Court.

Evidence oral and documentary was received. Argument was heard throughout the trial. Points and Authorities were filed prior to and at the close of evidence. [Though invited by the Court to so do, Respondent did not file, though Petitioners did file, a Memorandum on the Evidence. The Court regrets that Respondents did not do so. It would have possibly made the Court's burden less onerous.] The Court considered all of the foregoing.

The Cause was submitted to the Court for its decision. The Court being advised in the premises now makes and files this its Minute Order of its Intended Findings of Fact, Conclusions of Law, Judgment and Peremptory Writ of Mandate.

Findings of fact

I. The following allegations of the Pet. were admitted by the Ans. and therefore accepted by the Court as true:

I.1 "Respondent Board of Education of the City of Los Angeles (hereafter referred to as "Respondent") is a governing agency administering the public schools within the district." (Par. 5 of Pet., admitted by Par. III of Ans.)

II. The following facts were either stipulated to or admitted or conceded, and therefore accepted by the Court as true:

II.1 "1. Petitioner Dolly Ruth Miles was a fourteen year old Negro child attending Markham Junior High School within the Los Angeles City School District.

"2. Petitioner Verde Darnell Miles was an eleven year old Negro child attending Ritter Elementary School within the Los Angeles City School District.

"3. Petitioner Maryann Miles was a seven year old Negro child attending public school within the Los Angeles City School District.

"4. Petitioner David Rodriquez was a six year old child of Mexican descent attending public school within the Los Angeles City School District.

"5. Petitioner Patricia Ann Sanchez was a ten year old child of Mexican descent attending Soto Street Elementary School within the Los Angeles City School District.

"6. Petitioner Raymon Jose Sanchez was a twelve year old child of Mexican descent who was enrolled in, and who subsequently attended, Hollenbeck Junior High School within the Los Angeles City School District.

"7. Petitioner Raoul Joaquin Sanchez was a twelve year old child of Mexican descent who was enrolled in, and who subsequently attended, Hollenbeck Junior High School within the Los Angeles City School District.

"8. Petitioner Karen Patricia Lynn Wheeler was a five year old Negro child who was enrolled in, and who subsequently attended, public school within the Los Angeles City School District.

"9. Petitioner Loretta May was a fourteen year old Negro child attending Markham Junior High School within the Los Angeles City School District.

"10. Petitioner Lenard May was a twelve year old Negro child attending Markham Junior High School within the Los Angeles City School District.

"11. Petitioner Autumn Renee Wright was a five year old Negro child who was enrolled in, and who subsequently attended, Trinity Street Elementary School within the Los Angeles City School District.

"12. Petitioner Alfred Graylin Wright was an eight year old Negro child attending Mar Vista Elementary School within the Los Angeles City School District.

"IT IS FURTHER STIPULATED AND AGREED THAT:

"13. Annie Mary Miles, the guardian ad litem of petitioners Dolly Ruth Miles, Verde Darnell Miles and Maryann Miles is a Negro lady.

"14. Celia Rodriquez, the guardian ad litem of petitioner David Rodriquez, is a lady of Mexican descent.

"15. Josefa Sanchez, the guardian ad litem of petitioners Patricia Ann Sanchez, Raymon Jose Sanchez and Raoul Joaquin Sanchez, is a lady of Mexican descent.

"16. Kaye Wheeler, the guardian ad litem of petitioner Karen Patricia Lynn Wheeler, is a Negro lady.

"17. Lucille May, the guardian ad litem of petitioners Loretta May and Lenard May, is a Negro lady.

"18. Margaret Wright, the guardian ad litem of petitioners Autumn Renee Wright and Alfred Graylin Wright, is a Negro lady." ("STIPULATION" dated Jan. 26, 1970, Court's Exh. 79 for identification.)

II.2 "Respondent does not generally provide transportation for, open school permits." (Ans. to Interrogatory [Interr.] No. 7, (Pet's 31A.) [Hereinafter: Petitioner's Exhibits will be designated "P." followed by its number; Respondent's Exhibits will be designated "R." followed by its designation; Points and Authorities filed will be designated, as to Petitioner, "P. PT.A." followed by the date of filing, and as to Respondents, "R. PT.A." followed by date of filing.]

II.3 "Permit policies of the Defendant (see Exh. 3C) do not provide free transportation or its equivalent to any pupil who was granted a permit to transfer pursuant to said policy,' (Ans. to "REQUEST FOR ADMISSION NO. 12", (P. 31A, p. 14.))

II.4 "Exhibit [P.] 19A shows the date of original construction of each school listed in Exhibit A [of the Pet.]. It also shows the year the original school was replaced." (Ans. to Interr. No. 19, (P. 31A, p. 166.))

II.5 "With respect to each of the schools listed in Exhibit A [of Pet.], the total amount expended each year on capital improvements to said school, commencing with school year 1962–63, is indicated in Exhibit [P.] 21A." (Ans. to Interr. No. 21, (P. 31A, p. 166.))

II.6 "With respect to each of the schools listed in Exhibit B [of the Pet.], the total amount expended each year on capital improvements to said school, commencing with school year 1962–63, is indicated in Exhibit [P.] 21A." (Ans. to Interr. No. 22, (P. 31A, p. 166.))

II.7 "That the subject matter of this action is a matter of interest to Negro pupils and pupils of Mexican descent attending the schools listed in Exhibit A hereto." (Request for Admission No. 248 (P. 31, (p. 114) admitted by Res. Ans., (P. 31B, p. 379.))

II.8 "Defendant maintains no records of racial or ethnic breakdown of student body population prior to November, 1966. * * * The following factors were not studied or considered because they would involve a change in existing policies of the Board of Education:

"(i) The effect of possible pairings or other combinations of schools with revised grade patterns;

"(ii) The effect of other approaches to improving the ethnic balance in the relevant areas and the District as a whole."

(Part of Ans. to Interr. No. 151, (P. 31B, pp. 303,304.))

II.9 "Defendant admits that the number of Negro and Mexican-American pupils attending school in the District is too large to permit all such pupils to be parties to this

action." (Portion of Ans., Interr. No. 245 (P. 31B, p. 379.))

II.10 "That all of the demands, plans, or requests specifically set forth in paragraph 16 of the Petition were made upon respondent." (Ans. to Request for Admission No. 279, (P. 31, p. 118; 31B, p. 391.))

II.11 That partial integration of the District would not be effective; and, "that the only way to have effective integration is at least district wise." That partial integration or attempted partial integration of the District, "for example, around the periphery of the ghetto, would not be an efficacious means of integrating these areas."

(Stip., March 27, 1969; Transcript, vol. 42, pp. 7751–7754, 7774, line 6 to line 14, p. 7775.)

III. The following facts have been heretofore judicially found and adjudged as existing, and the following principles and holdings of law adjudicated. The Court and the parties hereto are bound thereby. (Cal. Const., Art. I, Sec. 3; *Auto Equity Sales, Inc. v. Superior Court* (1962), 57 Cal. 2d 450.). Board as the agent and instrumentality of the State of California [State] (*Cooper v. Aaron*, 358 U.S. 1, 16; 78 Supreme Court 1401, 1408; 3 L. ed. 2d 5, 16 (9/29/58)), is collaterally estopped from disputing the facts found and is bound by the law adjudicated thereby. (Art. I, Sec. 3, Cal. Const.):

(i) (*Brown v. Board of Education of Topeka* [Brown I] (May 17, 1954); 347 U.S. 483, 74 Supreme Court 686, 98 L. ed. 873) "Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

"Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other 'tangible' factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does."

"In *Sweatt v. Painter* (US) supra, in finding that a segregated law school for Negroes could not provide them equal educational opportunities, this Court granted relief in large part on 'those qualities which are incapable of objective measurement but which make for greatness in a law school.' In *McLaurin v. Oklahoma State Regents*, 339 US 637, 94 L. ed. 1149, 70 S. Ct. 851, supra, the Court, in requiring that a Negro admitted to a white graduate school be treated like all other students, again resorted to intangible considerations. '* * * his ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession.' Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. The effect of this separation on their educational opportunities was well stated by a finding in the Kansas case by a court which nevertheless felt compelled to rule against the Negro plaintiffs:

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system.

"Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority. * * *

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment." (98 L. ed. pp. 880, 881.)

(ii) (*J. R. Jackson, Jr., et al. v. Pasadena City School District, et al.* [Jackson] (6/27/63); 59 Cal. 2d 876, 880–881.) "The segregation of school children into separate schools because of their race, even though the physical facilities and the methods and quality of instruction in the several schools may be equal, deprives the children of the minority group of equal opportunities of education guaranties them equal protection and due process of the law. (Citations.) In view of the importance of education to society and to the individual child, the opportunity to receive the schooling furnished by the state must be made available to all on an equal basis. Because of intangible considerations relating to the ability to learn and exchange views with other students, segregated professional schools have been held not to provide equal educational opportunities, and such considerations apply with added force to children in grade and high schools. The separation of children from others of similar age and qualifications solely because of race may produce a feeling of inferiority which can never be removed and which has a tendency to retard their motivation to learn and their mental development. (Citations.) * * * Improper discrimination may exist notwithstanding attendance by some white children at a predominantly Negro school or attendance by some Negro children at a predominantly white school. * * * A racial imbalance may be created or intensified in a particular school not only by requiring Negroes to attend it but also by providing different schools for white students who, because of proximity or convenience, would be required to attend it if boundaries were fixed on a non-racial basis. * * * even in the absence of gerrymandering or other affirmative discriminatory conduct by a school board, a student under some circumstances would be entitled to relief where, by reason of residential segregation, substantial racial imbalance exists in his school. So long as large numbers of Negroes live in segregated areas, school authorities will be confronted with difficult problems in providing Negro children with the kind of education they are entitled to have. Residential segregation is in itself an evil which tends to frustrate the youth in the area and to cause anti-social attitudes and behavior. When such segregation exists it is not enough for a school board to refrain from affirmative discriminatory conduct. The harmful influence on the children will be reflected and intensified in the classroom if school attendance is determined on a geographic basis without corrective measures. The right to an equal opportunity for education and the harmful consequence of segregation require that school boards take steps, insofar as reasonably feasible, to alleviate racial imbalance in schools regardless of its cause."

(iii) (*U.S. of America, et al. v. Jefferson County Board of Education, et al.* (3/29/67); 38 Fed. 2d 835; Cert. denied Oct. 9, 1967; 88 Supreme Court 72, 77.) "If Negroes are ever to enter the main stream of American life as school children, they must have equal opportunities with white children." (p. 389.)

IV. The Court additionally finds true:

(Though the Court has found that the facts of harm to minority students by segregated education and the principles of law applicable thereto have been judicially and finally found and adjudged, (III), it is nevertheless bound to make Findings on the evidence received.

Respondent contending that its segregated schools were *de facto* and fortuitous, asserted that none of the facts found and adjudication thereof in the decisions cited in III hereof were applicable to Board or its schools, insisted upon, and the Court granted to them, the right to introduce evidence thereon and in addition in support of their contentions, persisted in to this date, "It is Respondent's view that the federal constitution requires racial mixing in the schools if, and only if, the racial separation of students in schools is of a *de jure* nature, or if, and only if, in the case of *de facto* segregation, the academic achievement of the minorities in the school will be raised by racially mixing students and the achievement of the 'majority' will not be substantially reduced by such racial mixing." (R. PT. A., 10/14/69, line 27, p. 2, to 1.1, p. 3.) "In the view of the board of education it should provide to all students a minimum educational offering in such amount and quality that the average achievement of the racially higher achieving group will not substantially decline. In addition the school district should provide to racial minorities, to the extent that it has the financial wherewithal, educational offerings in addition to the basic minimum offering to attempt to close the gap between the average achievement of white students and that of the racial minorities." (R. PT. A., 8/22/69, p. 14.)

Petitioners, though of course agreeing with the Findings and adjudications set forth in the foregoing III, insisted that they had the right, and the Court granted to them the right, in light of Respondent's contentions, to introduce evidence assertedly impelling the same Findings of Fact and the same Conclusions of Law as in said decisions found and adjudicated. Therefore, the following Findings of Fact and Conclusions of Law are based on the evidence introduced and received.

IV.I Throughout the following Findings of Fact and Conclusions of Law:

(i) The word "segregated" as it refers to schools and the phrase "segregated school" without further description thereof, such as *de jure* or *de facto* or white, denote a school or schools in which the students are minorities (Negro, Mexican-American and Orientals and comprise all or substantially all or substantially in excess of 50% of the student body of such school or schools; and

(ii) The phrase "racial imbalance" denotes a school or schools whose students do not approximately or substantially conform to the approximate racial composition of Board district; and

(iii) The phrase "segregated white" or "white segregated" or "white" denotes a school or schools whose students are all, or substantially all, or substantially in excess of 50%, white; and

(iv) (The citations of authority are not nor intended to be exhaustive, but merely illustrative. Reference to Exhibits or portions of the Transcript are not intended to nor are they inclusive of all of the Exhibits or of all portions of the Transcript applicable to

the particular Finding or Conclusion for which they are cited. They are merely illustrative;) and

(v) Board being an agency and instrumentality of the State of California [State], the word "State" or "State action" or "State involvement" refers to action or omission by Board. State is not directly a party hereto; and

(vi) The word "Minority" designates and includes students of Negro or Mexican-American or Oriental ancestry; and

(vii) The word "Board" as used refers to and designates the Board of Education of the City of Los Angeles as an entity, and therefore includes and also refers to the Executive Staff and the Members of Board [Members]. (The Members of Board are part-time employees. Their task is monumental, including ultimate responsibility for: approximately 775,000 students attending grades K–12; 434 elementary schools, 73 junior high schools; and 54 senior high schools; an area of approximately 711 square miles; receipts and expenditure per school year of approximately $730,000,000; and approximately 48,000 employees. They must, administratively, necessarily rely entirely upon their Executive Staff, the Superintendent of Education, Assistant Superintendents, Associate Superintendents and the Assistants to each thereof (the Executive Staff is large). (R. Exh. 372, 372A, 372B, 372G). Members do not have a "Watchdog" or "Efficiency Expert" or "Expeditor" or "Executive Officer" or "Economist" or "Business Administrator" accountable only and directly to them. Members can adopt what resolutions they may be advised, generally proposed by the Executive Staff [Staff], but are essentially entirely dependent upon Staff for the fulfillment thereof, and by reason of the alleged expertise involved generally accept Staff's reasons, excuses and rationalizations for the nonfulfillment thereof. The Findings hereinafter of acts, omissions and bad faith on the part of Board in its failure and omission to integrate its schools are not intended to nor are they Findings of personal bad faith or personal acts or omissions on the part of the Members of Board, but rather of the operations of the Department which may or may not have been known to the Members.)

IV.2 That Petitioners and all of class on whose behalf the Petition was filed and proceedings had are citizens of State, free from any disability, qualified to and attending and entitled, by law, to equal educational opportunities in the public schools of Board, free from discrimination, directly or indirectly, by Board.

IV.3 That prior to 1966, Board did not officially assemble nor collect ethnic data of its schools. It only commenced to do so when required by State in 1966.

IV.4 In 1966, of a total of 441 Elementary Schools:

(i) 165 were minority segregated. Thereof: 52 were Mexican-American segregated; 74 were Negro segregated; 1 Oriental segregated; 17 Mexican-American and Negro segregated; 3 were Negro and Oriental segregated; 6 Mexican-American and Oriental segregated; 4 Mexican-American, Negro and Oriental segregated.

(ii) 191 were white segregated schools, and

(iii) 80 were in various stages of racial imbalance but not segregated.

IV.5 As of 1968: the racial imbalance in the Elementary Schools increased; segregated schools became larger in number of minority students; enrollment of white students generally increased in the white schools and generally decreased in the minority segregated schools.

IV.6 Six new elementary schools were opened between 1966 and 1968: three were white; two were Negro; and one Negro and Oriental.

IV.7 In 1966, of a total of 73 Junior High Schools: 24 were white; 9 Negro; 1 Negro and Mexican-American; 2 Negro and Oriental; 5 Mexican-American; 1 Mexican-American and Negro; 31 racially imbalanced.

IV.8 Between 1966 and 1968, two new Junior High Schools were opened. Both thereof were white (Laurence—1512 white, 64 minorities; Bethune—1585 white, 44 minorities).

IV.9 In 1956, of 56 Senior High Schools, 16 were white; 8 were Negro; 4 were Mexican-American; 8 were Mexican-American and Negro; 3 were Negro, Mexican-American and Oriental; 15 were in various stages of racial imbalance.

IV.10 Three Senior High Schools were opened in 1967. They were Negro and Mexican segregated (Locke—1821 Negro, 3 white, 19 Mexican-American and 2 Oriental. Riis—307 Negro, 1 "other nonwhite". Ross—47 Negro, 8 white, 20 Mexican-American.

IV.11 One Senior High School was opened in 1968: Crenshaw, with 2321 Negroes, 98 Orientals, 41 Mexican-Americans and 35 white.

IV.12 The schools which were segregated, minority and white, in 1966, and have and will remain segregated, caused to and will continue to be caused to so remain by Board, by its mandating neighborhood school system, including site selection mandating school attendance areas and boundaries of such schools, transportation policies, and restrictive, impracticable and non-effective, for integration transfer policies.

None of the schools opened subsequent to 1966 were designed to, in location or school attendance boundaries, effectuate desegregation or integration in education.

IV.13 In our present society the opportunity for an equal education, as a minimum equal to that afforded the socio-economic advantaged, in our public schools is indispensable to a meaningful life; to the preservation of our democracy, our form of government and society. Its deprivation from any segment of our people is a denial of their rights as a human being, the inalienable rights of life, liberty, and pursuit of happiness as citizens of our State and Country. "Education is a basic right because it is indispensable to the development of human beings." (Robert M. Hutchins, The Center Magazine, Nov., 1969, p. 90.) Education is the developing and training of the mental, physical, moral, cultural, philosophical and sociological powers and capabilities of the human being. "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liabilities of the people * * *." (Cal. Const., Art. IX, Sec. 1.) There is an inalienable right on the part of every child in our State to an education. Therefore, in partial fulfillment thereof, and of the duties thereby imposed on State and Board, attendance in school is compulsory. (Edu. Code, Ch. 6, div. 9, pt. 2.)

The right existing, a duty is imposed upon Board to provide such education within its district. That duty to provide education, the right of all students thereto, includes the right to and the duty of Board to provide to all of its students an equal educational opportunity, being concomitant with equal protection of the law, due process of law. Separate, with allegedly separate but equal facilities, is not equal education. Therefore the duty on the part of Board to provide integrated education so that all of its students—white, Negro, Mexican-American, Oriental—receive together the same equal educational opportunities. The duty of Board is affirmative, not negative. (Art. I, Secs. 1, 2, 3; Art. IX, Secs. 1, 5; Cal. Const. "Bill of Rights", 5th and 14th Amm., U.S. Const.) "The education of the children of the State is an obligation which the State took over by the adoption of the Constitution." (*Piper v. Big Pine School District*, 193 Cal. 664, 668–669 (1924).)

IV.14 Board is an agency, an instrumentality of the State for the local operations of the State School System and for the observance and performance of the constitutional duties and obligations of State. (*Hall v. City of Taft*, 47 Cal. 2d 177, 181–182 (1956).) " * * * the state, because it had undertaken through school districts to provide educational facilities to the youth of the state, was required to do so in a manner which avoided segregation and unreasonable racial imbalance in its schools." (*Mulkey v. Reitman*, 64 Cal. 2d 529, 537 (5/66).)

State and therefore Board may not therefore use its funds to create or maintain or perpetuate segregated education. (Art. IX, Sec. 5, Cal. Const.; Edu. Code 5001 et seq., 8001 et seq.; *Kennedy v. Miller*, 97 Cal. 429, 434 (1893).)

IV.15 Negro and Mexican children suffer serious harm when their education takes place in public schools which are racially segregated, whatever the source of such segregation may be. Negro and Mexican children who attend predominantly Negro or Mexican schools do not achieve as well as other children—Negro, Mexican and White in integrated schools. Their aspirations become more restricted than those of other children. They do not have as much confidence that they can influence their own futures. When they become adults they are less likely to participate in the mainstream of American society, and were likely to fear, dislike and avoid white Americans. It "affects their hearts and minds in ways unlikely ever to be undone." It applies equally to segregation not compelled by law (allegedly *de facto*) as when compelled by law (allegedly *de jure*). The harm results not alone from the deprival of equal educational opportunity, but additionally in the attitudes which such segregation generates and the effect of those attitudes upon motivation to learn and achieve. Negro and Mexican children are caused to believe that their schools are stigmatized and regarded as inferior by the community as a whole. Their belief is shared by their parents and by their teachers. Their belief is founded in fact. (Racial Isolation in Public Schools, p. 193, P. 436.)

Education is one of the most important functions of State and local governments. That finding was and is the basis for the conclusion and the imperative of Art. IX, Sec. 1, Cal. Const. (1849). Therefore the mandate, "The Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral and agricultural improvement." Compulsory school attendance laws (Edu. Code. Sec. 12101, et seq., ch. 6, pt. 2, div. 9) and the great expenditures for education (Board for its District alone within our State, approximately $730,000,000 per fiscal year) demonstrate the importance of education to our democratic society.

Equal educational opportunity is the foundation of the right to be a human being, of good citizenship, the wakening of the child to and motivation for cultural values to help him adjust normally to his environment, to prepare him for later training, the ability to support himself and his subsequent family, to enjoy his life, his liberty and to pursue happiness. It is doubtful, though there may be some exceptions, that any child may reasonably be expected to succeed in life if he is denied the opportunity of an equal education. This does not mean that any gifted child or any child having a greater capability to learn may or shall be deprived of his or her opportunity of learning more. It does mean that every child shall have the equal opportunity to learn to the best of his or her ability. That opportunity must be made available to all on equal terms. (*Brown v. Jackson.*) "In a society such as ours, it is not enough that the 3R's are being taught properly for there are other vital considerations. The children must learn to respect and

live with one another in multi-racial and multi-cultural communities and the earlier they do so the better. It is during their formative school years that firm foundations may be laid for good citizenship and broad participation in the mainstream of affairs. Recognizing this, leading educators stress the democratic and educational advantages of heterogeneous student populations and point to the disadvantages of homogeneous student populations, particularly when they are composed of a racial minority whose separation generates feelings of inferiority." (*Booker v. Board of Education*, 45 N.J. 161, 212 Atl. 2d 1, 11 ALR 3d 754, 763 (1965); *Hobson v. Hansen*, 259 Fed. Supp. 504, 506; Ev. Code Sec. 452 (a), (b), (h).)

IV.16 Segregation of children in public schools deprives the children of the minority group of equal educational opportunities and this irrespective of whether the segregation be described or classified as *de facto* or *de jure*.

This Court finds as a fact from the evidence introduced in this cause that, "If Negroes [and Mexicans] are ever to enter the mainstream of American life as school children, they must have equal educational opportunity with white children." (*U.S. v. Jefferson County Board of Education*, 380 F. 2d 385, 389 (U.S. 5th Circuit, 3/29/67) Cert. denied, 88 S. Ct. 72, 77, 10/19/67.) Integrated education affords better educational opportunities to both minority and majority students. (Trans., pp. 8635, 8636, 8051, 8053.)

IV.17 Minority students in minority segregated schools do not receive equal educational opportunity measured either by educational inputs or outputs. There are significant disadvantages. Board knew or had reasonable grounds to know thereof. (R. 32D, P. 43–C–1, 36, 31B, 34B, 43A, 53; Trans., pp. 1405–08, 1409–16, 2676, 3022, 7885 to 7927.)

Minority segregated schools do tend to result in low aspirations, low achievement, lower educational competition and attitudes, to institute disbelief in ability to learn and a lack of qualifications.

The segregated schools, plant, teachers, physical facilities are in fact of less quality.

Segregated education tends to induce and create both on the part of the minorities and majority racial intolerance, misunderstanding, suspicion and fears. "Integration of education tears down the misunderstanding and fears that are based on ignorance of what the other person is really like." (R. 32J, 140–141.) The opportunity thereby to learn that all persons are human beings, to alleviate the fears, ignorance, prejudices and a bias otherwise existing, the teaching thereof and the opportunity to learn thereof is as much a part of the educational opportunity of the majority as of the minority. Only thus can the democratic ideals of equality, worth, freedom and dignity of every person be taught or experienced. (P. 15, R. 32J, Trans. pp. 8634–8665, 12055–12069.) It results in schools of predominantly low socio-economic status. It adds a stigma both to the minority pupil and the minority segregated school he is compelled to attend. The stigma is inimical to achievement and tends to erode further educational aspirations of the segregated minority.

Segregated education results in the assignment of grades within the segregated school unrelated to real performance. It causes and results in higher dropout rates of minority students. (P. 47, 31B (McCone Commission Report, pp. 55, 56).)

IV.18 There can be no equality of education "input" without integrated education. Only thereby will all students receive the same basic "inputs", to-wit, plant, books, teachers, curriculum and facilities so that each shall receive his just share. That is the equality of education, the equality of "inputs" and the opportunity of general educational "output." The latter is substantially affected by the former.

Though it is true that generally educational "output" is personal to each student dependent upon many factors as human beings, and the law does not and could not legislate equal ability to achieve, Board may not justify its lack of equal opportunity in "input" by the alleged superiority of "outputs" of the white students.

Board postulates that having a group, white, whose "output" makes a better showing for Board and its educational system that it therefore should concentrate thereon and only from any excess funds attempt to achieve through integrated education the same "outputs" by the minority. That may be Board's educational concept, but it is not the constitutional concept for equal opportunity to learn, to be able to achieve, the right not to be discriminated against, the right initially to be fed equal "inputs" at the source of the stream of man's humanity.

IV.19 Board has, since at least May of 1963, by and through its actual affirmative policies, customs, usages and practices, doings and omissions, segregated, *de jure* its students, in that it has knowingly, among other things:

(i) Adopted and slavishly practiced and adhered to its policy of selecting and purchasing sites and building neighborhood schools without regard to integration. It did so within racially imbalanced, segregated and ghetto areas; knowing and intending that the students of the area were required to attend thereat; the establishing of mandatory attendance areas and boundaries around said neighborhood schools perpetuated and created segregated schools; and (ii) Set its school attendance areas and boundaries without regard to creating racially balanced integrated schools. The attendance boundaries were knowingly set, knowing, or having reasonable cause to know, that the school affected thereby would either become or be perpetuated as a minority segregated school or a white segregated school or a racially imbalanced school. Board knew that its rights and powers to establish school attendance areas was and is subject to constitutional guarantee of equal protection and due process. (*Jackson, supra*, p. 879); and (iii) Never adopted or instructed or directed its staff, including the department establishing the school attendance boundaries, of any definition of educational integration or desegregation or racial balance or racial imbalance. (Court's 5–D–3); and (iv) Board did not establish any Feeder School Policies so as to create integration or desegregation or racial balance. It knew, or in the exercise of reasonable care should have known, that the policies established by it perpetuated or created racial imbalance and segregation; and (v) Established transportation policies for its students which in fact perpetuated and created segregation. Students living within 2½ miles of a neighborhood school were not provided with transportation. Board knew that many if not all of socio-economic disadvantaged students could not afford private transportation to schools outside of the area of nontransportation, and therefore that its transportation policy would cause all, if not substantially all, thereof to attend the segregated neighborhood school; and (vi) Consistently taken the legal position that it would only expend sums to create racial balance (though it had not officially defined what constituted racial balance) and would only affirmatively attempt to create, other than by token effort for public relations purposes, integration from surplus funds, surplus to all of its programs which it deemed necessary for the accomplishment of educational "output", which surplus funds it defines as that given to it by outside grants, either Federal or State; and (vii) Constantly taken the position, without first having made any true, in-depth study of the cost thereof, that the cost of providing integrated education would wrongfully require it to be compelled to divert such large financial or other resources from academic programs that the academic achievement of the pupils will literally suffer a significant decline. (Court's 5–D–3 (3/3/69)); and (viii) Contends, asserts, and acts thereunder, that separate but allegedly equal schools are equal educational opportunity; and that, unless and until it is compelled by the Court to do otherwise, that is what it will continue to provide to its students. The Court finds that throughout the period of time involved Board's separate but allegedly equal schools were not equal in fact, either as to plant or facilities or teachers or curriculum, and that Board has not made available to all its students equal educational opportunity. Board still asserts and contends, educationally and legally, that integrated schools are not reasonably necessary to equal educational opportunity; and that there is no legal mandate, constitutional, Federal and/or State, or Statute of State, imposing any duty upon it to desegregate its segregated schools or to remedy racial imbalance in its schools or to integrate its schools, and that it will not so do unless and until it, in its absolute, arbitrary and uncontrolled discretion, believes it to be "feasible" to integrate its schools (R. PT. A., 10/14/69, pp. 2, 3, 14, 16, 24, 25; R. PT. A., 5/1/69, pp. 4, 5); and (ix) Has expended the stupendous amount of taxes received by it in maintaining, protecting, or creating its segregated and racially imbalanced schools; and (x) Deliberately chose to assign and compel students to attend schools on the basis of geographic criteria when it knew that, having knowledge of the residential patterns, the assignments would perpetuate or create racial imbalances and segregation.

Board had, and knew that it had, the power and had the duty specially imposed by law, though denied by it, to adopt school assignment policies that incorporated other than geographical criteria, policies that would rectify the existing racial imbalances, that would create or tend to create racial balance and integration. It had the power and duty to select school sites for that aim, purpose and end. It had the power and duty, though it denied that duty, to readjust attendance zones and areas and to select school sites to meet and overcome the effect of population movement. It knew, or should have reasonably known, of the population movements within its district. Board did not execute those or any of these powers or perform those, or any of these duties specially imposed by law.

("When a thing contingency occurs/Not on that account find it natural." (Brecht))

IV. 20 Board asserts as its obligation and duty:

"The respondent board of education is concerned primarily with school effects—with students' achievement. It views school inputs not as ends in themselves, but only as factors which affect students' achievement. For purposes of illustration, suppose it to be true that there exist in a school district one group of schools whose student bodies are composed predominantly of white students and another group of schools whose student bodies are predominantly Negro (or other minority) students. Suppose also that the average achievement of white pupils is substantially greater than that of Negro students. Using achievement as the criterion of equal educational opportunity, it is obvious that Negro students do not have equal educational opportunity because they are not achieving as well on the average as white students. What are the school district's obligations under such state of facts? As viewed by the respondent board its obligation is to raise the average achievement of the Negro students as close as it possibly can within the limits of its available resources to that of the white students. Again, viewing equal educational opportunity in a substantive sense—in terms of educational results—the

board should allocate its resources to student education in such manner as to minimize the disparities between the average achievements of Negro and white students. On the other hand respondent board does not believe it to be its obligation to effect equality of educational achievement by so withdrawing academic offerings from white students that the average academic achievement of white students diminishes to the level of achievement of the Negro students. To use a rather extreme example for illustrative purposes, the respondent board would not consider it proper to reduce the basic high school offering to a three-period day, and then use the monies thus saved for compensatory education of Negro students.

"In the view of the board of education it should provide to all students a minimum educational offering in such amount and quality that the average achievement of the racially higher achieving group will not substantially decline. In addition the school district should provide to racial minorities, to the extent that it has the financial wherewithal, educational offerings in addition to the basic minimum offering to attempt to close the gap between the average achievement of white students and that of the racial minorities." (R. PT. A. 8/22/69, 1. 11, p. 13 to 1. 16, p. 14)

No credible evidence was introduced by Board, and the Court finds not true, that the educational abilities of the Negroes and Mexicans are inherently or genetically inferior to the whites. Board's said position is based upon an erroneous assumption, to-wit, that the educational opportunities made available by it in the minority segregated schools is in fact equal to that offered in the white school.

It is true that the minority children have not been taught as efficiently and effectively, with emphasis, compassion and understanding at their schools as the white school. "American education is most undemocratic when it accepts ideas of inferiority." (Dr. Kenneth B. Clark, Editor, Psychologist, President of Metropolitan Applied Research Center, N.Y., Nov. Bulletin of the Council for Basic Education.) (Though it was not received into evidence, Dr. Clark's standing and expertise is such that his opinions are entitled to consideration. The Court therefore quotes the following portion thereof: "I do not know of a single situation in which minority group children have been taught efficiently, effectively and with compassion and understanding and skill, in which their performance has not been at or close to the norm of the performance of other children equally well taught. * * * I think that the people who propose special education, special this, special that, for minority group children are violating the law of parsimony. When equal conditions have been established and it is found that the children do not respond, then and only then are we justified in looking for special methods, special techniques. * * * If children are taught well, they don't need it [compensatory education]. Every compensatory education program that I know of is merely a program in which these children are being taught. The critical variable is that children who previously have not been well taught are now, under the guise of some special program, being taught well * * *."

("Arthur Jensen by his claim that the reason for the failures of compensatory education can be found in the lower I.Q.'s of minority group children * * * hasn't been attacked enough. It is an insidious article; that is, it is an insidious approach. Scientifically, it is preposterous. Dr. Jensen doesn't know what he is talking about when he talks about genes, about genetic determination. The whole area of genetics is so complex, so unexamined. In this complicated and mysterious area of biology, geneticists are only beginning to understand the relationship between gene patterns and physical characteristics. They are a long way from understanding the relationship between genetic determiners and psychological characteristics. I don't think Dr. Jensen is a racist, he's just naive. Apparently, he has never understood the work of Franz Boas or Otto Klineberg and the cultural anthropologists, who, as early as the 1930's, were presenting evidence to show that the significant variable in understanding differences among human beings was not, as far as we know, inherent biological determinants, but the complexity of social and environmental forces that interact with whatever biological potential exists in particular individuals." (Wall Street Journal, Dec. 26, 1969.))

Board has not in good faith created, studied, analyzed, tested and understood the effects upon education of integrated schools or racially balanced schools which have been operated for a school [K. to 12] generation or other substantial period of time. Its alleged conclusions are based solely on tests in its low socio-economic segregated schools, schools in which the educational opportunity was not equal to the educational opportunities of the white segregated school.

IV.21 No credible evidence was introduced by Board proving, and the Court finds not true, that the offering and extending of equal educational opportunity to all by integrating schools would reduce either the educational "inputs" or "outputs" or motivation or achievement of the white students or that it would require Board to withhold from them any academic offerings.

The right, inherent, to an education, equal educational opportunity by and through equal integrated schools so that the opportunity to learn received by one is received by all, cannot be denied or abridged upon the fears or assumptions or grounds, if it existed: that whites are superior in learning ability and therefore have rights to a white segregated or superior or better education than minorities; or that the whites will be held back or deprived of educational opportunities; or that the average academic achievement of white students [will] diminishes to the level of achievement of the Negro students by integrated education. (R. PT.A., 8/22/69, p. 13) Citizenship, its rights and duties, knows no color. Schools, equal educational opportunity, should know no color between its students. There is no right to the duty specially imposed by law upon Board prohibits, minimization of cost of education of the minorities, whether socio-economically disadvantaged or not, so as to enable the alleged "racially higher achieving group" to achieve higher grades, receive better, higher-quality education, greater achievements, and be prepared for a better life than the minorities, and at their expense. Only when all, equally, have been provided with equal educational opportunity and, the minorities requiring it, created by the heretofore segregated education, have received educational offerings in addition to the minimal offers to attempt to close the gaps between the average achievement of the white student and that of the racial minorities, will Board have performed its duty imposed by law.

Board's policy and action thereunder to perpetuate in favor of the white students the disparity which it has found to exist and which it has caused to exist or continue to exist by segregated schools is educational discrimination. It is a denial of equal protection of the laws, of due process of law, of the inalienable and constitutional rights, the right to be a human being.

Board having only provided to "* * * all students a minimum educational offering in such amount and quality that the average achievement of the racially higher achieving group will not substantially decline" was and constituted state action of discrimination against the minorities in favor of the whites to perpetuate the disparity existing and caused to exist by Board through segregated education.

IV.22 Additionally to the constitutionally imposed prohibitions and duties, similar duties and prohibitions, the duty to integrate, prohibition against segregation in education, are imposed upon Board by our State Statutes.

After the commencement of this action, State Board adopted its Rules 2010 and 2011. (Rules 2010 of St. Board of Education; Court's 10A, 10B (filed 2/21/69, effective 3/21/69.)) Though adopted subsequent to the commencement of this action, in fact during the trial hereof, Petitioners' rights and Board's duties are to be determined, adjudged, as of the date of trial and judgment herein. The Rules have the force and effect of statutes. (*Viner v. Civil Service Comm.* (1943), 59 Cal. App. 2d 458, 465; *Bruce v. Civil Service Board* (1935), 6 Cal. App. 2d 633, 637; *Duke Holner, etc. Liquor Co. v. Martin* (May, 1960), 180 Cal. App. 2d 873, 884.

IV.23 Board also "is of the opinion that prejudice, bias and misunderstanding in society may tend to be reduced through closer contact of individuals of different races and cultures." (R. PT. A., 10/11/68, p. 2, 11.16 to 18.)

IV.24. Even if the doctrines and contentions of Board were legally valid and based on true principles of education, they are inapplicable. The segregated schools of Board are not equal in plant, or facilities or teachers, or curriculum with the white segregated schools.

IV.25 There is in fact no difference in terms of education, equal educational opportunity and educational discrimination, between *de jure* and *de facto* schools. The harm, the denial of equal educational opportunity, is the same. (Trans. pp. 1886, 1887, 2727, 2977–78, 3047–49, 3467.)

(Respondent attempts to differentiate Brown I and its progeny and Jackson and its progeny upon the ground, primarily, that each related to de jure segregated schools as distinguished from de facto segregated schools, contending that all of its schools, if any segregation or racial imbalance exists therein, which it does not admit, are *de facto* and not *de jure*. The findings of fact of each thereof as to the educational detriments of segregation were not related to or predicated upon *de jure* or *de facto* segregation, but segregation itself.)

"School segregation is 'inherently unequal' by any name and wherever located," found as a fact in *U.S. v. Jefferson County, supra,* (p. 389). It is true that the Court therein did "leave the problems of *de facto* segregation in a unitary system to solution in appropriate cases by appropriate Courts." "This Court did not 'excuse' neighborhood schools in the North and West which have *de facto* segregation. No case involving that sort of school system was before the Court." Having found and held that:

"School desegregation cases involve more than a dispute between certain Negro children and certain schools. If Negroes are ever to enter the mainstream of American life, as school children they must have equal educational opportunities with white children."

its reference to *de facto* segregation were restricted to the question of legal "solutions". This Court agrees:

"The Negro children in Cleveland, Chicago, Los Angeles, Boston, New York, or any other area of the nation which the opinion classifies under *de facto* segregation, would receive little comfort from the assertion that the racial make-up of their school system does not violate their constitutional rights because they were born into a *de facto* society, while the exact same racial make-up of the school system in the 17 Southern and border states violates the constitutional rights of their counterparts, or even their blood brothers, because they were born into

a *de jure* society. All children everywhere in the nation are protected by the Constitution, and treatment which violates their constitutional rights in one area of the country, also violates such constitutional rights in another area. The details of the remedy to be applied, however, may vary with local conditions. Basically, all of them must be given the same constitutional protection. Due process and equal protection will not tolerate a lower standard, and surely not a double standard. The problem is a national one." (Dissenting opinions, Gewin and Griffin B. Bell (Circuit Judges), *U.S. v. Jefferson,* 380 Fed. Rep. 2d 397–398.)

IV.26 From an educational standpoint, to achieve greater understanding, reduction of prejudice, minimization of racial conflicts, a better and greater educational opportunity, it is sounder to integrate minority and majority children when they enter kindergarten or elementary school and give them an integrated education experience all the way through public schools rather than keeping minority and majority children in segregated schools until they reach junior high or senior high school. Board knew thereof. P. 43–C, p. 204; Trans. pp. 8170–77).

IV.27 Board's alleged open enrollment policies (Second and Further Separate Affirmative Defense, par. I of Ans.) was not and is not a policy of integration or desegregation or of corrections of racial imbalance. It was and is not even a technique for the achievement of any thereof.

It was and is not mandatory. Integration, the creation of racial balance, the elimination of racial imbalance, must be mandated.

It was and is not a "right" of transfer, but only a "privilege" of transfer on the basis of "first come, first served." It was not equal.

A plan and its methods, means, mechanics and techniques of integration, of desegregation, of remedying racial imbalances and creating racial balance must be designed to and work and achieve its objectives. It did not. (Court's Exh. 5A, pp. 14–18; R. 14A, Trans. pp. 1764–71.)

No provision was or is made for the transportation of students from the "sending school" to the "receiving school". Board knew that the socio-economic disadvantaged could not avail itself of any alleged privilege to transfer without transportation being made available to them by Board. The effect of the alleged policy was to permit white students attending racially imbalanced schools to transfer to white schools. (Trans. pp. 1965–67, 7364–65, 4827–4828, 4831–4843, 5414–15, 5442–5461, 6046—48.)

IV.28 Board, in its failure and omission since Brown I (1954), Brown II (1955), Jackson (1963) and the adoption by State Board of its original Regulation 2010 (October 23, 1962), to thereafter with all due and deliberate speed, in good faith, give to all students, white, Negro, Mexican, Oriental, equal educational opportunity in integrated schools so that every student of the District would be given substantially the same educational factors, both tangible and intangible, as every other student of the District and so that there be only schools, not white or Negro or Mexican or Oriental, has been guilty of bad faith, the failure to exercise the highest of good faith, the good faith that a trustee, and Board is a trustee (*Pass School, et al. v. Hollywood, et al.,* 156 Cal. 416, 420 (1909)), owes to its beneficiary.

IV.29 Board has and has a duty, in all matters relating to the education of its students, to act in the highest of good faith. (CC § 2228.) A knowing, deliberate omission or refusal to perform a duty specially imposed by law by reason of the relationship existing, without just cause or excuse, and thereby denying to the beneficiaries that which is justly owing, is bad faith.

Fifteen and a half years have elapsed since Brown I. Approximately seven years have elapsed since the original adoption by State Board of Rule 2010. More than six years have elapsed since Jackson. Six years and seven months have elapsed since the filing of this proceeding. Though "[t]he Board of Education reaffirmed its responsibility to provide equal educational opportunity to children of all races, religions and cultures on June 7th, 1962, when it adopted the motion establishing the Ad Hoc Committee. The Board felt and feels that it has followed a policy directed toward the goal of equality in that the pupil-teacher ratio, basic curriculum, books per student, and transportation rules are equally applied throughout the District. It is conceded, however, that this formula falls far short of providing true equality for thousands of children who enter our schools from educationally and economically disadvantaged environments. They are in no way able to compete equally with children living under more favorable circumstances." (Court's Exh. 5–A "PREFACE", p. 1), and thereafter the Ad Hoc Committee recommended to Board (May 20, 1963):

"The Committee recommends that the Board of Education adopt the following statement of policy:

"The Board of Education believes that equality of opportunity in the total community for all ethnic groups is a desirable goal for our society. Therefore, the Board establishes a formal policy of providing equal educational opportunity for all pupils regardless of racial or socio-economic background, recognizing that equal opportunity is best achieved in schools which provide pupils an opportunity for interaction with persons of differing cultures and ethnic backgrounds.

"In furtherance of this policy the Board recognizes an obligation to act positively within the framework of its educational responsibilities, at all levels and in all areas of the school system)

"a. By encouraging actions and programs designed to maintain in the Los Angeles City Schools a position of leadership in the avoidance of segregation or discrimination in such matters as school boundaries; student discipline; educational and vocational counseling; teacher placement, transfer, and promotion; and any other matter affecting equal educational opportunity)

"b. By insuring that all such policies are continuously and clearly communicated to all school personnel and to the public."

(Court's Exh. 5–A, pp. 2–3), it was not until approximately four years later (December 21, 1967) that Board purportedly adopted the Ad Hoc Committee's Recommendation (Court's Exh. 5–C, pp. 1–4), resolving, among other things, that "Further, in order to clarify its position, that the Los Angeles Board of Education accepts Directive No. 1 of the 1963 Ad Hoc Report as policy. In addition, the Board of Education sets as its goal an integrated system at all levels and divisions and instructs the staff to develop every feasible technique and program to accomplish this goal." Board did not take and has not taken any meaningful steps nor adopted any meaningful means or methods or mechanics or techniques therefor, nor even to this date adopted definitions of "integration" or "desegregation" or "racial balance" or "racial imbalance".

On February 13, 1969, State Board adopted its Amended Rules, Secs. 2010 and 2011 (Title 5, Calif. Admin. Code), to become effective March 1969. On March 3, 1969, Board adopted its Superintendent's recommendations and interpretation of said Rules, to wit:

"* * * The Superintendent therefore construes Sec. 2010 to mean that each school board shall seriously and earnestly engage in an 'effort to prevent and eliminate racial and ethnic imbalance' WHERE FEASIBLE, and that prevention and elimination of such imbalance shall be *one* of the principal or primary goals of the district. The State Board *did not say* that the prevention and elimination of racial and ethnic imbalance shall be the first, and if necessary, the exclusive priority of each school district. [Emphasis ours.]

* * * * *

"Inference may be made from Sec. 2011 (a) (1) that the State Board regards a school to be in ideal or perfect racial and ethnic balance where the respective proportions of ethnic and racial groups in each grade of the school are precisely the same proportions that such racial and ethnic groups represent in the total school district pupil population. Sec. 2011(a), subsections 1 to 4, seem to require each district continually to strive, *insofar a* [sic.] *seems feasible,* to achieve this ideal racial and ethnic balance. However, the Superintendent does not construe Sec. 2011 (a) to require a school district to neglect its academic program in seeking to achieve such concept of ideal racial and ethnic balances, * * *.

"* * * The Superintendent further construes Secs. 2010 and 2011 to require the School District to racially and ethnically balance school populations, and ideally, grade populations within schools, *where feasible.* The extent to which the achievement of ethnic and racial balance *is feasible* is a decision legally committed to the Board of Education. The Board is to make its decision by weighing the *feasibility factors* specified in Sec. 2011(c), including the items set forth in subsections 1–4, in the manner there stated.

* * * * *

"In summary, the Superintendent interprets these Rules to mean that the Board of Education is not required by Secs. 2010 and 2011 (as amended) to allocate its financial and other resources to the achievement of racial and ethnic balance if student academic achievement would likely suffer any significant decline because of any required reduction in the academic programs. * * *" (Emphasis ours.) (Court's Exh. 5–D–3.)

Notwithstanding said Resolution, Board did not then undertake or make the study, and has not formulated any plans, "for the relief and amelioration of racial and ethnic imbalance existing within some of the schools of the District". Approximately one year has elapsed from the adoption of said Resolution.

The Court hereafter concludes that the duty imposed upon Board, constitutionally and under 2010 and 2011, to desegregate and integrate its schools, district-wide, is absolute, not merely to "seriously and earnestly engage in an 'effort to prevent and eliminate racial and ethnic imbalance' where feasible" in the opinion of Board or only "seem[s] to require each district continually to strive, insofar a [sic.] seems feasible" to Board "to achieve this ideal racial and ethnic balance".

Board had and has no right to condition, a condition precedent, its duty to the time when, in its opinion, integration would be "feasible", that is, when and only when it may feel that it has "excess" funds, excess to its segregated education, and when it, in its absolute, arbitrary and uncontrolled discretion, may determine and resolve that "the academic achievement of the 'minorities' in the schools will be raised by racially mixing students and the achievement of the 'majority' will not be substantially reduced by such racial mixing." (R. Pt. A., 10–14–69, pp. 2–3); because, it asserts, "its obligation is to raise the average achievement of the Negro students as close as it possibly can within the limits of its available resources to that of the white students. * * * [to] allocate its resources to student education in such manner as to minimize the disparities between the average achievements of Negro and white students. * * * [and not] to effect equality of educational achievement by so withdrawing academic offerings from white students that the average academic achievement of white students diminishes to the level of achievement of the Negro students * * *

[and, therefore,] it should provide to all students a minimum educational offering in such amount and quality that the average achievement of the racially higher achieving group will not substantially decline * * * [and thereafter] should provide to racial minorities, to the extent that it has the financial wherewithal, educational offerings in addition to the basic minimum offering to attempt to close the gap between the average achievement of white students and that of the racial minorities." (R. Pt. A., 8–22–69, pp. 13–14.)

Board is still committed to its policy, contrary to the duty specially imposed by law: that separate but equal is equal; and that no duty exists on its part to affirmatively seek, cause and create integration; and that neither constitutionally (U.S. and State) or statutorily (Reg., State Board, 2010), do minority students have any right to education by and through racially integrated schools. (R. 32B, R. 32D, R. Pt. A., 8–22–69, pp. 6, 14, 23; R. 373–2; Trans., pp. 12082–83.)

After the adoption by Board of its Resolution (Court's 5–C), hereinbefore set forth, the Court prepared its "COURT'S UNDERSTANDING OF REPRESENTATIONS OF COUNSEL FOR RESPONDENT'S INTENTION AND MEANING OF COURT'S EXHIBIT 5–C" (November 29, 1968). The Court thereby stated its understanding thereof as:

"(1) That the Board 'recognizing that equal opportunity is best achieved in schools which provide pupils an opportunity for interaction with persons of different cultures and ethnic backgrounds' 'establishes a formal policy of providing equal educational opportunity for all pupils regardless of racial or socio-economic background' by and through 'an integrated system at all levels and divisions.'

"(2) Therefore, the Board: 'recognizes an obligation to act positively within the framework of its educational responsibilities, at all levels and in all areas of the school system; adopts Directive 1 of the ad hoc Committee Report of 1963'; and 'instructs the staff to develop every' 'feasible technique and program to accomplish this goal' of an 'integrated system at all levels and divisions.'"

The Court requested confirmation thereof by Board. Board did not make any reply thereto until May 1, 1969. ("RESPONDENT'S POSITION RE EQUAL EDUCATIONAL OPPORTUNITY AND DESEGREGATION".) It did not directly or unequivocally agree with the aforesaid construction of its said Resolution (allegedly "Director 1"). It purported not to have an understanding of the phrase "equal educational opportunity". It conceived "of at least three different sets of conditions constituting school district activities that may be indicated by the phrase". Included therewith was: "(1) One such set might be that every pupil of the district is presented with precisely the same educational factors, both tangible and intangible, as every other pupil of the district * * *"; and, as to that, Board was of the position "that there would be little point in seeking 'equal educational opportunity' according to the first set of conditions postulated". There is incorporated herein, hereat, verbatim, the said statement of the Board's position.

Board, notwithstanding its said Resolutions, Motions and Directives, is still committed to the policies that, unless and until it is "clearly demonstrated that integration has a substantial effect on student achievement in a positive sense", and when and only when it (in its arbitrary and uncontrolled judgment) so decides, would it "put our money into integration". (Trans. pp. 11106–07, 11412–13.)

That, by reason of all of the facts herein found, true and not true, Board, in its denial to Petitioners and the class in whose behalf the Petition was filed of equal educational opportunities by integrated education, has been and is guilty of bad faith.

IV. 30 Board will not, unless ordered so to do and supervised therein, within any reasonable period of time, formulate and adopt a Master Plan, including methods, manners, means, mechanics and techniques for the consummation thereof, for the integration of its schools.

IV. 31 Board's unwillingness and refusal to racially integrate its schools, unless compelled to do so, is in part based on fears and genetic assumptions—Fears: that the costs of integration, which costs it does not know, will financially compel a reduction in the educational inputs and therefore outputs of the majority; that integration will reduce the motivation and therefore the achievement of the majority and reduce the learning capability average of the majority to the assumed lesser-learning capabilities of the minority.

Board has not made any comprehensive, in-depth, good-faith study of the costs or effects of integrated education. Its data is from segregated minority, disadvantaged, low socio-economic schools with its high-advantaged, high socio-economic, white, segregated schools. Board did not introduce any credible evidence to support its fears and assumptions. The Court finds them not founded in fact and not true.

IV.32 Board may not, cannot, constitutionally, federal and state, justify segregated education, a denial of equal educational opportunity, upon the basis of maintaining a status quo or other desire to create or achieve an alleged superior educational race or majority. It was and is the very purpose of the constitutional requirement of equal educational opportunity not only to allow but to require the rendering of the same equal educational inputs to all students so as to assure to all equal rights to be a human being and better qualified to understand and be a part of society and the country.

IV.33 Board knew, actually and constructively (*Westminster School District of Orange County v. Mendoza* (April 14, 1947, corrected August 1, 1947) 161 F. 2d 774, 776–79, 780–81), that no Statutes of State or Rules or Regulations of State Board provided for or allowed segregated schools or required or allowed such adherence to neighborhood schools which would create or maintain or perpetuate segregated schools.

Board has and does maintain, perpetuate and create segregated schools and a segregated school system by slavish adherence to its neighborhood school policy and foundless hopes of voluntary integration. (Court's Exh. 5–A; Trans. pp. 1798, 2707–08, 3808–39, 1387–91, 1969–74.)

IV.34 Board made no racial summary of its schools until the year 1966, when directed to do so by State Board. (Trans., p. 11816.) Prior thereto, it collected such data only by general geographic automobile survey. Board knew or should have known that it could not comply with its constitutional duties without such data. Board had been requested, commencing with on or about 1962 to collect and collate such data. (Trans. pp. 11818–22.) Board knew or should have known, upon the original adoption (1962) by State Board of its Rule 2010, that it could not comply therewith without the collection and collation of such data.

IV.35 The new school sites selected by Board after 1963 were not selected to achieve integration in its schools. Board has not done so to this date. It has not, to this date, promulgated any definitions thereof nor instructions to its staff as to the selection of sites therefore. (Trans. pp. 3939, 4162–68, 4267–87, 11709–10.) Therefore, Board's staff were unable to and did not select sites to achieve integration. Eighteen school sites were acquired and schools built and completed between May, 1963, and January, 1968. (R. 148A, 36A.) Prior to the acquiring of the sites and the building of the schools, no consideration was given to alternate sites which would have had substantial effect upon racial balance. (R. 148B; Trans. pp. 3902–08, 4212, 4475.) The staff of Board, by reason of the failure and omission on the part of Board to define "integration", "segregation", "desegregation", "racial balance", "racial imbalance", and to instruct its site selection staff thereof, caused its staff to assume that racial balance was improved if only one white student was added to an otherwise segregated school. (Trans. pp. 3171–87.) No instructions were given to staff to consider, in changing attendance areas and boundaries, pairing of schools or consolidation of attendance areas and boundaries, or otherwise, to facilitate or create integration. (Trans. pp. 6092–96, 11708–10.) Board and its staff, in selecting, approving and resolving upon the creation or changing of attendance districts and boundaries, did not have any written data before it in approximately seventy-five percent of the sites selected prior to 1966 (Trans. pp. 4392–94), and, even in the remaining percentage thereof, did not have sufficient information upon which a decision for racial integration of its schools could be predicated.

IV.36 Board has, to the present time, knowingly and intentionally omitted, failed and refused to define and instruct its staff as to what it intended by "integration" or "racial balance" or "racial imbalance" or "equal educational opportunity." (Trans. pp. 4161–63, 7936–41, 8192–93, 9055–58, 11708–10, 12066–68.) It was not until on or about August 2, 1966, that Board talked about an experimental approach to integration in education (R. 32B, as distinguished from a/or any comprehensive plans for mandatory integration.

IV. 37 Board has since 1963 collected and spent billions in taxes, without calculably, affirmatively, actively and effectively seeking or attempting to achieve or achieving racial integration in any substantial part of its schools. The sums have, in effect, been expended to maintain and to perpetuate the segregation existing in its schools, without any progress for integration. Board rationalized its failure and omission so to do by asserting as hereinbefore found. Board's Directives, sounding as if it were in fact seeking and ordering integration, were solely for public relations, to attempt to keep the minorities pacified. (Court's Exh. 57; Trans. pp. 7984–94, 7996–98, 8032–44, 8047–50; R. 373–3B P. 35, p.5; R. 373–2, p.2) Board has not, since May, 1963, put into motion or maintained any effective integration program. (Trans. pp. 7893–7924.)

IV. 38 State Board's Rules 2010 and 2011 (Court's Exhs. 10–A, 10–B) are based on the recognition of the facts: That segregation or racial imbalance, however caused, is one of the fundamental factors contributing to the educational deprivation of disadvantaged children from minority ethnic groups. (Trans. pp. 9879, 9986.) That compensatory education programs are no substitute for integrated education. (Trans. p. 9982.)

IV. 39 The allegations of Paragraphs 1; 2; 3; 4; 6; 7; 8; 9; 10; 11; 12; Lines 14–18, p. 5, of Pet., of 13; 15; 16; 17; 18 and 19 of Pet.

IV. 40 The allegations of Paragraph 20 of Pet. (added by Amm. to Pet., Par. 1 thereof, filed June 11, 1969).

IV. 41 That to and only to the extent funds are granted to Board by the Federal Government or the State of Califorina, but not otherwise, Board has established and is operating compensatory educational programs for "its educationally or culturally deprived students, most of whom are from a racial minority group". (Lines 13–14, p. 2, of Ans.)

IV. 42 That compensatory educational programs are methods of substantial cost attempting to alleviate educational and cultural deficits sustained principally and substantially by the Negro and Mexican-American minority groups, "deprived stu-

dents", students in segregated and racially imbalanced schools, by reason of the failure and omission by Board to, in the past, give to them equal educational opportunity by and through integrated schools.

IV. 43 That Board has "historically * * * selected its school sites and has built its school plants as close as financially possible to the center of the area in which the pupils live" (Lines 30–32, p. 2, of Ans.), neighborhood schools, without reference to integration and without regard to the effect of segregated education. That said school sites were selected and said school plants constructed and thereafter maintained within known segregated areas or areas which Board knew or should have known in the exercise of reasonable care and skill would be within a reasonable period of time a segregated area. That the attendance area zones had been and are selected without regard to the integration of Board's schools. "[A]ttendance area zone surrounding such school plants are based upon capacity of the school, safety and hazard factors, distance to be traveled between home and school, natural, geographic or other physical barriers" (Lines 9–12, p. 3, of Ans.), without regard to integration or the educational effects thereof, segregation or the educational effects thereof, or the rights of equal educational opportunity. The sites were selected, the schools were built, though Board knew or should have known, in advance, that their student body would be all or substantially all minority.

IV. 44 The instituting of this Petition for Writ of Mandamus in behalf of all of the students of Board similarly situated, the prosecution of this action, an involved and difficult one, requiring capable, experienced and diligent Counsel, was necessary, made necessary by Board, to compel it to perform the duties specially imposed upon it by law, to wit, to give to all of the students attending its schools, irrespective of race, color or creed, economic or social circumstances, equal protection of the laws, due process of law, equal educational opportunity, by rearranging, reestablishing, reconstructing, regrouping and otherwise as may be reasonably necessary therefor, its schools, so as to constitute racially unitary schools, not white, not black, not Mexican, not Oriental, but just schools.

Petitioners are but nominal petitioners in behalf of all students of Board. Petitioners could not, cannot, and should not be expected to, from their own resources, finance this proceeding. The research of the facts and law, the assembling of evidence (see for example P. 31), the preparation of briefs (see for example the Memorandum On the Evidence, 10–29–69), the selecting, interviewing and procuring of Experts to testify (for example: Dr. John Caughey; Dr. David K. Cohen; Dr. C. Wayne Gordon; Dr. Neil V. Sullivan; Dr. Dan W. Dodson), the taking of depositions (for example: Dr. Jack Crowther, Board's Supt. of Education; Arthur F. Gardner; Dr. Hugh C. Willett; Dr. Ralph Richardson; Mrs. Georgiana Hardy, Members of Board; Jewell Chambers, Member of Board) required the devoting of tremendous amounts of time of Counsel, aside from the trial. The trial for Counsel, was practically a twelve- to eighteen-hour day.

To undertake to pay the reasonable value thereof would require and is only within the financial ability of the rich. The Petitioners are not of that class.

It was therefore necessary for Petitioners to procure Counsel philosophically in accord, economically able to take the risk of, imbued with the same convictions, and therefore willing to devote the time, to make the time available and to undertake an unpopular cause, unpopular with the majority, for the protection of the rights of minorities, socio-economically disadvantaged, and therefore willing to undertake and to perform the substantial services required and involved upon, as to their compensation, a contingency, that is, if successful, for such sum, if any, as the Court might allow.

This is an equitable proceeding, having for its objective the compelling of Board to perform the duties specially imposed upon it by law. Without the undertaking of this cause by Counsel, without the allowing by the Court of reasonable compensation thereto, Petitioners and all others of the class for whose benefit the proceeding was filed would be at the mercy of Board.

It is necessary in our system of government that the governed be allowed to seek out, find and have represent them capable, experienced Counsel, willing to be a "watchdog" of the government as to the rights of the governed, always having in mind that where discretion is reposed, there lie the seeds of tyranny.

This proceeding is in behalf of and for the benefit and to protect the rights of not only the minority but the majority—though it is reasonable to assume that the majority will vehemently deny that fact. This type of proceeding is necessary to avoid, among other things, the possibility of any apartheid doctrine or policy in our country.

All of our people, whites, Orientals, Negroes and Mexican-Americans, will benefit by integrated living and experience in integrated schools, learning that race, color, creed, economic and social circumstances or station in life do not make anyone more or less than a human being. Integrated education will tend to teach all of the students to lose their fears of different races, their prejudice, their bias, their bigotry, to seek and do Justice, to walk humbly with their fellow beings, to love mercy, to temper righteousness with mercy, and to allow to every person their right to worship as they will. The parents, in participating in integrated educational processes, will also so learn. Board will learn of the benefit to all of its students by and from integrated education and will, hopefully, lose its assumptions of inferiority of one race when compared with another.

The right of Counsel to reasonable compensation should not be restricted or inhibited by a doctrine which limits the compensation of services of Counsel to causes which provide monetary recovery. The protection and preservation of the inalienable constitutional rights of any class of citizens, the enforcement of duties of government, imposed upon it by law, to its citizens, is at least as valuable, if not more so, than the recovery by litigation of money. Rights, particularly the inalienable constitutional rights, are a species of property. In a country of laws, the reaffirming, enforcement and preserving thereof, including the most sacred and invaluable of the rights, the right to life, liberty and the pursuit of happiness, to be a human being, for every person to receive the same equal protection of our laws, is one of the highest callings of Counsel; and when done in behalf of those otherwise unable to do so, the disadvantaged, Justice requires, demands, that they receive reasonable compensation therefor.

To the extent that there is recovered through this action by a large proportion of the students of Board (the minorities (1968) comprising approximately 349-thousand out of a total of approximately 775-thousand students of Board) substantial benefits, by causing Board to perform the duties specially imposed upon it by law, it raises the standard of the fiduciary relationship of Board to all of its students and so serves important considerations of public policy.

If the Court does not have, is denied, the power, the right, to allow reasonable compensation for the services of Counsel in causes like this and particularly when they skillfully, efficiently and effectively re-establish the rights of the class in whose behalf the action is brought, the bringing of such actions would be discouraged instead of, as it should be, encouraged.

Board had at its command in its defense practically unlimited resources. It appropriated a substantial sum to fight this cause. (Trans. p. 6908, Line 11, to Line 6, p. 6909; 6470, Line 21, to Line 11, p. 6472.) It had at its command County Counsel, able and experienced lawyers, and in addition capable, experienced private Counsel. (The Court commends all Counsel for a job well done.) Additionally, it used and made available to its Counsel the abilities, education and skill of its staff, among the very persons enjoined by law to render and perform the duties imposed by law sought to be enforced by Petitioners. It had daily transcript.

Board, as a Trustee, could have, and in the highest ideals of a trustee with the complete impartiality owed to all of its beneficiaries, should have, filed its own action or cross-complaint for declaratory relief to have the Court adjudicate its rights, duties and obligations to and among all of its students, assuming an imparial position, introduced all of the evidence available to it, and being willing, even desirous, of performing the duties imposed by law, asked the Court for a declaration thereof. Instead, it defended against the Petition, denied duties sought to be re-adjudicated, and caused to be performed. Its defense was strenuous, capable and hard.

Board would not have preformed the duties specially imposed upon it by law to grant to all of its students integrated, equal, educational opportunity but for this proceeding. To this very day, Board denies any such duties.

It is therefore reasonable, just, within the concepts of equity, the administration and preservation of Justice, and required by the conscience of the Court, that Counsel be allowed reasonable compensation to be paid by Board, and through it the peoples for whose benefit the proceeding was brought and prosecuted.

It is reasonably to be anticipated that Board will take an appeal from the Judgment herein. It is to be hoped that present Counsel for Petitioners will continue to represent them upon the appeal. Counsel shall be entitled to reasonable compensation therefor. It is, therefore, proper that the Court retain jurisdiction to, in the event of and upon entry of the final Judgment herein, allow to Counsel such additional compensation as may be just and reasonable under all of the circumstances for their services on such appeal. (*Knoff v. City and County of San Francisco*, 1 Cal. App. 3rd 184, 203–204 (October 27, 1969); *Ball v. School Board*, 321 F. 2d 494 (4th Circuit, 1963); *Rolfe v. County Board*, 282 F. Supp. 192 (E.D. Tenn. 1966) affirmed 391 F. 2d 77 (6th Circuit, 1965); *Hill v. Franklin County Board of Education*, 390 F. 2d 583 (6th Circuit, 1968).)

IV.45 The reasonable value of the service of Counsel for Petitioners, for the instituting and prosecuting of this proceeding to the date hereof and hereafter the preparation of the formal Findings of Fact, Conclusions of Law, Judgment and Peremptory Writ of Mandamus, the settlement thereof, and the reasonably certain to be made Motion for New Trial by Board, is the sum of $65,000.00, plus Petitioners' and Counsels' costs and disbursements herein.

IV.46 The Court retains jurisdiction to allow to Counsel for Petitioners reasonable compensation for their services on appeal and such other additional services which may be reasonably required to be rendered in any subsequent proceedings in this cause.

(There have been and are a number of persons of counsel for Petitioners. They shall agree, in writing, among themselves as to the participation of each in the fee allowed and hereafter, if any, allowed. In the event they are unable to do so, the Court retains juris-

diction to allocate the fees among them, based upon the contribution of each to the total of the services rendered. This cause was assigned to this Judge for all purposes. It is, therefore, to be anticipated that he will preside upon all subsequent proceedings herein.)

IV.47 The Court may not be, as Board asserts, qualified as an educator, nor should it, generally, interfere in the educational processes adopted by Board and taught to its students.

However, the adjudicating of constitutional and statutory rights and the enforcement thereof is within its jurisdiction, its powers, its duty and its honor.

IV.48 Board will only meaningfully adopt, in good faith, integrated education, a wholly unitary system of schools, as its aim, purpose and goal, with all due diligence and speed; will only evolve and adopt a Master Plan of and for integration, together with the manner, means, mechanics and techniques for the carrying out thereof, a plan, method, means, mechanics and techniques which will effectuate integration in Board's schools within a reasonable period of time, when commanded by this Court to do so.

IV.49 To attempt to assure the doing thereof in good faith and with all due diligence and speed; having in mind the long period of time already elapsed, during which Board has knowingly, deliberately failed and omitted to perform the duties specially imposed upon it by law; that, upon completion and adoption by Board of said Master Plan and of the methods, means, mechanics and techniques for the consummation thereof, it will be required to submit all thereof to this Court for its approval as conforming to law and the Peremptory Writ of Mandamus to be issued; to avoid the four to five years of hearings that have occurred in other cases (*U.S. v. Montgomery Board of Education,* 23 L. Ed. 2d 263, 272 (1969)); to avoid a repetition of the six years and nine months that have elapsed since the filing of the Complaint herein (August 1, 1963); Expert evidence (Evidence Code § 720) will be required by the Court to assist it in assuring the performance by Board of its said duties, and to assist the Court upon the review of any such Master Plan and the manner, means, methods, mechanics and techniques for the fulfillment thereof. Therefore, the Court's Expert shall be required to audit the proceedings of Board and to be of such assistance to it as may be within his power to assist Board in conforming to the Judgment and Writ of the Court and the duties imposed by law. "We were not content, however, to leave this task in the unsupervised hands of local school authorities, trained as most would be under the old laws and practices, with loyalties to the system of separate white and Negro schools." (*U.S. v. Montgomery County Board of Education,* 23 L. Ed. 2d 263, 268; *Green v. County School Board,* 391 U.S. 430, 439, 88 S. Ct. 1689, 20 L. Ed. 2d 716, 724 (1968): "There is no universal answer to complex problems of desegregation; there is obviously no one plan that will do the job in every case. The matter must be assessed in light of the circumstances present and the options available in each instance. It is incumbent upon the school board to establish that its proposed plan promises meaningful and immediate progress toward disestablishing state-imposed segregation. It is incumbent upon the district court to weigh that claim in light of the facts at hand and in light of any alternatives which may be shown as feasible and more promising in their effectiveness. Where the court finds the board to be acting in good faith and the proposed plan to have real prospects for dismantling the state-imposed dual system 'at the earliest practicable date,' then the plan may be said to provide effective relief. Of course, where other, more promising courses of action are open to the board that may indicate a lack of good faith; and at least it places a heavy burden upon the board to explain its preference for an apparently less effective method. Moreover, whatever plan is adopted will require evaluation in practice, and the court should retain jurisdiction until it is clear that state-imposed segregation has been completely removed.")

It is just, proper and provided by statute (Ev. C. § 731) that the reasonable compensation of said Court's Experts, as may be allowed by the Court, shall be paid by Board.

The Court, therefore, retains jurisdiction to, upon motion of either of the parties or upon the Court's own motion, appoint such Expert or Experts and to allow reasonable compensation for his or their said services. (The provisions of Chapter 3, Article 1, Article 2, §§ 720–733, of the Evidence Code shall be applicable thereto.)

V. The Court finds not true:

V.1 That "Respondent is as committed as Petitioners appear to be to the integration of the schools." (R. Pt. A., 10–11–68, p. 1, Lines 23–24; R. 373–3; Trans., pp. 8075–80.)

V.2 That "Respondent has made and will continue to make every feasible effort" or has been and is seeking or will seek every or any feasible means toward or to effect the integration of the schools or school systems. (R. Pt. A., 10–11–68, p. 2, Lines 1–2.)

The Court finds that Respondent will only do so when commanded by the Courts.

V.3 That "[c]ommencing with the large immigration of students of minority group derivation in the Los Angeles Metropolitan area, Respondent's basic policy has been, when confronted with two or more educationally sound courses of action, to select that course of action which is most likely to lead to school integration." (R. Pt. A., 10–11–68, Lines 8–12, p. 2.)

V.4 Respondent's view, the Court also holding it as contrary to law:

"* * * that the federal constitution requires racial mixing in the schools if, and only if, the racial separation of students in the schools is of a *de jure* nature, or if, and only if, in the case of *de facto* segregation, the academic achievement of the 'minorities' in the schools will be raised by racially mixing students and the achievement of the 'majority' will not be substantially reduced by such racial mixing." (R. Pt. A., 10–14–69, p. 2, Line 27, to p. 3, Line 1.)

That, under the duties specially imposed upon it by law, Respondent is only obligated to "provide to all students a minimum educational offering in such amount and quality that the average achievement of the racially higher achieving group will not substantially decline. In addition the school district should provide to racial minorities, to the extent that it has the financial wherewithal, educational offerings in addition to the basic minimum offering to attempt to close the gap between the average achievement of white students and that of the racial minorities." (R. Pt. A., 8–22–69, p. 14, Lines 9–16);

That it has any right, a choice, to create or maintain or perpetuate substantial allegedly *de facto* segregation because, in its alleged opinion, "a higher level of student achievement" will result than under integrated education. (R. Pt. A., 8–22–69, p. 24, Line 30, to Line 5, p. 25.)

The Court does find true that it [Board] has and will continue to so do until commanded otherwise by the Court.

V.5 that, no credible evidence having been introduced by Board so proving, the integration of Board's schools will significantly or substantially reduce the funds available for the education of its pupils.

V.6 That Board has not had available to it "any hard data indicating that classroom education as it is commonly understood will be enhanced through integration." (R. Pt. A., 10–11–68, p. 2, Lines 13–15.)

V.7 That racial imbalance and segregation existent in Board's schools since 1963 and thereafter is fortuitous. That the segregation in Respondent's schools is *de facto* and not *de jure.*

V.8 That, no credible evidence having been introduced by Board so proving, the educational ability or educational output of white students will be adversely affected by integrated education, either under the Rules of State Board (2010, 2011) or under the finding that integrated education requires not less than ten percent nor more than forty-nine percent of minorities, the residue being white, or by racially balanced schools, that is, wherein the percentage of minorities and whites in each school approximates the racial composition in Board's entire district. (Trans. pp. 967–69, 659–81, 1399, 2686–88, 3535, 3623; P. 43–C; National Conference, U.S. Commission on Civil Rights, pp. 280–84; Cohen, School Desegregation and White Achievement.)

V.9 That Board has not racially balanced all of its schools during the past years because it lacked or lacks funds to do so. That it could not have done so without sacrificing the academic achievement of the white or any of the students of Board.

V.10 That, no credible evidence having been introduced by Board so proving, integration would require massive expenditure of funds or that the costs thereof can only be created by substantial reductions in the educational processes.

The Court does find true: That when and only when Board evolves and adopts a Master Plan of integration, together with the manner, means, methods, mechanics and techniques therefor, and, as a part thereof, makes a thorough, unprejudiced study of the costs thereof, that is, the costs of the manner, means, methods, mechanics and techniques of putting said Master Plan into effect, will it know with reasonable probability the costs thereof. Upon the trial Board conceded that it did not claim impossibility of, or financial frustration preventing it from, if it was compelled by law to do so, integrating its schools. (Trans. p. 11092, Line 13, to Line 2, p. 11093.) That R. 379 is not credible proof either of the needs for or the costs of transportation. It is merely an exercise in mathematics. It is not predicated upon any, nor is it a, thorough study or plan, even though not a Master Plan, of integration. It was founded upon assumptions not justified by any of the studies of or for integration. It was caused to be prepared by Board during the trial of this cause as "an estimate" (R. Pt. A., 10–14–69, p. 14, Line 26) of the largest possible amount of possible costs of transportation to support its contentions (R. Pt. A., 5–1–69, p. 7) "that the expenditure of such sums upon certain specific current school programs would have greater beneficial effects upon achievement than expending the same sum for purposes of racial mixing." (R. Pt. A, 10–14–69, p. 14, Line 31, to Line 2, p. 15.)

V.11 The affirmative allegations of Paragraph IV of Board's Ana, excepting only that the Court does find true that, to and only to the extent that Board receives grants, federal and state, or mandated programs, does it establish and operate compensatory educational programs "for its educationally or culturally deprived students, most of whom are from a racial minority group."

V.12 The affirmative allegations of Paragraph V of Board's Ans., excepting only the Court finds true "that historically it [Board] has selected its school sites and has built its school plants as close as financially possible to the center of the area in which the pupils live", even though thereby it created or maintained and perpetuated segregated schools; and "that the attendance area zones surrounding such school plants are based upon capacity of the school, safety and hazard fac-

tors, distance to be traveled between home and school, natural, geographic or other physical barriers", without regard to integration and without regard to the affect upon equal educational opportunity of the students thereof by virtue of said schools being, or to become within a relatively short period of time, segregated schools.

V.13 The affirmative allegations of Paragraph VI of Board's Ans., excepting only that Board has had and does have policies of "issuing permits to pupils authorizing them to attend schools other than the school serving the area of their residence whenever there is unused capacity in such other schools"; but said policies do not provide transportation for disadvantaged children, did not educate the parents of minority students of the existence and benefits to be derived therefrom, were on a first-come, first-issued basis, and the alleged unused capacity was minimal, so that, in effect, said policies inured only to the benefit of the white students seeking to transfer to get out of a segregated or racially-imbalanced school into a white school.

V.14 The affirmative allegations of Paragraph VII of Board's Ans. Board introduced no credible evidence thereof. Board will not know whether the facts alleged by it therein are true unless and until it evolves and adopts a Master Plan of integration, together with the methods, means, mechanics and techniques thereof

V.15 The affirmative allegations of Paragraph VIII of Board's Ans.

The Court does find true: that the Bill of Rights, 5th and 14th Amendments of the Constitution of the United States, Article I, Section 11, Article IX, Section 1, of the California Constitution, and Rules 2010 and 2011 of the State Board require Board to grant to all of its pupils equal educational opportunity; that such equal educational opportunity can only exist in integrated schools; that to perform the said duty specially imposed upon it by law Board has the power to, and must, compel students to attend certain schools, to be designated by it, because of his race or color and to deny to students the right to attend a school selected by him or his parents solely because of his race or color. (*United States* v. *Jefferson County, supra,* p. 390.) Board stands *in loco parentis* to its pupils and is mandated by law to render to them said equal educational opportunities. Duties compelled by law confer all powers reasonably necessary for the performance thereof. A pupil has no right to select and determine the particular public school which he shall attend. That, since and only since 1966 when Board was mandated by State Board so to do, it has made a compilation of ethnic compositions of its schools. That its schools are approximately 561 in number (kindergarten, elementary, junior high, senior high), Board no longer having jurisdiction over junior colleges. That the area served by Board is approximately 711 square miles with a total student body of approximately 775,000.

V.16 The allegations of Paragraph IX of Board's Ans., excepting only that the Court does find true that Board has established a few insignificant pilot school programs, alleged integration, but did not make any in-depth analysis thereof so as to be enabled to determine the effect thereof. They were not, in fact, programs of or studies of integration, in that Board had never formulated or adopted any definition thereof.

VI. The Court makes no finding upon:

VI.1 The allegations, Line 22, p. 5, to Line 4, p. 6, of Petition. The Court hereinafter adjudging Board's duties specially imposed by law and ordering the issuance of a Peremptory Writ of Mandate directed to Board, ordering it to, in good faith and with all reasonable and due diligence, evolve and adopt a Master Plan, together with methods, means, manner, mechanics and techniques for the carrying out thereof, having for its objective and purpose the integration of all of its schools, and thereupon to present it to the Court for its approval as fulfilling said Writ and the duties imposed upon it by law, the Court should not and does not, in advance, make any findings thereon, excepting only that said Master Plan shall be applicable to the entire of Board's District Board is and should be allowed, in good faith, to evolve, evaluate and thereupon adopt the best and most expeditious Master Plan and the modes, means, manners, steps, mechanics and techniques for the integration of its District, which will work, and will have the burden, upon the return thereof to and hearings by the Court, to show that said Master Plan will work and will achieve such integration.

VII. In the event that any of the following Conclusions of Law are claimed or held to be Findings of Fact, they are by reference incorporated herein, hereat, verbatim.

As Conclusions of Law from the foregoing Findings of Fact

CONCLUSIONS OF LAW

I. In the event that any of the foregoing Findings of Fact are claimed or held to be Conclusions of Law, they are by reference incorporated herein, hereat, verbatim.

II. That Petitioners and the class in whose behalf this proceeding was instituted and prosecuted did not and do not have any plain or speedy or adequate remedy at law. Their only remedy is this proceeding for Writ of Mandate to compel performance of a duty specially imposed by law.

III. The right to equal educational opportunity is an inalienable right, within the Bill of Rights, the 5th and 14th Amendments of the United States Constitution, and Article I, Sections 1, 3 and 13, and Article IX of the California Constitution, and State Board's Regulation 2010. The right of all students, K through 12 being involved herein, to attend school and to receive the opportunity to acquire an equal education, equal to the educational opportunity offered to all other students, irrespective of race, color, creed, economic or social circumstances, is a fundamental right, a legal right, a species of property, equal to, if not greater than, other tangible property rights, it being the right to be a human being, and requires that he receives said opportunity in integrated schools.

IV. Though, in its narrowest construction, the 14th Amendment to the Constitution of the United States is a limitation on, a prohibition of, State, and through it Board, action, it at the same time imposes a duty on the part of State and Board, as State's agency and instrumentality, that when any action is undertaken thereby it must conform to, effectuate and confer equal protection of the laws, due process of law, equal educational opportunity. Its actions need not be the sole cause of the denial thereof, to constitute a breach of its duties. Its duties specially imposed by said laws, and the prohibition thereof, are breached when discrimination "results" at least in part from its action which is sufficiently, to some significant extent, involved. (*Mulkey* v. *Reitman* (May, 1966), 64 Cal. 2d 529, 535–36.)

Board action, State action, was and is significantly involved in the discriminations existent within its segregated schools and segregated education so as to fall within the prohibitions of the 5th and 14th Amendments because:

(i) "* * * it had undertaken through school districts to provide educational facilities to the youth of the state, (and) was required to do so in a manner which avoided segregation and unreasonable racial imbalance in its schools" (*Mulkey* v. *Reitman, supra,* p. 537);

(ii) it lent its power and authority and finances and processes to create, maintain and perpetuate segregated schools and segregated education, and its action "discourages integration or instigates or encourages segregation" (*Mulkey v. Reitman, supra,* p. 540), even though that goal was not within Board's purposes. (*Mulkey v. Reitman, supra,* 537, "* * * it is established that even where the state can be charged with only encouraging discriminatory conduct, the color of state action nevertheless attaches." (p. 540.) "* * * state *authorization* to discriminate was no less state action than state *imposed* discrimination." (pp. 540–41.) "It is thus apparent that, while state action may take many forms, the test is not the novelty of the form but rather the ultimate result which is achieved through the aid of state processes. And if discrimination is thus accomplished, the nature of prescribed state action must not be limited by the ingenuity of those who would seek to conceal it by subtleties and claims of neutrality." (p. 542).) (*Bell v. Maryland,* 378 U.S. 226, 84 S. Ct. 1814, 12 L.Ed.2d 822, Opinion by Mr. Justice Goldberg, p. 833–36) (June 22, 1964):

"The Declaration of Independence states the American creed: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.' This ideal was not fully achieved with the adoption of our Constitution because of the hard and tragic reality of Negro slavery. The Constitution of the new Nation, while heralding liberty, in effect declared all men to be free and equal—except black men who were to be neither free nor equal. This inconsistency reflected a fundamental departure from the American creed, a departure which it took a tragic civil war to set right. With the adoption, however, of the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution, freedom and equality were guaranteed expressly to all regardless 'of race, color, or previous condition of servitude.' United States v. Reese, 92 US 214, 218, 23 L ed 563, 564.

"In light of this American commitment to equality and the history of that commitment, these Amendments must be read not as 'legislative codes which are subject to continuous revision with the changing course of events, but as the revelation of the great purposes which were intended to be achieved by the Constitution as a continuing instrument of government.' United States v. Classic, 313 US 299, 316, 85 L ed 1368, 1378, 61 S Ct 1031. The cases following the 1896 decision in Plessy v. Ferguson, 163 US 537, 41 L ed 256, 16 S Ct 1138, too often tended to negate this great purpose. In 1954 in Brown v. Board of Education, 347 US 483, 98 L ed 873, 74 S Ct 686, 38 ALR2d 1180, this Court unanimously concluded that the Fourteenth Amendment commands equality and that racial segregation by law is inequality. Since Brown the Court has consistently applied this constitutional standard to give real meaning to the Equal Protection Clause 'as the revelation' of an enduring constitutional purpose. [p. 833.]

"The dissent argues that the Constitution permits American citizens to be denied access to places of public accommodation solely because of their race or color. Such a view does not do justice to a constitution which is color blind and to the Court's decision in Brown v. Board of Education, which affirmed the right of all Americans to public equality.

* * * * *

"The Thirteenth, Fourteenth and Fifteenth Amendments do not permit Negroes to be considered as second-class citizens in any aspect of our public life. Under our Constitution distinctions sanctified by law between

citizens because of race, ancestry, color or religion 'are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.' Hirabayashi v. United States, 320 US 81, 100, 87 L ed 1774, 1786, 63 S Ct 1375. We make no racial distinctions between citizens in exacting from them the discharge of public responsibilities: The heaviest duties of citizenship—military service, taxation, obedience to laws—are imposed evenhandedly upon black and white. States may and do impose the burdens of state citizenship upon Negroes and the States in many ways benefit from the equal imposition of the duties of federal citizenship. Our fundamental law which insures such an equality of public burdens, in my view, similarly insures an equality of public benefits. This Court has repeatedly recognized and applied this fundamental principle to many aspects of community life.

* * * * *

[p. 834.]

"A few years later, in 1880, the Court had occasion to observe that the e Amendments were written and adopted 'to raise the colored race from that condition of inferiority and servitude in which most of them had previously stood, into perfect equality of civil rights with all other persons within the jurisdiction of the States.' Ex parte Virginia, 100 US 339, 344–345, 25 L ed 676, 679. In that same Term, the Court in Strauder v. West Virginia, 100 US 303, 307, 25 L ed 664, 665, stated that the recently adopted Fourteenth Amendment mu:t 'be construed liberally, to carry out the purposes of its framers.' Such opinions immediately following the adoption of the Amendments clearly reflect the contemporary understanding that they were 'to secure to the colored race, thereby invested with the rights, privileges, and responsibilities of citizenship, the enjoyment of all the civil rights that, under the law, are enjoyed by white persons . . .' Neal v. Delaware, 103 US 370, 386, 26 L ed 567, 570.

* * * * *

[p. 835.]

"In Strauder v West Virginia, supra, this Court had occasion to consider the concept of civil rights embodied in the Fourteenth Amendment:

" 'What is this but declaring that the law in the States shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the States, and, in regard to the colored race, for whose protection the amendment was primarily designed, that no discrimination shall be made against them by law because of their color? The words of the amendment, it is true, are prohibitory, but they contain a necessary implication of a positive immunity, or right, most valuable to the colored race,—the right to exemption from unfriendly legislation against them distinctively as colored,—exemption from legal discriminations, implying inferiority in civil society, lessening the security of their enjoyment of the rights which others enjoy, and discriminations which are steps towards reducing them to the condition of a subject race.' Id., 100 US at 307–308, 25 L ed at 665.

* * * * *

" 'The Fourteenth Amendment makes no attempt to enumerate the rights it designed to protect. It speaks in general terms, and those are as comprehensive as possible. Its language is prohibitory; but every prohibition implies the existence of rights and immunities, prominent among which is an immunity from inequality of legal protection, either for life, liberty, or property.' Id., at 310, 25 L ed at 666. (Emphasis added.)" (p. 836.);

(iii) Board has expended millions of tax funds for the protection, maintenance and perpetuating of its segregated schools, selecting and purchasing sites and building of schools in segregated neighborhoods, knowing that said schools would be upon opening segregated or racially imbalanced; and

(iv) it set attendance boundaries and mandated the school attendance at minority segregated schools of minorities, preventing or prohibiting or impeding them from attending white or substantially all-white schools (Ambler Avenue Elementary School, P. 33, p. 1, 2155; Hyde Park Elementary (Trans. pp. 4707 to 4718), P. 48, B. 4, P. 48, D. 4; Bethune Junior High School (Trans. pp. 4744–58), P. 48, E. 1, P. 48, E. 2; El Camino Real High School, P. 48, F. 1, F. 2, F. 3 (Trans. pp. 4858–60); Washington High School, P. 34, B. pp. 61, 63, 64; Lawrence Junior High School, P .48, I. 1; Van Gogh Elementary School (Trans. pp. 4905–57); Filmore; Vaughn; Pacoisa; Hadden (Trans. pp. 5100–5101); Burnside Avenue Elementary School, P. 4801 (Trans., p. 5150); Harding Street Elementary School, R. 148B., pp. 3 and 4; Muir Junior High School; O'Shea Junior High School; Carver Junior High School (Trans., pp. 5428–30); Crenshaw High School (Trans. pp. 5485–86, 5497–98, 5492–93); Frost Junior High School (Trans., pp. 5662–65); Wilson Senior High School (Trans., pp. 5728–32).)

The segregation, both white and minority, in Board's Schools was not, is not, *de facto*. It is *de jure*.

V. The labeling of segregation as *de jure* or *de facto* does not change the fact of segregation. Each is merely a legal designation, a legal handle in the formulation of duties. The duty to grant and give to all students, including the minority students, equal education opportunity, is affirmative, the counterpart of depriving by prohibiting.

The Fifth and Fourteenth Amendments prohibited the denial of the rights thereof and imposed a duty on Board, at the very least, not to do anything to perpetuate the withholding of the rights, a duty not to do anything which in fact educationally discriminated against the right, a duty to in no manner or by any means aid in the deprivation of the right.

Therefore, was Board prohibited: from selecting sites and erecting and maintaining schools which perpetuated, if not created, segregation; from creating segregation by selecting sites and building schools, knowing that they upon opening thereof would be all or substantially all white or all or substantially all minority; from establishing mandatory attendance boundary areas which prevented or impeded the attendance of minority students at white schools; from denying transportation to socio-economically disadvantaged minority students to enable them to attend a school out of their segregated neighborhood.

The doing thereof by Board has factually, practically, a prohibition, a prevention, of the rights of its students and was *de jure* segregated education. (*Shelley* v. *Kraemer*, 334 U.S. 1, 68 S. Ct. 836, 92 L. Ed. 1161 (1948).)

It is practically impossible, in the creation and maintenance of neighborhood schools, and the mandating of attendance thereat, which are in fact segregated, and schools being created and maintained by tax money, to have only *de facto* segregation.

"Segregation in public education is not reasonably related to any proper governmental objective and thus it imposes on Negro children [all minorities] a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause and the Equal Protection of the Law Clause (5th and 14th Amendments of the United States Constitution)." (*Bolling v. Sharpe* (May 17, 1957), 347 U.S. 497, 501, 74 S. Ct. 693, 98 L. Ed. 884, 887.)

VI. The issue herein is not a social issue (R. Pt. A., 10–14–69, pp. 16, 18), but one of constitutional rights, whether separate but allegedly equal is equal. Board has great discretionary powers in determining the curriculum, the mode and manner of teaching, establishing and maintaining the public schools and the educational processes; and the Court will not impose its judgments thereon. But Board is a Trustee, a fiduciary, to all of its students, and owes to each of them a duty, in the highest of good faith, not to discriminate but rather to give and make available to all equal educational opportunity, not to give to one that which it denies or withholds from another, but equally, without favoritism, without preconceived assumptions of superior or inferior educational capabilities, without segregation, whether by reason of race, color, creed, economic or social circumstances.

The position of the Board that "the school district should compare the educational effects of a given number of dollars spent on one input with the educational effects of the same number of dollars spent upon another school input" (R. Pt. A., 10–14–69, p. 9, Lines 19–22), in deciding whether it will integrate education, overlooks its duty to all of its said students. The duty cannot be performed by favoring one race over another because of Board's belief, assumed, that minorities inherently are less educable. There can only be a true comparison of effect of expenditure of a given number of dollars spent on one input with educational effects of the same number of dollars spent on another input when all of the students have first had, and for a reasonable period of time sufficient to overcome the detrimental effects of the discrimination heretofore, equal educational opportunity, so that when dollars are spent on one input they will have been spent on all of the students having had the benefits of the same equal educational opportunity. (Only then, when all be treated equally, will we be enabled to disavor the cynicism and sophistry, "The law, in its magnificent equality, forbids both the rich and the poor from sleeping under bridges, begging in the streets and stealing bread." (Anatele France).)

VII. Nothing herein is intended to, nor shall it, prevent Board from expending any surplus funds, surplus after having first created equal educational opportunity, for special programs for all gifted children and other forms of higher educational processes.

VIII. Board, as an agency and instrumentality of State Board, is bound by and must comply with State's determinations and definitions of integrated education and its regulations thereon, they complying with the students' constitutional rights. (*Pass School District, et al.*, v. *Hollywood City School District* (1909), 156 Cal. 416–18; California Administrative Code, Title 5, Rules 2010, 2011 (Court's Exbs. 10–A, 10–B); Edu. Code § 152; Art. IX, Calif. Const.; Gov't. Code §§11501 et seq., 11440 et seq.)

State Board, during the course of the trial, adopted, pursuant to the power vested in it (Edu. Code §152), its amended Rules 2010 and 2011. Neither the Fifth nor Fourteenth Amendments to or the Bill of Rights of the U.S. Constitution, nor Article I, Section 11, nor Article IX, Sections 1 or 5, of the California Constitution, nor any of the Sections or Divisions (Divisions 6 or 7 or 9) of the Education Code, nor Brown I or II, nor Green, nor Jackson, nor United States v. Montgomery County Board of Education, 23 L. Ed. 2d 263 (June 2, 1969), define "integration" or "racial balance" or "racial imbalance". It was left for the states to do so. Therefore, Board adopted said Rules to effectuate integration. They are binding on Board. Board must comply therewith.

Rules 2010 and 2011 being in fulfillment of State's duties, the Court must, if reasonably able to do so, construe them so as to be constitutional.

IX. Rules 2010 and 2011 should, therefore, be construed to provide and require:

2010. "• • • [T]hat [all] persons or agencies [County organizations (Division 3, Education Code), local educational agencies (Division 4, Education Code), etc.] responsible [under the Education Code] for the establishment of school attendance centers or the assignment of pupils thereto shall [mandatory] exert [put in vigorous action, do] all [every] effort [strength, force, power] to *prevent* and eliminate *racial and ethnic imbalance* [however caused or from whatsoever resulting] *in pupil enrollment. The prevention and elimination of such imbalance shall* [mandatory] *be given high priority* [a governing factor, control] *in all decisions relating to school sites, school attendance areas and school attendance practices.*"

2011. "*School District and State Responsibilities in preventing and Eliminating Racial and Ethnic Imbalance.*

"*(a) School Sites. Attendance Areas and Attendance Practices. In carrying* [to carry] *out* [fulfilling] *the policy of Section 2010, consideration* [give effect to] *shall* [mandatory] *be given to factors such as the following:*

"*(1) A comparison of the numbers and percentages of pupils of each racial and ethnic group in the district with their numbers and percentages in each school and each grade.* [of the district]

"*(2) A comparison of the numbers and percentages of pupils of each racial and ethnic group in certain schools with those in other schools in adjacent areas of the district.*

"*(3) Trends and rates of population change among racial and ethnic groups within the total district, in each school, and in each grade.*

"*(4) The effects on the racial and ethnic composition of each school* [in the district] *and each grade of alternate plans for selecting or enlarging school sites, or for establishing or altering school attendance areas and school attendance practices.*

"*(B) RACIAL AND ETHNIC SURVEY. The governing board of each school district shall* [mandatory] *periodically, at such time and in such form as the Department of Education* [State] *shall prescribe, submit statistics sufficient to enable a determination to be made of the numbers and percentages of the various racial and ethnic groups in every public school under the jurisdiction of each such governing board.*

"*(C) DETERMINATION OF RACIAL AND ETHNIC IMBALANCES AND CORRECTIVE PLANS. For purposes of these regulations, a racial or ethnic imbalance is indicated* [exists, shown, denoted, pointed out, known, signified, evidence] *in a school if the percentage of pupils of one or more racial or ethnic groups differs significantly* [significant extent] *from that in all the schools of the district. Insofar as reasonable feasible* [capable of being done] *in the development of corrective plans, the district should consider* [conclude] *that imbalance is indicated* [exists, shown, denoted, pointed out, known, signified, evidenced] *when the percentage of pupils of one or more racial or ethnic groups in a school differs by more than 15 percentage points from the district-wide percentage.*"

"Shall", wherever used, is mandatory. (Edu. Code § 36.)

(The definitions and synonyms inserted by the Court within the foregoing are from Webster's New International Dictionary, Second Edition.)

No discretion or right is vested in Board by 2010 to decide whether, in its opinion, integrated education will or will not affect the educational achievement of its students or whether or not, in Board's opinion, it is or is not "feasible" for board to comply therewith. Board is under a duty to comply therewith.

State Board does and must have the power to promulgate said Rules, for otherwise there could possibly be as many definitions and rules of integrated education, racial balance and imbalance as there are Districts within the State. The rules and definitions of integration, segregation, racial balance and imbalance must be uniform throughout the State for it is State action. Only if State Board should fail to define and provide for integrated education throughout the State, or if its definitions and rules were contrary to the constitutional rights of the students throughout the entire State, they being the students of State Board, may the Courts become involved, and then only upon a direct review thereof as provided by Gov't Code §11440. (CCP §1094.5.)

X. The Court does not have jurisdiction, in this proceeding, to review Rules 2010 and 2011, or promulgate a new or different definition of integration. Administrative remedy having been provided (Gov't. Code §11440), the parties must first exhaust this. It is a prerequisite, a condition precedent, to jurisdiction of the Court to review. (*Abelleira* v. *District Court of Appeal*, 17 Cal. 2d 280, 292 (1941); *Clark* v. *State Personnel Board*, 61 Cal. App. 2d 800, 802 (1943); *Allen C. Woodward, III, et al.*, v. *Broadway Federal, et al.*, 111 Cal. App. 2d 218, 220–(1952).)

Therefore, the Court may not herein determine whether: the "15 Percentage Points" is "Wholly Unsuited To Conditions In The Los Angeles City School District" (P. Pt. A., 3–3–69, P. 13); or that "it would produce more problems than it would solve. It would impose intolerable administrative and logistical burdens" (P. Pt. A., 3–3–69, p. 14, Lines 22–24); or that "the state yardstick is not grounded in the findings of the social scientists". (p. 14, Lines 27–28.)

Additionally, State not being a party hereto, any declaration or finding thereon or attempted adjudication thereof by this Court would inequitably affect or possibly jeopardize State's interests or rights, and the Court has no jurisdiction to do so. (CCP §389.)

Board also contending that said Rules are either wholly unsuited to the conditions existing in its District, unusable, would produce more problems than they would solve, would impose intolerable administrative or logistical burdens, has the right to, and, if they will prevent it from formulating a practical, workable Master Plan of integration, the duty to, petition State Board for a reconsideration of its said Rules. Petitioners have the same rights.

Petitioners' proposed yardstick, that is, "less than 50% but not less than 10% minority enrollment", is the finding of the federal studies of integration, and, if the Court were to find thereon, it would so find; but State Board has the first jurisdiction and right to consider the questions involved, including any claims, if any, of invalidity of its Rules 2010 and 2011. (*U.S. v. Superior Court*, 19 Cal. 2d 189, 194–95 (1941).) This Court's jurisdiction and power is solely under Gov't. Code § 11440 and CCP § 1040.5. (*Contractors' State License Board v. Superior Court*, 187 Cal. App. 2d 557, 560–62 (1960); *Caminetti v. Imperial Etc. Life Ins. Co.*, 54 Cal. App. 2d 514, 518 (1942).)

This Court is well aware of the horrendous period of time consumed in litigation such as this (August 1, 1963, to date), that a full generation, K–12, has elapsed since Brown I, and that minority students in Board's segregated schools have suffered not only a deprivation of their constitutional rights but as well in having received inferior educational opportunities; but, as we are a country of laws, the parties must comply therewith. Without law, there are no rights or liberties or a democracy.

XI. The fact that Rules 2010 and 2011 "have made little progress towards desegregation of" Board's schools (P. Pt. A., 3–3–69, p. 17) is not solely the fault of Board. It is the combination of the omission of State Board to enforce them and the refusal by Board to abide by and put them into operation until judicially forced to do so.

Therefore, "whatever plan is adopted [by Board] will require evaluation in practice, and the court should retain jurisdiction until it is clear that state-imposed segregation has been completely removed." (*Green v. County School Board* (May 27, 1968), 20 L. Ed. 2d 716, 724, 88 S. Ct. 1694, 1696.)

XII. Board has urged that, if integrated education be imposed within its entire District, whites will flee therefrom. Whether or not that be true, when integration be imposed upon the entire District, the Court makes no Finding thereon at this time; but the "fleeing of the whites", if it should occur, cannot and does not justify segregated education. Whites are not to be induced to, or caused to, remain within Board's District by depriving the minority of their constitutional, inalienable rights.

(*Cooper v. Aaron*, 3 L. Ed. 2d 5, 15–18, 78 S. Ct. 1401, 358 U.S. 1 (1958):

"The constitutional rights of respondents are not to be sacrificed or yielded to the violence and disorder which have followed upon the actions of the Governor and Legislature. As this Court said some 41 years ago in a unanimous opinion in a case involving another aspect of racial segregation: 'It is urged that this proposed segregation will promote the public peace by preventing race conflicts. [p. 15.] Desirable as this is, and important as is the preservation of the public peace, this aim cannot be accomplished by laws or ordinances which deny rights created or protected by the Federal Constitution.' Buchanan v. Warley, 245 US 60, 81, 62 L ed 149, 163, 38 S Ct 16, LRA 1918c 210, Ann Cas 1918A 1201. Thus law and order are not here to be preserved by depriving the Negro children of their constitutional rights.

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"• • • Thus the prohibitions of the Fourteenth Amendment extend to all action of the State denying equal protection of the laws; whatever the agency of the State taking the action, see Virginia v Rives, 100 US 313, 25 L ed 667; Pennsylvania v Board of Directors of City Trusts of Phila, 353 US 230, 1 L ed 2d 792, 77 S Ct 806: Shelley v Kraemer, 334 US 1, 92 L ed 1161, 68 S Ct 836, 3 ALR 2d 441, or whatever the guise in which it is taken, see Derrington v Plummer (CA 5 Tex) 240 F 2d 922; Department of Conservation & Development v Tate (CA 4 Va) 231 F 2d 615. In short, the constitutional rights of children not to be discriminated against in school admission on grounds of race or color declared by this Court in the Brown case can neither be nullified openly and directly by state legislators or state executive or judicial officers, nor nullified indirectly by them through evasive schemes for segregation whether attempted 'ingeniously or ingenuously.' Smith v Texas, 311 US 128, 132, 85 L ed 84, 87, 61 S Ct 164. [p. 16.]

• • • • •

"• • • that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system. It follows that the interpretation of the Fourteenth Amendment enunciated by this Court in the Brown Case is the supreme law of the land, and Art 6 of the Constitution makes it of binding effect on the States 'any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.' Every state legislator and executive and judicial officer is solemnly committted by oath taken pursuant to Art 6, cl 3, 'to support this Constitution.'

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"It is, of course, quite true that the responsibility for public education is primarily the concern of the States, but it is equally

true that such responsibilities, like all other state activity, must be exercised consistently with federal constitutional requirements as they apply to state action. The Constitution created a government dedicated to equal justice under law. The Fourteenth Amendment embodies and emphasized that ideal. State support of segregated schools through any arrangement, management, funds, or property cannot be squared with the Amendment's command that no State shall deny to any person within its jurisdiction the equal protection of the law. The right of a student not to be segregated on racial grounds in schools so maintained is indeed so fundamental and pervasive that it is embraced in the concept of due process of law. Bolling v Sharpe, 347 US 497, 98 L ed 884, 74 S Ct 693. The basic decision in Brown was unanimously reached by this Court only after the case had been briefed and twice argued and the issues had [p. 17] been given the most serious consideration. Since the first Brown opinion three new Justices have come to the Court. They are at one with the Justices still on the Court who participated in that basic decision as to its correctness, and that decision is now unanimously reaffirmed. The principles announced in that decision and the obedience of the States to them, according to the command of the Constitution, are indispensable for the protection of the freedoms guaranteed by our fundamental charter for all of us. Our constitutional ideal of equal justice under law is thus a living truth." (p. 18).)

Nor does white and Negro racism excuse Board's non-compliance. (Trans. pp. 7794–7801.)

XIII. Board's alleged open-transfer policies not having been designed to meet realistically desegregation, not being a plan of desegregation or integration, and segregation being the inevitable consequence thereof, is invalid. Open transfer plans must be reasonably designed to and must meet realistically the problems of desegregation.

XIV. Board is under a duty specially imposed by law to, in the highest of good faith: (i) with all due diligence and speed, evolve and adopt a meaningful Master Plan of integration, a plan that will realistically work within a reasonable period of time, having for its aim, purpose and object a racially non-discriminatory unitary school system within all of its schools as a whole and not merely for one or a group of schools, leaving others segregated; and (ii) as a part of said Master Plan, to evolve and adopt the methods, means, mechanics and techniques to make it work, and which shall work; and (iii) the Master Plan shall be made legally effective within and upon the entire of Board's District at one time, though the consummation thereof may require, and if it does State may do so, in steps, over a reasonable period of time; and (iv) the integration shall be in accordance with Rules 2010 and 2011 of State Board as now and hereafter existing. If Board cannot comply therewith within its District, pending the hearings on Board's petitions for the amendment or modification thereof so as to be practical and workable, Board's Master Plan of integration shall provide for and Board shall effectuate integration consisting of not less than approximately ten percent of minorities and not to exceed fifty percent of minorities in each of its schools. The transition to a unitary, non-racial system of public education was and is the ultimate end to be brought about" (*Green* v. *County School Board, et al., supra,* 722); and (v) therefore, the Master Plan shall, among other things, by its terms: provide for and the manner and means of its periodic public review, with reasonable notice to parents of children involved so that its schools shall at all times be integrated; and (vi) the Master Plan shall provide for, and the methods, means, manner, mechanics and techniques shall effect, the selection of new school sites and construction of schools for and they shall eliminate segregation and create integration.

XV. Therefore, Board shall, and a Writ of Mandate shall be issued herein commanding it to, on or before the 1st day of June, 1970, present to this Court, for its approval, in compliance with the Judgment of this Court and said Writ, upon notice to petitioners and, as shall be prescribed by the Court, notice to the parents of Board's pupils of the hearing thereon, said Master Plan together with the method, means, manner, mechanics and techniques thereof. Said Master Plan shall be designed for and be placed into operation prior to the school year commencing on or about September, 1970, so that in and during said school year and not to exceed under any circumstances the school year commencing September 1971, it be made effective as to all of the schools of Board.

Only a prompt start, diligently, in good faith, pursued, to eliminate racial segregation from Board's schools, can constitute good-faith compliance. Board is duty bound, and the Peremptory Writ shall command it, to devote every effort toward initiating the desegregation of, bringing about the elimination of racial discrimination in, its public school system, at and within the times aforesaid.

The Court retains jurisdiction to hear, approve or disapprove said Master Plan and its methods, means, manner, mechanics and techniques for the carrying out thereof.

XVI. Board shall not, and the Peremptory Writ shall command it not to, pending the adoption and approval of said Master Plan of integration, do anything, including, by way of specification and not by way of limitation, selection of sites, construction of new schools, construction of additions to existing schools, adoption or modification of transfer policies or transportation policies, adoption, changes or modification of school attendance boundaries, which will continue or preserve or tend to preserve the segregation presently existing in its schools. Board shall, during said period of time, only select sites, build schools, build additions to its existing schools, adopt or modify transfer policies, adopt or modify transportation policies and all other things for the purpose of integrating its schools and to desegregate these now segregated.

XVII. That Petitioners, through and for its Counsel and to be paid directly thereto, shall have and recover of and from Board, as the reasonable value of their services herein, the sum of $65,000.00, together with their costs and disbursements herein.

XVIII. The Court retains jurisdiction to, upon entry of final Judgment herein, allow to Petitioners for their said Counsel, and to be paid to them, the reasonable value of the services which may be performed by them from and after the entry of the Order on Motion for New Trial anticipated to be made by Board and until the Judgment shall become final.

XIX. Let a Peremptory Writ of Mandate issue, commanding Board as hereinbefore adjudged and commanding it to appear before this Court as aforesaid upon notice as aforesaid, on or before the 1st day of June, 1970, at the hour of 9:00 a.m., then and there to show cause what it has done to comply with said Writ.

XX. Judgment shall be entered accordingly.

(Counsel for Petitioners shall prepare the proposed formal Findings of Fact, Conclusions of Law, Judgment and Peremptory Writ of Mandate, substantially in accordance with the foregoing; shall serve them upon Counsel for Respondent, and thereupon lodge them with the Court. The preparation thereof shall not constitute an agreement therewith or acquiescene therein or waiver of any rights.

(The Court invites the attention of all Counsel to CCP § 634 and suggests their compliance therewith. Upon the close of the evidence, in lieu of oral argument, the Court invited and provided for the filing by all Counsel of Points and Authorities, including a review or Memorandum on the Evidence. Petitioners did so. Respondent filed Points and Authorities but no Review of or Memorandum on the Evidence. The Court assumes that Counsel for Board will avail themselves of the rights under CCP § 634, and requests that, with its objections to and requests for additional findings, it serve and file a Memorandum on the Evidence, which should include all evidence bearing upon the objections and requests.

(When, as and if the Judgment be entered, and the Peremptory Writ issue, unless Board shall procure a stay thereof, upon motion by the party or upon Court's own motion, a hearing shall be had as to the appointment by the Court of the Court's Expert or Experts, as hereinbefore found.)

(The Clerk shall send a copy hereof to each of the parties, to Petitioners by Bayard F. Berman, Michael Bergman and Sol Rosenthal; to Board by County Counsel, attention of Alfred Charles DeFlon, and to Jerry S. Halverson, Legal Advisor to the Board.)

Dated: February 11, 1970.

ALFRED GITELSON,
Judge of the Superior Court.

THE FACTS ABOUT PRAYER IN SCHOOLS

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

Mr. GIBBONS. Mr. Speaker, 7 years ago the Congress was wracked by fiery suggestions as a result of the Supreme Court's decisions on religion in our schools. From time to time certain groups and certain demagogic organizations picked up this hue and cry, trying to stir up the Nation that religion was dying and that belief in God had been banned.

After 7 years that have been demonstrated by foolishness and loose talk, it is refreshing that someone has written intelligently about the effect of the Supreme Court decisions.

I commend to the Members of the House the following article written by Mr. Louis Cassels, religion writer for United Press International, which appeared in the March 23, 1970, issue of U.S. News & World Report. I also call attention to the headnote in which Mr. David Lawrence, distinguished editor of the U.S. News & World Report, comments on the article. The article follows:

THE FACTS ABOUT PRAYER IN SCHOOL

(Note.—Here is a succinct article on prayer in schools distributed by United Press International for publication a few days ago. It deserves the attention of school authorities everywhere, David Lawrence, Editor.)

(By Louis Cassels, religion writer for United Press International)

Few legal opinions have ever been more widely misinterpreted than those handed down by the U.S. Supreme Court concerning prayer and Bible reading in public schools.

Even among school authorities and journalists, who should know better, the idea persists that the Court "banned" prayer and Bible reading from public school classrooms. It did not.

All that it held unconstitutional was the formerly widespread practice of beginning

each school day with a miniature worship service, which typically included a devotional reading from the Scriptures and unison recitation of the Lord's Prayer.

This practice, the Court said, infringed religious liberty and transgressed the line of separation between church and state drawn by the First Amendment to the Constitution.

In the Engel v. Vitale case of 1962, the Court held that a public school may not require the recitation of an officially sponsored prayer as part of a classroom religious exercise.

In Abington School District v. Schempp the following year, the Court said that a public school may not require the reading of a portion of the Bible or the recitation of the Lord's Prayer as part of a classroom religious exercise. That is all the Court has forbidden public schools to do.

The Court went out of its way to emphasize that there is no constitutional objection to any of the following activities in public schools:

Use of the Bible as a reference work for teaching secular subjects.

Study of the Bible for its literary and historic qualities.

Objective instruction in comparative religion.

Study of the history of religion and its role in the advancement of civilization.

Reciting historical documents, such as the Declaration of Independence, which contain reference to God.

Singing the National Anthem or patriotic hymns, which include the composers' profession of faith in God.

References to God in patriotic or ceremonial occasions

Far from "banning" recognition of America's religious heritage, the Court went to unusual lengths to urge that public schools pay more systematic and effective attention to teaching about it.

"It might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization," the Court said in Abington v. Schempp. "It certainly may be said that the Bible is worthy of study for its literary and historic qualities."

What about "voluntary" prayers in the schoolroom?

If they are the private prayers of an individual, or the group prayers of students meeting on their own time and of their own volition, they are clearly permissible under the terms of the Court rulings.

But if they are part of an official classroom exercise conducted under the aegis of an agent of the Government (the teacher), they would violate the spirit if not the letter of the Court rulings.

Some school districts have inaugurated periods of "silent meditation" in which students are free to pray privately, to think deep thoughts, or just stare out the window, as they see fit. This practice has thus far encountered no objection from federal courts.

Other school districts—a UPI survey last fall indicates the number is substantial and growing—are simply ignoring the Court rulings and going back to the old custom of classroom worship services. This is clearly a defiance of the law as interpreted by the highest court, but a local school may get away with it so long as no parent goes to court to challenge the practice.

Relatively few school districts have had the courage and imagination to teach about religion and the Bible in the objective, constitutional way recommended by the Court. Some school authorities use the Court rulings as an excuse for avoiding what they see as a ticklish and difficult task—a dodge that helps to perpetuate public misunderstanding of the rulings.

Others say that no suitable curriculum materials are available. But this is no longer true. Plenty of good textbooks and course outlines are now on the market.

Any school district or Parent-Teachers Association seriously interested in learning what can be done in public schools—what is being done successfully in some schools—can obtain detailed information from the Religious Instruction Association, Inc., 4001 Fairfield Avenue, Fort Wayne, Ind., 47807.

STRIKE MUST BE DEPLORED

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

Mr. EDWARDS of Alabama. Mr. Speaker, the wildcat strike of postal employees now besetting various parts of our Nation must be deplored. At the same time one can sympathize with the plight of the postal workers who in some cases must go on welfare or take a second job to support his family. Nevertheless, the tactics being used by a minority of these workers should be soundly condemned and no action taken until normalcy is restored.

The question of a postal pay raise is elementary. These men perform a vital service for the economy and well-being of our Nation. Yet they have seen their pay rates fall steadily behind those of other federally employed workers. When a man must go on welfare to support his family despite working full time for the post office, then something is wrong.

But, Mr. Speaker, in great part the answer to the problem lies in the adoption of the postal reform legislation. The reform bill contains many of the provisions the postal workers are contending for. And yet, is it not ironic that they are the very one who have been opposing the reform bill with such vigor.

The reform bill would allow bargaining on a regional basis, it would provide for higher wages, for nonpolitical settlements, for grievance procedures, for arbitration, for a chance for promotion, and it generally offers many other benefits for postal workers.

Yet, the Democratic leadership in Congress has refused to bring the needed reform measures to the floor. The Postal Reform Act should be passed immediately. It is long overdue.

But there is another issue in this postal strike. And it is very simple. The strike is illegal. There can be no way to justify it. It is not only contrary to law, it violates a lawful court order. Postal workers have taken to the streets and neither the Congress nor the President should respond to the pressures of street politics.

Mr. Speaker, the frustration which the postal worker is experiencing today is a product of the same old political system which brought him to this point. Instead of taking to the streets illegally, he should be here lobbying for the postal reform bill so as to get this monkey off his back.

At any rate, I am not willing to vote for any bill granting additional benefits to any postal worker who is engaging in an illegal strike. I am just happy to note that the postal workers of the First District of Alabama have not engaged in such illegal activity.

GOVERNMENT MUST OPERATE POST OFFICES

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

Mr. RARICK. Mr. Speaker, the current postal strike, which is not called a strike because to do so would be a felony crime serves to point up for all to see a serious and growing threat to our Government.

We have, in the past, enacted laws to cover exactly this sort of situation. There is no need for further talk here about the action or inaction of the Congress. The laws which we have passed—and they are the law of the land—are now being flagrantly violated. I refer particularly to 5 U.S.C. 7311 and to 18 U.S.C. 1918, which I include at this point in my remarks:

SUBCHAPTER II—LOYALTY, SECURITY, AND STRIKING

§ 7311. Loyalty and striking

An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 524.

§ 1918. Disloyalty and asserting the right to strike against the Government

Whoever violates the provision of section 7311 of title 5 that an individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia;

shall be fined not more than $1,000 or imprisoned not more than one year and a day, or both. Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 609.

Just who is running this country?

Many Americans have been aware for years that the important foreign policy decisions are not made by either the President or the Secretary of State, but by bureaucrats who have been imbedded in the State Department for years, no matter whether the President is Democratic or Republican. Worse, the decisions of these bureaucrats are actually made by a select group of real decision-makers outside of the Government, not elected, not even appointed, and fre-

quently not even known. The whole sellout to "agrarian reformers" in Red China, repeated in Red Cuba, is an example of this seizure of power by individuals neither entitled nor in any sense qualified to wield it.

Recently we have seen the Department of Justice follow the trend and abdicate its policymaking functions to low level bureaucrats, particularly in the Civil Rights Division where radicals simply were attached to the public payroll to further the purposes of the radical organizations from which they came. Then, these same radicals contributed from their salaries to further the purposes of the radical organizations they were supposedly opposing. See my remarks, "Parallel Government," February 10, 1970, RECORD page 3295. The policies of the Department of Justice have been loudly and publicly attacked by its own employees—even in the courts where they were supposed to be promoting them.

Not long ago we saw the same kind of revolt in the HEW bureaucracy, where some 2,000 minor employees demanded an audience with Secretary Robert Finch for the purpose of making him alter the policies of the Department more to their liking. That intolerable spectacle was tolerated by those in authority in that Department. Even the ultimate removal of a high level employee who disagreed with the established policy—the Panetta case—was due to pressure from outside the Department.

In the Armed Forces we have seen deliberate and most dangerous infiltration—for the sole purpose of subversion. Whether we are talking about such a thing as a soldiers' union, or the seditious and subversive "GI Coffee Houses," or about the divisive cancer of "black power" in uniform, the idea is totally improper and cannot be tolerated—if we are to maintain a fighting force.

Now some of the postal employees have decided that they will ignore the law, ignore their individual oaths to their country, ignore the sound advice of their union officers, and blackmail the Congress into giving them more money from the Public Treasury. This is called extortion—and it is not a situation to be taken lightly. It represents to many of the informed Americans a probe for the purpose of determining whether the time is ripe for the disintegration of our system—for the long sought attack on the "establishment."

The genius of our system of Government—a sovereign Nation of sovereign States, governed by law, not men—is what is being tested. The time rapidly approaches when a decision must be made—whether our system shall continue or whether it shall be replaced by one keeping the forms, but not the substance of freedom. If we, the elected and responsible representatives of the American people do not make this decision—if we abdicate our responsibility—then the people will decide. The time for the Third Continental Congress may be approaching.

We know that if the people are truly sovereign, then those designated by that people to run their Government must do so. To let outsiders control the Government of the people is a violation of the sovereignty of the people. This is the disease which destroyed both the Third and Fourth Republics in France. It cannot be permitted to occur in the United States.

Strikes against the Government, by employees of the Government, and particularly those undertaken for the purpose of influencing policy decisions of the Government, amount to sedition and should be dealt with as such. There cannot be two governments in one land—and we have acknowledged that fact. That is why we enacted statutes to immediately fire and to punish as criminals those who undertake such strikes.

I call on the President to enforce the law of the land—to live up to his oath of office—to perform his constitutional duty—and to take whatever steps may be necessary to cause the Government to operate the postal service as it is charged to do. Like the war power, this is the subject of an unmistakable constitutional mandate from the people and from the States.

The operation of public schools and the internal organization of labor unions are of highly doubtful Federal interest under our system, but plainly, the mails must go through.

GILBERT ASKS ADMINISTRATION TO RECONSIDER ISRAEL POLICY

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

Mr. GILBERT. Mr. Speaker, though we credit the Nixon administration with the most honorable of intentions, it is difficult to reconcile its present course in the Mideast with our Nation's long-established support of Israel's integrity.

It now seems clear that the present Arab course is one of attrition, to use raiding parties to provoke retaliation with the specific intention of depleting Israel's superior air might. The Arabs seemingly now have not only Russian equipment but Russian antiaircraft crews to man them. Russia also is supplying missiles to be used against Israel.

It is, Mr. Speaker, a chillingly shrewd appraisal of the military situation in the Mideast. While it is true that Israel's superior airpower now makes direct attack on that tiny nation a form of military suicide, if she cannot replenish her planes as they are downed, Israel soon will become vulnerable to the hostile hoards that surround her.

It is no idle fear that the present U.S. policy may play directly into the hands of the Arabs. Not only do we train Arab pilots here in the United States where we do not train Israel pilots, we apparently have sold jet fighters to Libya within the last 24 months. Now the administration has decided not to furnish Israel with new jet fighter planes until that isolated nation reaches some arbitrary breaking point.

Mr. Speaker, if we withhold our help until then, it may be too late to save Israel from annihilation. Israel has not survived these years because of parity but because of superiority. In the Middle East, parity is a code name for Israel's destruction.

Let us make it perfectly clear, Mr. Speaker, that our greed for Arabian oil has let us compromise our moral obligations in the Middle East. If the Israelis are belligerent about returning territories taken during the 6-day war of 1967, I daresay they have ample cause. The territories are not the roadblock to peace, nor in a sense, are the Arab nations who continue to agitate for Israel's destruction.

It is the powerful nations of the world, including ourselves, who are to blame for the perpetual crisis in the Mideast. As long as the Arab nations continue to receive arms, Israel must be armed. As long as Arabs and Israelis have armies, there will be wars.

The United States might be headed on the road to peace when it proposes de-escalating the arms race in the Middle East. But that precarious situation is not one where unilateral action can succeed. It will only result in additional bloodshed. Until we can reach accord with the Russians and other nations about a guaranteed reduction of arms on both sides, we simply cannot allow Israel's military might to be diminished.

Unless our present course of action is changed quickly, I fear we may be responsible for additional fighting in the Middle East. I urge the administration to reconsider its present stance as quickly as possible.

The President once asked us to consider not what he said but what he did. Mr. Speaker, we are watching closely.

MUTUAL FUND REFORM

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

Mr. MOSS. Mr. Speaker, the Subcommittee on Commerce and Finance has begun markup on the pending mutual fund reform legislation. This legislation, in one form or another, has been pending before the Congress since 1967 and I am personally hopeful that we will be able to report out a bill in the very near future.

I want to commend to my colleagues the following article on the mutual fund reform bill by a distinguished and knowledgeable commentator, Mr. Henry Ansbacher Long. The article was published in the January edition of Trusts and Estates, as follows:

INVESTMENT COMPANY NEWS

(By Henry Ansbacher Long)

ENACTMENT OF FUND REFORM BILL SHOULD BE DELAYED NO LONGER

On July 31, 1967, almost two and one-half years ago, this columnist made his first of many visits to Washington to attend Congressional hearings on the proposed mutual fund reform legislation. Now, once again, the bill appears to be stalled because of a belated proposal of the industry for a self-regulatory association which, in the first instance, would determine the adequacy of management fees, and the refusal of the contractual companies to accede to what had been believed to be a compromise agreement with the SEC on the front-end load. We deplore such delays, particularly after the long-drawn out efforts of the Commis-

sion to arrive at an acceptable measure, weakened through it had been from the original draft. The self-regulatory proposal we deem primarily a "red-herring" merely introduced to insure defeat of the legislation.

The members of the House Ways and Means subcommittee now considering adoption of the bill, in fact, might well also insure its effectiveness by adding a prohibition against the investment in so-called "restricted securities" by all mutual funds. The potential inequities are too great where price is determined directly underlying asset value and redeemability is a primary consideration. A maximum percentage investment in such securities, a half-way measure, would not provide an adequate solution to the problem. While we would not excise the proposal for a stretched-out front-end load at the present time, we would exclude the corollary alternate provision for the load as it now exists with a three-year refund of sales excess over 15%.

SEC Chairman Budge's negative reaction to the industry's recent hastily conceived sketchy proposal for self-regulation and his plea for prompt passage of the legislation as currently drafted was well-publicized on his final appearance before Congressman John Moss' subcommittee in mid-December. Nevertheless, the Committee staff was continuing discussions at a subsequent meeting along with the Investment Company Institute, the NASD and, presumably, representatives of the Commission. Such discussion had involved the technical problems that might be encountered in establishing the association, far removed as yet from the negotiation stage. Congressman Moss, however, had not appeared too friendly to the idea, when it had been first proposed to his Committee at previous hearings in November by Robert L. Augenblick, president of the ICI. The latter had stated in his prepared testimony that the 1963 SEC Special Study of Securities Markets had concluded that "ideally, official self-regulation should be extended to include all elements of the securities business that feasibly can be regulated."

Mr. Moss did not recall, as did some other knowledgeable persons, that the ICI had rejected such a suggestion in the past, but he did ask "what recent events caused this consideration now" when, for 6 years, the industry had not followed up the idea. The fund executive was also disputed when he said that the presently drafted management fee proposal would "open the floodgates to litigation." The legislator responded that "during 21 years of legislative experience" he had heard this argument, but it had proved otherwise.

THE SILENT MAJORITY

In his testimony, Mr. Augenblick had emphasized that "the public is well satisfied with their mutual fund investments and there is no public dissatisfaction with costs." Chairman Budge, resuming his testimony in December, noted that Congress in the '40 Act had directed the SEC to make recommendations for legislation as industry growth created problems for the protection of investors. With the apparent dissipation of compromise, it was necessary to review full why the legislation was "vitally important to investment company shareholders, the one group who has not appeared before you because they depend upon the Commission to speak for them and the Congress to act for them." These mutual fund investors are a truly great silent majority. They represent the myriad number of mutual shareholders who have experienced the unprecedented almost uninterrupted rise in stock prices during the last two decades. But given a really prolonged decline in equity markets and a number of industry "happenings," they will become readily identifiable vocal number. If for no other reason, it would reflect more wisdom than has thus far been observed in these long-drawn out legislative proceedings on the part of the investment company industry were it to accept the reform bill as now drafted rather than, as Representative Moss has suggested, find itself subject to a more restrictive measure in the future.

The proposed compromise with the contractual plan sector of the industry is particularly apposite. The Commission initially was strongly in favor of The Front-End Load's abolition. Chairman Budge pointed out in his December testimony that, most importantly contractual investors pay commission substantially higher than do other fund investors. Even the statistics presented by the industry to indicate that the majority of such investors realize profits show that most do not complete their payments and pay actual commissions of 15 to 50 percent.

Testimony presented by the plan sponsors also shows the need for updated statistics in order that the Commission may review the background of its recommendations. Data presented in November was essentially the same as that used for three years before the Congress and for over twice as long with the SEC. Naturally the great majority of these investors showed a profit if they held their plans long enough since their programs were initiated in 1953. Commissioner Budge observed that "it is rather terrifying to consider the fate of the small investor paying a 50% load if we should ever encounter a real bear market again."

NORMAN DACEY'S TESTIMONY

But there did appear before the House subcommittee one witness for the great silent majority of contractual investors accompanied by a very live and unbiased set of statistics. If anyone can claim experience with the distribution of mutuals it is this veteran. Our first remembrance of him goes back to November 1936, for he was the fellow who topped the list of prize turkey winners when we, too, were trying to sell what were later to be known as mutual funds. That Norman Dacey is a controversial figure, there is no gainsaying, especially among the readers of this mgaazine, but to deny his expertise in the mutual fund area is not possible.

From the record of 350 contractual accounts on his company's books Mr. Dacey compiled a study showing the actual investment results from inception to liquidation. Dates of the accounts commence in 1952 and thereafter. Amount and number of monthly payments made plus the sum of income dividends and gains distributions reinvested were totaled equaling the cost of the plan for tax purposes. Subtracting the amount realized on liquidation gives the net loss figure for the account. Although slightly exaggerated, Mr. Dacey finds the average 5.9% return from dividends and gain distributions on all the accounts "not dissimilar to what the investors would have earned in a deposit account" and thus equates the account loss to the lack of "profit reward" which the investor experienced for having taken "the risk of equity investment." Excluded are plans terminated in three years or less. These are plans originated by First Investors Corp. invested in Wellington and Fundamental Investors.

Although conceding that perhaps contractual plans offered by other sponsors show happier results, Mr. Dacey avers that "everyone who bought these contractual plans lost money . . . We *do* have such accounts on our books which show a profit," he explained, "but they are accounts which have run from 15 to 20 years." He clinches his statistical presentation with the observation that "mutual funds are offered as an investment hedge against inflation and the years covered by his survey were the most inflationary in our history."

Mr. Dacey also had something to say about restricted stock "The respectable element in the mutual fund industry regards investment letter stock as an invitation to disaster. It cannot be valued," he told Mr. Moss' committee. "Its purchase by mutual funds should not be permitted." Mr. Dacey had brought suits against Mates Investments of Value Line Special Situations Fund and Enterprise Fund because of inadequate disclosures in their prospectuses on investment letter stock.

He noted in his Congressional testimony that the mutual is required to value its investments at the close of the NYSE each day but "if the restricted stocks in your portfolio cannot be sold, how do you determine their value?" He called attention to the "instant performance" of several funds during the last few years that had resulted from a hasty marking up of restricted stock purchased at bargain prices. Others tend to agree with Mr. Dacey. Oscar Lasdon, senior editor of *The Bankers Magazine* wrote in an editorial published last May in the *Securities Regulation and Transfer Report* that the SEC should outlaw further open-end purchases of letter stock. And in the questioning following his last prepared testimony, Commissioner Budge agreed with House Committee Chairman Moss that such shares should be excluded from Mutual portfolios. Inquiry has confirmed, however, that the Committee has no intention of dealing with this problem in the proposed reform bill.

OTHER TESTIMONY

David Silver, General Counsel of the ICI, explained during the recent program on mutual funds, presented in mid December by the Practising Law Institute of New York City, that the SEC did not prohibit the use of restricted stock by open-end investment companies (although suggesting a 10% portfolio limitation) because it thought the small investor should not be denied the opportunity such securities offered. Alan Gorden, senior vice president of Shareholders Management Co. which includes a closed-end company concentrating investments in restricted securities among the funds it supervises, noted the difficulty often experienced even by informed people in deciding whether stock was actually restricted.

The SEC will now require the identification of all restricted stock in fund prospectuses. As to the difficulties experienced by the Mates Investment Co. resulting from suspension in trading of Omega Securities which represented 16% of its asset value, this could have happened also had Mates held *unrestricted* Omega stock. However, Mr. Gordon failed to point out that other restricted shares accounted for another 21% of Mates' assets. Mr. Gordon suggested that the ICI, NASD and SEC get together and decide how restricted stock should be valued.

In another PLI panel concerned with management fees, Richard M. Phillips of the Washington law firm of Surrey, Karasik, Greene and Hill and former SEC assistant general counsel, questioned whether advisory fees had been reduced by 23% since 1946 because of competition. Rather he felt it had been due to the pressure generated by the many law suits, the Wharton School Study and the fear of impending legislation. Mr. Augenblick of the ICI had referred in his previous Congressional testimony to "the substantial decline in advisory fee rates and expense ratios" over the years and the "mounting competition in the mutual fund industry." He emphasized his industry's position thus: "We have never believed that this type of legislation in the management fee area was really necessary." We believe that in this testimony, alone, he negates any possibility of benefit to be derived from a self-disciplinary body that purportedly would regulate management fees. For is it not a reasonable assumption that the self-policing organization will be represented by ICI membership.

Chairman Budge devoted a substantial portion of his testimony to special comments on the ICI's statistical presentation concerning management costs borne by the mutual shareholder. Referring to the industry trade group's data as a "homogenized statistical universe," he went into specific cases to show

that expense ratios were generally considerably higher than represented by the industry. As to the proposed self-policing unit, noting that its members "would gain nothing except immunity from judicial scrutiny of advisory fees," he stated:

"As the discussions our staff has had with the ICI have shown, it is doubtful that an objective standard could, in fact, be developed and applied fairly to such a diverse industry . . . The ICI recognizes that this may not work. They do not know just how they would propose to go about this self regulation . . . Another problem is the manner and extent to which unreasonable fees, in violation of the rules the Association may adopt, will be recoverable for the fund. Under the proposal the association could direct the repayment of unreasonable fees but the enforceability of such an order . . . is not clear. Further, the constitutionality of this approach is doubtful."

AT THE PLI SEMINAR

The proposal now in the draft bill that management "has a fiduciary duty to see that the management fee is reasonable" troubled Allan F. Conwill, former general counsel and Director, Division of Corporate Regulation of the SEC. No one knows what is meant by "reasonableness." Inclusion of this provision is going to result in a proliferation of suits. Further, if the Commission brings a suit, the court will feel that it has a special administrative expertise in this area that does not exist. But Richard M. Meyer of Pomerantz, Levy, Haudek and Block explained that the proposed bill was rather restrictive as to private rights of action. Defendants are limited to the actual recipients of the fee. Relative insulation of directors is not general in corporate law. In addition there is a one year statute of limitation. As to the relevant criteria in determining the reasonableness of the fee he listed ten factors: (1) Size of the funds and of the fee; (2) Expenses of the advisor; (3) Size of the advisor's staff; (4) Advisor's income from other funds; (5) Advisor's other income from the fund (e.g., brokerage); (6) Performance and risk assumption; (7) Fees of other advisors to investment companies, bank trust departments, etc. (Of particular importance may be the role of insurance companies and banks as they enter the mutual fund field; (8) Extent of any recapture of brokerage commissions; (9) Amount of consideration and analysis given by the directors; and (10) Effect of ratification and approval.

EIGHT NTS THESES CHOSEN FOR LIBRARY COLLECTIONS

The National Graduate Trust School chose eight of the 68 theses submitted by the Class of 1969 to be added to the library collections of The American Bankers Association and Northwestern University. Judgment is based on adequacy of research, readability, organization and the soundness of all conclusions as well as grammatical form.

The Class of 1969 is the third to complete the full three-year program at The National Graduate Trust School, held annually on the campus of Northwestern University by The American Bankers Association.

The list of bankers whose theses have been entered in the library collections follow:

Colin A. Browning, National Newark and Essex Bank, Newark, N.J.: "Why Pension Funds Should Buy Common Stock."

Benjamin S. Carroll, First National Bank, Birmingham, Ala.: "Federal Income Taxes and Trust Accounting For Timber."

Thomas L. Channell, Bank of California, Santa Ana: "Real Estate Investments In Trusts and Estates."

Joseph B. Crossan, III, Bank of Delaware, Wilmington, Del.: "Dividend Units: Their Treatment In Estates and Trusts."

Richard L. Jackson, Huntington National Bank, Columbus, Ohio: "The Ohio Fiduciary Company—Will It Work?"

William A. Johnson, Mercantile Trust Company, St. Louis, Mo.: "Default Administration of Corporate Trust Indentures."

Paul I. Kampner, Continental Illinois National Bank and Trust Company, Chicago, Ill.: "The Variable Retirement Benefit Under Qualified Employee Benefit Plan"

Floyd L. Williams, South Carolina National Bank, Columbia, S.C.: "The Quest For Investment Performance."

HENRY ANSBACHER LONG INDEX OF MUTUAL FUNDS

	Portfolio Policy		Principal performance base (100): bid price June 30, 1950					Income net investment dividend percent on average month-end offering price		
	Percent common stocks lower grade bonds and preferred stocks			June 30, 1950 to November 28, 1969		Current November 28, 1969				
	Recent September 30, 1968	7-year range	Pre war December 1939	Low	High	Bid and capital distribution	Bid only	Last 12 months		5-year averages
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Balanced funds				72.9	95.6	285.3	254.7	153.5	3.35	3.15
American Business Shares	52.8	62.8	42.3	72.4	97.5	[1] 201.1	182.8	829.0	4.17	3.75
Axe-Houghton Fund "A"	81.8	(2)	(2)	63.1	95.3	[1] 389.3	320.8	158.3	1.77	1.92
Axe-Houghton Fund "B"	(2)	(2)	(2)	55.5	95.9	[1] 351.0	289.3	159.7	3.32	3.00
Boston Fund	[3] 70.2	72.2	53.7	69.4	95.5	271.5	243.8	155.9	3.12	3.14
Channing Balanced Fund	64.2	85.4	55.1	----------	95.5	[1] 352.0	[1] 313.7	[1] 190.8	2.88	2.76
Commonwealth Investment Co	59.6	75.1	59.7	57.6	97.0	283.5	[1] 257.5	[1] 165.3	3.28	2.93
Diversified Investment, Inc	(2)	(2)	(2)	----------	88.0	289.3	[1] 253.6	[1] 157.7	3.52	3.34
Eaton & Howard Balanced Fund	67.3	70.9	60.2	67.0	96.3	[1] 262.1	236.6	157.4	3.75	3.29
Full Administered Fund (Group Securities)	66.0	86.0	66.0	87.0	96.4	[1] 211.1	[1] 194.6	[1] 119.5	4.21	3.78
Eaton & Howard Income Fund	56.2	72.2	50.5	91.7	97.2	[1] 258.3	225.8	124.1	4.55	3.88
Investors Mutual	(2)	(2)	(2)	----------	96.6	250.5	224.1	160.0	3.46	3.40
Massachusetts Fund	76.2	76.2	57.2	----------	97.2	276.3	241.1	168.0	2.94	2.70
National Securities—Income Series	(2)	(2)	(2)	----------	96.8	234.3	[1] 211.0	[1] 127.7	4.38	4.12
Nation-Wide Securities	56.4	66.4	53.8	82.3	97.2	[1] 246.7	226.7	144.2	3.92	3.57
George Putnam Fund	65.9	(2)	(2)	83.5	97.5	336.6	[1] 312.9	[1] 183.6	2.94	2.76
Scudder Stevens & Clark Balanced Fund	66.2	72.3	63.8	74.6	97.3	236.7	[1] 215.2	[1] 118.8	2.98	2.91
Shareholders Trust of Boston	71.3	76.7	49.0	----------	96.3	[1] 344.1	298.9	166.8	3.15	3.19
Stein Roe & Farnham Balanced Fund	68.6	69.1	58.3	----------	96.8	377.0	348.6	225.3	2.82	2.52
Wellington Fund	67.2	71.8	51.4	70.9	97.3	241.9	[1] 219.0	[1] 129.2	33.3	3.34
Whitehall Fund	66.6	65.5	50.4	----------	95.8	292.3	277.7	174.8	2.52	2.77
Flexible funds:				74.3	95.9	410.7	375.6	237.8	2.45	2.27
Broad Street Investing Corp	86.0	94.6	83.5	65.1	93.7	420.8	394.0	259.6	2.83	2.91
Delaware Fund	75.4	98.2	62.4	69.3	95.3	437.9	[1] 388.0	[1] 180.4	2.36	1.79
Dreyfus Fund	91.6	96.7	83.0	----------	96.4	[1] 886.7	791.9	581.8	1.97	1.75
Fidelity Fund	82.6	97.9	76.0	----------	95.4	[1] 512.9	477.1	258.7	2.60	2.30
First Investors Fund	(2)	(2)	(2)	84.6	95.7	[1] 244.0	[1] 222.4	[1] 123.2	2.83	2.35
Johnston Mutual Fund [3]	85.6	94.6	61.3	----------	96.6	[1] 483.3	471.4	357.5	1.45	1.58
Knickerbocker Fund	84.3	97.8	78.2	101.1	96.4	[1] 287.6	252.2	143.7	2.61	2.47
Loomis-Sayles Mutual Fund	70.8	80.0	56.6	60.5	96.6	257.9	239.2	134.1	3.31	3.14
Sigma Trust Shares	63.0	65.6	53.2	78.4	97.2	[1] 238.8	[1] 209.1	[1] 118.0	3.44	3.10
Selected American Shares	91.4	98.8	86.7	74.0	94.3	399.6	366.7	186.3	2.08	1.93
Sovereign Investors	80.9	98.1	80.9	98.3	98.2	[1] 390.1	347.2	239.6	2.95	2.69
State Street Investment Corp	93.2	93.7	79.8	56.8	95.3	[1] 368.6	[1] 350.8	[1] 198.2	1.67	1.79
Wall Street Investment Corp	85.0	87.1	79.8	----------	96.1	434.0	385.4	334.7	2.29	2.12
Wisconsin Fund, Inc	80.3	98.6	77.2	56.8	95.4	[1] 387.9	363.0	213.7	1.94	1.86
Common Stock funds				65.3	94.7	515.8	480.3	312.8	2.26	2.26
Affiliated Fund [4]	[3] 88.3	90.8	85.1	68.0	93.6	[1] 379.1	[1] 339.5	[1] 176.3	3.46	3.28
Bullock Fund	85.4	92.8	80.2	68.0	93.6	[1] 425.7	[1] 397.3	[1] 225.3	2.55	2.54
Dividend Shares	91.7	96.7	87.1	73.5	93.6	383.6	354.3	231.9	2.71	2.65
Eaton & Howard Stock Fund	97.0	97.0	85.3	62.2	95.2	522.5	457.8	324.1	2.20	2.13
Fundamental Investors	94.8	99.2	88.5	54.4	94.4	482.5	433.2	261.1	2.19	2.03
Group Securities—Common Stock	91.8	99.1	91.8	----------	95.1	[1] 346.1	[1] 311.2	[1] 179.4	3.59	3.25
Investment Company of America	80.1	95.5	74.5	64.1	94.1	548.2	502.9	272.8	2.41	2.13
Keystone Growth Common (S-3)	[3] 89.3	(2)	(2)	71.7	97.4	[1] 628.4	572.3	252.3	1.58	1.48
Massachusetts Investors Growth Stock Fund	95.9	99.7	90.0	69.9	94.7	745.2	[1] 721.5	[1] 569.1	1.30	1.39
Massachusetts Investors Trust	98.4	99.7	96.9	76.6	95.3	504.0	[1] 468.5	[1] 330.4	2.56	2.63
National Investors	94.3	99.9	88.3	57.6	92.7	702.8	689.7	527.2	1.48	1.61
National Securities—Stock Series	92.0	99.1	86.6	----------	93.6	[1] 348.9	303.2	175.6	3.35	3.39
T. Rowe Price Growth Stock Fund	91.4	94.9	82.1	----------	94.6	[1] 884.7	871.5	689.4	1.52	1.62
Putnam Investors Fund	88.2	97.1	82.4	59.8	96.6	[1] 418.5	405.7	197.3	1.45	1.71
Scudder Steven & Clark Common Stock Fund	95.7	99.6	93.9	----------	94.5	464.5	432.2	[1] 300.3	1.91	2.14
United Income Fund	[3] 86.9	95.9	83.0	----------	95.4	467.9	423.5	291.6	1.84	2.14
500 Stock index (Standard and Poor's) [5]				70.7	94.3	----------	530.3			
Consumer Price Index (B.I.S.) [5]				58.5	100.00	[1] 156.5				

[1] Ex-dividend or high or low price reached during current month.
[2] Portfolios not available.
[3] Latest reporting date: Classified as balanced fund until June 30, 1964.
[4] Leverage operated until 2d quarter of 1950
[5] Adjusted to June 30, 1950 base.

Note: T—Tentative; R—Revised. For detailed explanation as to selection and interpretation of data see July 1959 issue, p. 690. (Reprints are available without charge from Trusts & Estates).

RAIL PASSENGER SERVICE

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

Mr. TIERNAN. Mr. Speaker, I am today placing in the RECORD the testimony which was submitted to the Committee for Improved Passenger Service at the meeting held in late February. We have held the record open for further statements from interested parties. To date, we still have no statement from the Penn Central Co.

Mr. Speaker, as is evidenced by the tremendous turnout at the February CIPS meeting, there is great need to revive rail passenger service in the New England region. I want to assure the Members of this body that this subject will not be allowed to die.

Within the near future, the CIPS membership will hold a followup meeting to discuss the different suggestions made at the February hearing. Out of this meeting will come a concrete proposal which a majority, if not all, of the New England congressional delegation can back. Before the year is out, we want the passenger trains back on the road to full, efficient and clean service.

The testimony follows:

TESTIMONY BEFORE COMMITTEE FOR IMPROVED PASSENGER SERVICE

Congressman TIERNAN. I am Congressman Tiernan and I want to welcome you here today. The difficulty we are facing is that we had a vote on the Floor and some of the members are still there. They will be joining us as soon as their responsibilities are relieved. We are pleased to have Senator Pell and Mr. Gibson with us. Governor Sargent will be joining us shortly. The purpose of this meeting today is to try to get ideas on what New England needs in the way of rail passenger service and hopefully to see if we can get some kind of legislation to come out of this meeting. I will serve as the moderator—allowing 3 minutes for each person to speak concerning the problem we are facing with regard to service on passenger trains, or ideas which you might have to help train service increase its efficiency. We will call on witnesses who have asked to testify. Please submit copies of your statements in full. The Committee intends to meet again in two to three weeks to come up with concrete suggestions that all in the New England area may get behind. As you know, legislation is now pending in the House where hearings were held this morning. Thank you for the responses which have been very good. I would appreciate all recommendations.

I would like to introduce Senator Pell.

Senator PELL. Congressman Tiernan deserves a vote of congratulations for working out the forum of this meeting.

Congressman TIERNAN. I want to thank Senator Pell because not only is he a colleague of mine, but he is one of the Members of Congress who has done such great work in this respect. I appreciate your comments. I would like to comment that we have Mr. Robert Nelson, the former Director of High Speed Ground Transportation in DOT, who is now at Brookings Institute, and serving here without compensation.

I would like to introduce Mr. Anthony Haswell.

Mr. HASWELL. I would like to give you my thoughts on several points discussed in the two New England Regional Commission reports, the first of November 1968 covering regional needs for all kinds of transportation, and the second of October 1969 dealing specifically with high speed rail service between New York and Boston.

The high speed report suggests that part of the construction cost of the new and improved track and right-of-way be raised through the sale of securities to the public. If for no other reasons than uncertainties regarding interest rates, ultimate construction cost, and projected ridership, I think that a sounder course would be to build the fixed facilities in their entirety as a public works project with private operators providing equipment and paying user charges.

Moreover, we must remember that the competing air and highway facilities have been financed in large part out of the public treasury. In the case of airports and the airways control system, only a small portion of these expenditures have been recovered by user charges. It seems questionable that private capital will rush in to build a new railroad in that kind of environment, no matter how favorable the projections are. We need look no further than the present situation of rail freight service. While the railroads continue to be willing and able to finance the purchase of new freight cars, they simply will not make the required investment to adequately maintain and improve track and roadbed. The result is that while freight cars and trains are getting longer, heavier, and faster, the track is steadily deteriorating and train derailments are skyrocketing. The conclusion is compelling that construction and maintenance of roadway and track must be a government function, while the financing of rolling stock and operation of trains can be left to private enterprise.

If the above conclusion is accepted, the next question is where the money is going to come from. Outside of the possibility of getting some grade crossing elimination funds, existing federal programs will not provide it. I suggest that either the mass transit program be broadened or a new "corridor" program be enacted to provide federal money on a ⅓-⅔ matching basis to states and/or regional agencies for this type of project. I would not hesitate to push for a general appropriation; this project is at least as important to New England as are waterway improvements to the midwest and multi-purpose dams to the far west.

The question is raised by United Aircraft whether or not the large investment required for this project will be prematurely rendered obsolete by the development of new technology such as tracked air cushion vehicles. I do not think so. The new right of way between New Haven and Providence might well be converted from a railroad to a tracked air cushion guideway—perhaps at the time the Stamford-New Haven bypass is built. Even if conversion is not feasible, I believe that by 1985 a new line would be useful for freight service only, and the improvements between New Haven and New York would continue to benefit both commuters and freight shippers. I think the present emphasis on routing freight via the Selkirk, New York gateway is only temporary, and that before too long a combined freight and transit tunnel will be built between Brooklyn and Staten Island, making the Shore Line once again the main freight artery to and from New England.

I am more optimistic than is the report on possibilities for revival of intercity rail passenger service in northern New England. When the Boston-New York service gets going, I think there will be an irresistible demand for good connecting service to and from the major cities of New Hampshire and Maine. Consideration should be given to building a tunnel between North and South Stations in Boston, a project that would benefit Boston area commuters and freight shippers as well as thru intercity passengers.

Congressman TIERNAN. Where is the money coming from? Are you suggesting that Mass Transportation or new carrier programs provide Federal money?

Mr. HASWELL. I would not start to push for a general approach. This project is as important to New England as to the midwest. The right of way between New Haven and Providence is most important and then new railroad lines might be connected.

Congressman TIERNAN. Thank you Mr. Haswell. I would like to introduce Reginald Whitman who is representing Secretary Volpe.

Mr. WHITMAN. I am representing Secretary Volpe and I am the Federal Railroad Administrator. I do not have a prepared statement. Passenger problems involve all of us. Something's got to be done and we have been very busy in this past year trying to do something about it. I came here today with members of my staff in the hope that we could take notes and garnish some ideas to be used in our long range programs.

Congressman TIERNAN. If I may interrupt you Mr. Whitman, for the gentlemen in the audience who might be interested, we will make a compilation of the testimony here today and make that available to anyone who is interested. We will also keep the record open for anyone who wants to submit to the Committee a prepared paper. We will keep the record open for two weeks after this hearing.

Mr. WHITMAN. I would say that I made a few notes as I was sitting here and one of the greatest opportunities of our governmental body is, I believe, the transportation field. I think it is a big one. Transportation is not an end in itself but it is a service, because most of our citizens use public transportation or transportation of some sort—it has a bearing on practically all urban and interurban problems.

I think that through the years probably we have had quite an imbalance, as Mr. Haswell pointed out, in that the railroads have not had the advantage of Federal assistance to the same extent as the other modes and they have thereby suffered. I think we are probably reaping this harvest today, and so to the extent that you gentlemen can bring to bear upon this, I think this is a point well taken and you certainly have my support.

Congressman TIERNAN. I appreciate your coming to the full committee today. I understand that you have other commitments with members of your staff. Senator Pell do you have any questions? Go right ahead, Senator, before I introduce you, I would like to acknowledge Senator Kennedy's presence. Senator Pell—

Senator PELL. Mr. Whitman, I believe from our own conversations and the wonderful hospitality that Secretary Volpe has given us that you have been very interested in the whole project. Nevertheless, there are two questions that really bother me. One, why do you not support the concept of $8.64 million more for prudence on the New England section of the New York passenger—New York—Penn Central Railroad? As you know, in hearings at the Appropriations Committee, Senator Stennis indicated he would consider this during the hearings on supplemental budget requests. The Transportation Department has indicated that they do not support this idea. Why is that?

Mr. WHITMAN. Well, I think that others in the Transportation Department really should answer this, but for my part——

Senator PELL. You're the railroad representative this directly concerns.

Mr. WHITMAN. I will try to answer the way I see it. This is a part of a very large problem and we have been focusing our efforts on the national aspects of it primarily, rather than the regional aspects. And that while we are advocating some type of railroad leg-

islation, it has not been passed on as yet. This legislation, if it does come to pass, will be of a national nature rather than of a regional nature. For this reason, I think the feeling was that we should wait until we get the national picture a little more in focus, which may result in some regional priorities.

Senator PELL. But for eight years, I've been hearing let's wait until we do another study before we go further. It's been studied right down the line. It's been studied inside and outside and we can't do better than the Doyle Report of the late '50's. I still cannot get it through my head that if we can spend $8 million to upgrade the New Haven tracks, cut off 15 minutes up to 30 minutes before we're through on the time from New York to Providence to Boston, and the Congress is willing to appropriate these funds, why are you so reluctant?

Mr. WHITMAN. I agree with you. It has been studied to death and I think it is time to bring it into focus.

Senator PELL. One other question. I don't want to hog the time here. Through the years, and it was my bill originally that created it, I watched the Office of High Speed Ground Transportation under Bob Nelson's excellent leadership. Now it seems to me it is almost being dissolved and you no longer have the systems approach on this. What is the present status and what are your plans for the Office of High Speed Ground Transportation which concerns us and all of the New England corridor?

Mr. WHITMAN. Well, I don't agree that the Office of High Speed Ground Transportation is being deleted at this time. As you say, we have made many many studies, probably way too many. Now is the time to actually bring these into focus and actually do something about it. And while it may take a little different direction than studies, I would hope that in another year that you will be more complimentary than I know your feeling is today.

Senator PELL. I have no objection to what you're saying but I thought both these problems should be brought forth. Thank you.

Congressman TIERNAN. Thank you very much Mr. Whitman. I would like to call on Governor Sargent for any remarks that he might want to make.

Governor SARGENT. Thank you very much Mr. Chairman. Do you want me to sit here or at the table?

Congressman TIERNAN. I think that would be fine Governor.

Governor SARGENT. It's very comfortable. I see that the Senator's enjoying it. Mr. Chairman and distinguished members of the committee, I am very pleased and honored today to be with you. Earlier this month, I announced a decision to reverse Massachusetts' transportation policy, particularly with respect to the metropolitan area of Boston. A special Task Force—which I had appointed to reexamine the transportation programs of my state—concluded that insufficient attention had been given the development of balanced metropolitan transportation systems. Highway construction had dominated our transportation thinking; yet roads clogged by rush-hour traffic had demonstrated that highways alone were not the solution.

Consequently, I decided to develop an integrated and balanced transportation system for the metropolitan Boston region. At the same time, I am seeking changes in Federal transportation policies which are necessary if Massachusetts is to build such a system.

This situation, which Massachusetts faces on the metropolitan level, has similarities with the problems confronting medium-range intercity transportation. The highways are reaching their limits in terms of speed; and new ones are quickly filled in terms of numbers. The airways, too, are overcrowded and cannot continue to absorb all the slack. At the same time, Federal transportation funding policies preclude the growth of the one mode of transportation that can solve the medium-range intercity problem—high speed rail service.

We currently have two demonstration projects operating in the Northeast megapolitan corridor. The "Metroliner" between New York and Washington has proved successful, disappointing to many of us but successful in certain respects. The "Turbotrain" between Boston and New York has been confronted with substantial operating difficulties. However, the "Metroliner" has demonstrated the practicality of high-speed rail service.

Still, more steps must be taken if high-speed rail service is to become an everyday reality—not only between Boston and Washington, but also, for example, between Boston, Worcester, Springfield and Albany. Federal financial support must be forthcoming—in one form or another—so that rail service no longer is forced to operate at such a severe competitive disadvantage with respect to the airplane and the automobile.

The formation of the "Committee for Improved Passenger Service" is, I believe, an important step towards this goal. The Governors of New England have developed a working relationship to coordinate our efforts to maintain and improve rail transportation in the region. Perhaps, what we are seeking today is an emergency of a coalition of those in Congress, those executives in the state houses, and I see Governor Licht of Rhode Island here, and interested citizens that will be an important force in improving New England's rail transportation. I am pleased also to be submitting to you, Mr. Congressman, a statement from Walter Peterson, Governor of New Hampshire, with relation to this matter.

Congressman TIERNAN. Thank you very much Governor. At this time, I would like to call on the Governor of my state, Frank Licht.

Governor LICHT. Mr. Chairman and members of this distinguished Committee, I want to take this opportunity as Governor of Rhode Island to thank you for this opportunity to appear to discuss with you a matter of vital importance not only to my state, but to the whole of Southern New England. I think you are all familiar with the problems with which we are confronted and the progress we've made to preserve rail passenger service. Basically, we have employed two methods. One has been the partial tax relief which began in the early 1960's and with some modification has continued up until the present time. New York, Connecticut and Massachusetts have also provided various measures of tax relief.

In 1963, because of the cash attrition taking place in its finances, the New Haven required further assistance, and a second method of aid was inaugurated. This involved cash subsidy payments in the aggregate amount of $6,000,000 annually to keep the railroad in operation. In 1969, the payments were reduced, due in part to the fact that the Penn Central had taken over the New Haven operation.

All throughout the decade, however, both the New Haven and the Penn Central lost substantial sums of money in providing rail passenger service, and the threat of discontinuance has been ever present. And all during that period of time, the service has deteriorated, the equipment has deteriorated, passenger service has been faulty and unacceptable and we have been plagued with the problem not only with difficult passenger service but as well, freight service.

The vast majority of passengers on the thru-trains between Boston and New York travel in interstate commerce, and thus under both the supervision and the regulation of a Federal Agency. It is therefore difficult to understand why the railroad was forced, even in the first instance, to turn to the states through which it operated to obtain financial assistance necessary to keep it in operation.

The Federal government, through its various agencies, has long been aware of the dire financial circumstances of the carrier. In fact, the states, through their representatives, have made repeated pleas for the Federal government to assume a portion of the financial burden required to continue this rail carrier operation, but without success. On each occasion we at the state level have been reminded that there was no Federal statute under which cash funds could be provided for continuing this interstate carrier. Thus, this has evolved as a unique example of using state tax monies to keep in operation an interstate service, which is under the regulation of the Federal government.

Moreover, the payment of cash subsidies is providing to be an ever increasing burden on the tax resources of the concerned states, especially in light of the fact that the railroad has not really demonstrated a truly comprehensive effort to improve its passenger service. In short, the subsidy we have provided has resulted in neither greatly improved service nor in substantially improved facilities.

While passenger service is of critical importance, I would hope that you would include in your deliberations the question of the adequacy of freight service as well. Within the past week, some fifteen of Rhode Island's major industries met to discuss the present situation with regard to the railroad and to begin work on the establishment of what they believe should be guidelines concerning the expected performance of the railroad's freight service. They are most concerned with the availability of cars, the quality of the cars they receive, and the communication they have with the railroad company. As a matter of fact, I might tell this Committee that they do not even know where the cars are supposed to be delivering freight in this section of the country. At present, they are dissatisfied with service in each of these areas, and they believe considerable improvement is an absolute necessity.

I firmly believe that any approach toward the solution of the problems we now face in passenger service must be comprehensive. It must include careful examination of freight service. The other and equally important half of this entire railroad question.

As long ago as 1898, Mr. Justice Harlan, speaking for the United States Supreme Court in the famous case of Smyth v. Ames (169 U.S. 466, 544) said: "A railroad is a public highway, and none the less so because constructed and maintained through the agency of a corporation deriving its existence and powers from the state. Such a corporation was created for public purposes. It performs a function of the State. Its authority to exercise the right of eminent domain and to charge tolls was given primarily for the benefit of the public."

And, if rail service were discontinued in Southern New England, the effect would be devastating. It would have a grave impact upon the public and the private sector. Our economy would most certainly suffer. As a matter of fact, talk of the break-down itself brought the New England Governors together and we took an inventory of what the situation would be if rail service was shut down. I am talking now not only of passenger service but also of freight service, and we have information that makes it very plain, not only to my state but all of the New England area, and I suggest that the whole nation will turn out to be a disaster in a short time.

If rail service were withdrawn, we would face higher transportation costs, which would presumably raise the prices of consumer goods. Abandonment of rail lines would severely inhibit the future growth of our

economy, for any new industry relying on rail transportation for raw materials or component parts could not consider a Southern New England location. Many of our citizens depend upon the passenger service provided by the railroad, and many more are dependent for their jobs on the continued freight service of the railroad.

Increasingly, there is awareness at the national level that the Federal government has a responsibility in preserving rail service. That awareness, however, must take its place in action. Our need for intercity rail passenger and freight service will continue, but the many demands upon our state tax dollars mean that our ability to continue financial assistance is seriously in question.

Without Federal involvement, it is doubtful that either passenger or freight rail transportation can long be maintained in Southern New England. It is therefore, Mr. Chairman and Members of this Committee, my sincere hope that this session of Congress will not adjourn without coming to grips with this most important and most serious problem.

Congressman TIERNAN. On behalf of the Committee, Governor, I want to thank you for your testimony and for the help you have given this Committee. We appreciate you taking the time to come before us.

Governor LICHT. Thank you very much. I'm glad that you gave me this opportunity.

Congressman TIERNAN. At this time, I would like to call on my colleague, Congressman Harold Donohue, from Massachusetts, who will introduce the next witness to testify before this Committee.

Congressman DONOHUE. Thank you very much Mr. Chairman. Senator Kennedy, Governor Sargent, my colleagues in the House, my purpose in being here today is, of course, to support the position that each and everyone of you has taken with regard to the railroad situation. I'm sorry I overlooked you Senator Pell. I just want to say that it is a real pleasure and privilege for me to introduce three very distinguished gentlemen from my home state of Massachusetts: Mr. John Floyd, Chairman of the Worcester City Passenger Study Commission and Manager of the Transportation Department, Chamber of Commerce; Mr. Roy B. Hakenson, Massachusetts Legislative State Representative of United Transportation; and Mr. Lincoln Harrison, a member of the Worcester Rail Commission and Secretary of the Railroad Locomotive and Historical Society, Library of the Harvard Business School in Boston. Now these three gentlemen, Mr. Chairman and my colleagues, have been long and deeply concerned with the problem of rail transportation in our region and throughout the country. They could really be called pioneers in recognizing the problem and in directing public and government attention to the necessity of helping provide High-Speed rail passenger service to the people of our state and nation. I am certain that these three gentlemen will provide you, the members hearing this matter today, with very interesting and instructive information about this problem. May I first present to you for his testimony, Mr. John Floyd.

Mr. FLOYD. My name is John T. Floyd. I am Chairman of a Commission created by the City of Worcester to try to solve the problem of disappearing rail passenger service in our area. Participants in this Commission are the municipalities of Springfield, Westboro, Framingham and Newton. also the Joint Civic Agencies of Greater Springfield, as well as the Worcester Area Chamber of Commerce.

First, a brief tribute to Senator Pell, the father of the High-Speed Ground Transportation Program in the megalopolis corridor.

While the Metroliner continues to offer greater relief to airport and highway congestion in the New York-Washington segment of the Northeast Corridor, track conditions have prevented comparable progress in the Boston-New York end of the corridor, notwithstanding the recorded speed capability of the Turbo Train on the test in New Jersey (174.4 miles per hour). The High-Speed Program in New England needs help. The Boston-New York air route is the heaviest traveled in the world. Logan Airport will reach saturation by 1975 and no site has been selected so far for a reliever airport. Worse still, 35 percent of Logan boardings are destined for New York and flights are held frequently at Logan until the time slot is open at New York. Worcester is affected by the time slot problem at New York, and our flights are limited. Highway congestion and air pollution mounts. We propose a three step program. First—upgrading of the Shore Line to permit the Turbo Train to fulfill its purpose on that route. Second—recognition that the inland route between Boston and New York via Worcester-Springfield and Hartford, is only three miles longer than the Shore Line and almost a million more people. We therefore recommend, immediately following the Shore Line improvement, that the inland route be upgraded and comparable service instituted. Third—investigation of the economic feasibility of extending service up the Connecticut Valley from Springfield and from Worcester through Lowell, Lawrence, and Haverhill to Portland. The third phase to be developed after the improved service on the Shore Line and Springfield Line has demonstrated its ability to attract the business on a profitable basis.

We stress that the inland route via Worcester, Springfield and Hartford is at the center of population of New England and would also benefit southern Vermont and southern New Hampshire through fast highway connections. The inland route, or so-called Springfield Line, never had comparable service to the Shore Line and because the NY, NH & H as an independent railroad was only interested in total Boston-New York earnings via its Shore Line, and was not inclined to split the revenue with the Boston & Albany at Springfield. Now all southern New England is one railroad, Penn Central.

Senator Pell has recorded in the Congressional Record that he feels that a non-profit Transportation Planning and Operating Organization such as Geo-Transport, Inc., may be the solution to the problem in New England. Geo-Transport recognizes the need for the Inland route too, and proposes a loop concept between New Haven and Boston. Metroliners can and do operate through east to New Haven on occasion. We urge Federal support of Geo-Transport in setting up a comsat type consortium of public and private financing.

We emphasize that while there is only one string of cities between New York and Washington, there are two strings between Boston and New York. Intermediate cities need service. The Providence-New York travel market is one-tenth that of the Boston-New York market, but Providence boards 50 percent of the Boston travel on the Turbo Train.

In other words, because the Providence-New York elapsed time on the Turbo Train is more competitive with air than the Boston-New York time, Providence patronage is relatively greater. The same situation would exist at intermediate points of Worcester, Springfield, and Hartford, particularly the latter two cities with Bradley Field remote from both, compared to the distance from downtown Providence to Green Airport.

We in Massachusetts hope this year will see the enactment of Massachusetts House Bill #4349 to create a Boston-Worcester-Springfield Transportation Authority, which can work with the Connecticut Transportation Authority and the Federal government or other agencies to solve the problem in New England. Thank you.

Congressman TIERNAN. I want to thank you for your testimony and I think you will receive the award for being the fastest reader of the day. Your thoughts were well put. I would mention at this time, Mr. William Miller, President of GEO Transportation, sent his regrets. However, he will participate in the future with regard to our objectives.

I acknowledge Mr. Roy Hakenson.

Mr. HAKENSON. The New England end of the High Speed Ground Experimental Program needs help badly. True the Turbo Train is popular in that it has about 80 percent occupancy on its daily Boston-New York round trip.

Please remember that a key objective of the High Speed Ground Transportation Program is to relieve the major airports of short haul travel in the Boston-Washington megalapolis corridor. The Metroliner between New York and Washington operates six round trips a day and is offering some real measurable relief to air travel congestion between these two cities. Yet the New York-Washington air travel market (about 2800 per day) is smaller than the Boston-New York air travel market (3200 per day). Logan needs relief.

If the Turbo Train operated more frequently between Boston and New York and operated via both the Shore Line and the Springfield Line between Boston and New New Haven, connecting with Metroliner service at New Haven, in some instances, at New York in others, more passengers would be attracted from the airlines. Certainly the airline load would be diminished at Logan if passengers could board a Turbo Train for New York at Worcester. Over half the air travelers from Worcester for New York, Philadelphia, Baltimore and Washington journey to Logan.

As has been so clearly portrayed in Senator Pell's classic "Megalapolis Unbound", development of High Speed rail transportation in the Boston-New York-Washington corridor is a far less costly way to handle the traffic than building additional 10,000 foot runways and new airports.

Will truly High Speed rail service relieve the airports? The Japanese High Speed rail line, 325 miles between Tokyo and Osaka, took over a third of the airline business within a few years after opening. Business on this line continues to grow and the investment will be amortised.

The same situation occurred in England with the introduction of High Speed rail service between London and Liverpool, which is in the same mileage bracket as Providence-New York or Worcester-New York. One third of the airline passengers went to the rail. Not only were fast schedules introduced, but frequent service.

The situation in Massachusetts is now at a critical point as regards preservation of railroad rights-of-way. Because of a small state subsidy in Massachusetts, Penn-Central management has in the making a petition to the ICC to abandon all North-South service from Massachusetts to the Shore Line, with the exception of the Boston-Providence route. Specifically, I refer to Pittsfield-South Norwalk, Springfield-Hartford, and Worcester-New London. In fact, the Penn-Central management has stated that they may have to even seek authority to abandon the little remaining Boston-Worcester local passenger service. Herein lies the demonstration of the likelihood of loss of double track rights-of way needed for both thru service and commuter. The Massachusetts Turnpike Authority owns the right-of-way between Boston and Riverside. If Penn-Central were to abandon passenger service on this line, freight demands could be accommodated with a single track. Abandonment of one track would cause the unused portion of the right-of-way to revert to the Turnpike Authority, closing the door on future use of either thru service or commuter service.

May we point out that another witness for

our commission has cited the possibility of eventual link-up of the Boston-New York inland route to the Merrimac Valley and Portland.

Already, through the foresight of Senator Cotton of New Hampshire, as reported in the press, the $10 billion mass transit bill has a rider permitting the State of New Hampshire to negotiate an agreement with the Massachusetts Bay Transportation Authority for extension of its service to Nashua, Manchester and Concord. This would tie into a Worcester-Portland extension of the inland route at Lowell and bring New Hampshire into the picture, not only at Dover but also at these Merrimac Valley cities.

At the New York end, Connecticut and New York have received authority from Congress to negotiate a take-over and lease-back of the railroad between New Haven and New York to improve passenger service on this four track division. The fastest commutation service in the country is the Penn-Central mail line between New York and Trenton. In either case, the commutation tracks are different from the thru service and commuter.

State and Federal governments are now already involved in the rail passenger problem. The railroad will not risk their freight obtained revenues to gamble on passenger services when interstate highways and airways exist to a large degree on Federal funding. It is time to correct the imbalance and solve the problems of highway and airway congestion, noise and pollution to a degree. High Speed rail will do this.

Congressman TIERNAN. Thank you very much. Before going on to the other gentleman, I would like to at this time acknowledge Speaker John McCormack and would like to mention also that this committee is a dues paying committee which is a strange thing in the Congress. We had all members pay a slight dues of $10 for Improved Passenger Service. The Speaker has paid his dues in full. Mr. Speaker would you like to say a few words?

Speaker MCCORMACK. Thank you, Congressman Tiernan and my distinguished colleagues, ladies and gentlemen, I have always felt that the less I talk, the more I will hear.

Mr. HARRISON. My name is H. Lincoln Harrison, formerly assistant to the Professor of Transportation, Department of Economics, University of New Hampshire, and at present Secretary of the Railway and Locomotive Historical Society Bake Library, Harvard Business School in Boston, Massachusetts. I have made one, two or three studies of transportation in each of the continents of the world except Australia. I am a member of the Worcester Rail Study Commission.

In 1957, I rode the "Mistrial," which is the French breakthrough train whose technology has been utilized all across Europe, and realized we had nothing in this country to compare it to. Three years past, I rode the Tokida Line from Tokyo to Osaka, over 325 miles in a little over three hours which took the title of the world's fastest train away from the "Mistrial," and knew we could not equal it in this country unless there was a radical change in the thinking in governmental circles of the United States.

Much public money has gone into airports and their related facilities which we may well be proud of. However, we have made it so attractive as to cause overcrowding in Metropolitan areas so that secondary landing areas are being considered 25 or more miles from destination and a 250 mile run could be a three vehicle trip—this is not good transportation.

More public money has gone into highways, starting with the promise of helping the farmer or isolated business to get their products to market, through a period of intercity building, to the present concept of national road network which has now built roads parallel, and within five miles, destination to destination, of most trunk railroads in New England. Road building continues at present along secondary rail routes. These roads are of help to our excellent bus industry and have an impact on the private car driver who may be tempted to commute longer distance to the city in his auto, adding to our major cause of air pollution and the congestion and parking problem of the inner city. Roads tend to build traffic to the fearable level of congestion at which point the ecological stress factor comes into play with possible cardiac or adrenal changes.

A public official finds it difficult to refuse a road he does not need or want if only 10% of the cost is to be borne locally and he sees it as a way to get back some of the money taken from his area. Hence most of the roads that are suggested get built even with the knowledge that the price of oils in New England are set above the world market price by national government policy.

Public money early went into the building of railroads followed by a long period when they were thought of only as a source of tax revenue on plant and structure they bought and built themselves. In one town where the railroad is the largest taxpayer, it follows that it pays the biggest amount of the support of the local airport. It is long past the time of tax revenue thinking. Railroads are a part of our transportation complex, and the National mobility potential, some of which they do better than anyone else, let us think of them in that context.

We need not be ashamed of our air industry or our highways but we do have the poorest rail travel facilities of any advanced nation I have been in around the world. We got to this position partly by the good things we have accomplished. When air service is improved, it will attract some highway and some rail users. A new highway presents new equations of choice to the private car owner (and we have the largest number of private cars in the world) some of whom will leave the air and rail routes. At this point, there should be a rail service improvement to maintain a balanced transport pattern (and except in this country there has been). No plan to eliminate one form of transport could be more effective than to continue to improve the alternative carriers over a quarter of a century. Fewer passengers produce lower revenue which leads to cancelled runs or connections, at which point the passenger must change his mode of travel. In January, my son was invited by Mayor Daley in Chicago to the opening of the new Logan Square rapid transit line. He went out on Penn-Central, and was to return to New York on the Lake Cities of the Erie. The train was dropped early in January, and he had to come back on the C&O B&O George Washington via Washington to New York.

At Mardi Gras he went to Cincinnati on Penn-Central and to New Orleans on L&N. He planned to return on the Crescent via Montgomery which no longer runs and used the Southern via Birmingham. Last week he tried to buy a ticket to New York from Tarpon Springs, Florida, the agent would only sell him a ticket to Jacksonville as the company wants the train off and does not wish to show a demand for thru New York traffic.

Are we ready to face the population explosion with an air and highway system alone? Probably the answer is "no". Ecology which we never worried about ten years ago will force and influence more and more of our decisions in the coming years, as will air pollution.

Among other things, railroads can (and do in other countries) handle commuter and intercity runs of up to 300 miles better than any other form of transport available, and the cost of upgrading to present standards of a dozen other countries will be only a fraction of what we have already spent on air and highway improvement. A basic pattern should include: Portland, Maine; Concord, New Hampshire; Boston, Worcester, Springfield, Massachusetts with Connecticut and New York.

Congressman TIERNAN. Thank you very much. I think Congressman Macdonald would like to ask a question.

Congressman MACDONALD. One of you indicated that a new Mass Transit Department would be formed.

Mr. FLOYD. We hope there will be one.

Congressman MACDONALD. What I wanted to inquire was how far had these plans been put into effect. I have been a member of the Authorization Committee that deals with railroad legislation for three years now. I served on the Sub-committee on Transportation and have heard nothing from the State of Massachusetts dealing with the great problem of commuter transportation. It would be helpful if they did have such a Department. In short, can you tell me how far away this is to becoming a reality.

Mr. HARRISON. Massachusetts House Law 4349 relates to this.

Congressman MACDONALD. Has the bill been filed? We are aware of the problems of transportation in the Western part of the state. Is your interest in these problems in Boston, Wellesley, Lowell, etc.? Which part of the state is covered by this? Don't you think it would be a pretty good idea to have something of this sort covered the entire state since it is a state problem? I think perhaps we in Congress should pay more attention to the problem by way of legislation as a state. I am not quite sure they live up to their objectives. I would suggest that you include all of Massachusetts.

Congressman TIERNAN. Acknowledged Mrs. Heckler.

Mrs. HECKLER. It is my understanding, and I stand to be corrected if I'm wrong, Governor Sargent has established a comprehensive task study commission.

Congressman MACDONALD. We have more commissions in study than passenger service.

Mrs. HECKLER. I must say that I agree with your frustrations over studies.

Congressman MACDONALD. I would rather have less commissions and more action.

Congressman TIERNAN. I want to remind all who have not signed the guest book, to please do so and indicate your address. We will try to keep you informed of testimony before the Committee. Anyone who has testified, please leave a copy of your statement so we can check it against the transcript.

Congressman TIERNAN. I would like to call on Mr. Burke to introduce some gentlemen who are here from the State of Massachusetts.

Congressman BURKE. We have James Loughlin of the Massachusetts State Labor Council, AFL–CIO and Executive Member of the New England Council, and Mr. Richard Fleming of the Massachusetts Port of Authority.

Mr. LOUGHLIN. I believe that the rail transportation in Massachusetts and New England should have a complete overhauling and face lifting. The rail passenger service needs an entire new type of service with modern, up-to-date trains and passenger cars. I believe that this is long overdue and that with the help of your committee we can get this through Congress with the necessary money appropriated and we will be able to have a good rail service. Thank you very much.

Congressman TIERNAN. Would you care to comment with regard to the compact?

Mr. LOUGHLIN. I have been associated with all of these since 1961. Mr. Kanell is the one who should answer these questions.

Congressman TIERNAN. How much are the states of Connecticut and New York receiving under contract?

Mr. LOUGHLIN. The Federal government is subsidizing $28 million.

Congressman TIERNAN. The state of Connecticut and New York will match it as I understand it.

Mr. LOUGHLIN. Yes.

Congressman TIERNAN. Thank you Mr. Loughlin.

I will now call on Mr. Goodfellow, President of the Association of American Railroads, with regard to their position.

Mr. GOODFELLOW. I appreciate the opportunity to be here. I will offer a statement if that is satisfactory to you. (The following is Mr. Goodfellow's statement.)

Since the end of World War II the use of intercity passenger trains has constantly and drastically declined. The intercity traveler has unmistakably demonstrated his preference for other modes of transportation which have enjoyed vigorous promotion through large expenditures of public funds. As businessmen, we've certainly taken a hard look at the future of intercity passenger trains in today's jet and automobile age. Reluctantly, we've had to conclude that the only likely future for such train service lies in the heavily populated corridors—between Washington, New York and Boston, for example.

While in the years following World War II the railroad industry made tremendous expenditures for new equipment and various promotional activities, it was unable to reverse this trend. Between 1946 and 1958, the Class I railroads of the United States and the Pullman Company invested $1,343,000,000 in passenger train equipment. They gave the American public the world's finest passenger trains. And they spent many millions of dollars promoting and advertising them. But during those same years, the railroads' share of the for-hire intercity passenger traffic dropped from 72.9 percent to 31.1 percent while the airlines' share increased from 2.7 percent to 38 percent. Even more significantly, the private automobile's share of the total intercity passenger traffic increased from 58.8 percent to 90.1 percent—and its stayed at about that level to this day.

This loss of business—I repeat—happened during a period when the railroads were pouring large sums of money into their passenger operations in an effort to hold their own against airline and automobile competition. The American railroads gambled heavily on the traveling public—and lost.

Congress recognized the serious nature of this problem and in the Transportation Act of 1958 established a procedure by which the railroad industry was enabled to discontinue many unnecessary passenger trains that were operating at substantial losses. Despite this Act, the railroad industry is being required today to operate many passenger trains which fail to earn their cost of operation. A recent study by the Interstate Commerce Commission revealed that the railroads incurred an avoidable loss of well over two hundred million dollars on intercity railroad passenger train operations in 1968.

No part of the private sector of our national economy should be made to bear the burden of enforced public service without just and adequate compensation for such service. When a public service is required to be performed by private enterprise and the users of such service do not pay the cost thereof, then the public nature of such service demands public payment therefor.

As applied to a particular railroad passenger train service, this principle means that when performance of such service is enforced by the public upon a railroad and the service does not pay its own way, then responsibility for the cost thereof should rest upon the body public.

If the railroad industry is to continue to provide intercity passenger train service, it is essential that legislation be enacted establishing means by which the industry may be relieved of the large losses which it sustains in providing this public service.

Two pending bills, S. 2750 and H.R. 14661, afford the most reasonable way to preserve passenger train service required by public convenience and necessity. Enactment of either would insure the preservation of passenger operations considered necessary while solutions to the over-all problem of moving people—involving all modes—are being worked out and the proper role of rail service determined.

At hearings before the House Committee on H.R. 14661 the Association of American Railroads was asked to submit its idea of a package bill. We subsequently did so, in the nature of suggested amendments to H.R. 14661 and a copy of such draft bill is attached. The bill, as drafted, contains the following provisions:

1. The payment of operating losses on any train ordered by the Interstate Commerce Commission to be continued in operation.

2. Equipment required to perform the ordered service would, if not then owned by the carrier and reasonably available for such use, be furnished by the Secretary of Transportation.

3. The Commission would be authorized to prescribe standards of service on those trains which it ordered to be continued in operation.

4. Reasonable limitations, short of a moratorium, would be placed on the filing with the Commission of notices to discontinue trains.

We suggest that the CIPS support S. 2750 and H.R. 14661, or in the alternative, support the draft legislation described above and attached to this statement.

Congressman MACDONALD. I remember your testimony before the Committee about control being taken away from states.

Mr. GOODFELLOW. I do not know if I testified to take control away from states, but to have the Federal government step in.

Congressman MACDONALD. When you say the Federal government should step in to take control, what do you mean?

Mr. GOODFELLOW. The Federal government should take the loss.

Congressman TIERNAN. Do you have any other suggestions?

Mr. GOODFELLOW. If equipment is desired, then the Secretary of Transportation should take over. This is in a bill in Congress.

Congressman MACDONALD. We have heard often that many of the railroad lines deliberately cut off service not only on a certain line but at inconvenient times, they turn off air conditioning in summer and heat in winter. Have they never held anyone in a responsible position to account for this?

Mr. GOODFELLOW. I cannot speak for other railroad executives in this country but as for me, I have never in 13 years told anyone to do anything like that. A man may mistakenly turn off the air conditioning or the heat.

Congressman MACDONALD. Does your company's overall plan include stopping passenger service?

Mr. GOODFELLOW. We can no longer stand this loss from passenger service. The ICC has come up with costs that pretty well settle this squabble.

Congressman CONTE. On figuring those losses they want to be subsidized by the Federal government, would you take into consideration the bids and the use of freight trains?

Mr. GOODFELLOW. Most of the discussion on losses has been available. I will have to explain it to you if you want to hear it. A freight train runs 50 miles an hour and short amount of maintenance will keep it in service. If you want to run a faster train, you are going to have to put more money into it.

Congressman TIERNAN. Introduced Congressman KYROS.

Congressman KYROS. Thank you Mr. Chairman. I want to congratulate you and Mr. Burke for setting up this meeting. I am also delighted that the Speaker is here. I suggest we come out with some kind of prompt decision. We ought to consider all methods of financing.

(Mr. Kyros subsequently submitted the following letter from one of his constituents.)

OLD ORCHARD BEACH, MAINE,
February 27, 1970.

Representative PETER KYROS.

DEAR SIR: Just listened to an interview on Channel 6 concerning railroads. I agree with you 100%. I have to go to Boston every month and do not like bus or air travel. It used to be nice to ride the train but those days are gone but I believe can be revived. Nothing is lost by trying.

SAMUEL R. HENDERSON.

Congressman TIERNAN. Did you have someone from Maine you would like to introduce?

Congressman KYROS. Yes, Mr. William Fernald, Director of the Transportation Division, Maine Public Utilities Commission.

Congressman TIERNAN. Nice to have you with us.

Mr. FERNALD. Rather than repeat what Mr. Kyros said, I will say that the State of Maine is working closely with the Federal government on this. I am not in a position to make a public recommendation. Conditions change rapidly and the need for service is imperative. Thank you for listening to my views.

Congressman TIERNAN. A reminder again that the record will be open for two weeks and you may submit a statement. At this time, I would like to introduce Professor Poulsen of the University of Rhode Island. He is also the Director of the Research Center for Business Economics and is a Professor of Finance He has done quite a bit of work recently on a paper contrasting the financing of airports and airlines versus the support of transportation in the area of railroads. Professor Poulsen.

Professor POULSEN. Mr. Chairman, members of the committee, I had just finished a paper on the problem of hauling hogs by rail when I received your request to present a paper on hauling people by rail, so I will try to keep these two categories separate as I make my statement.

Congressman TIERNAN. You mean sometimes they are not kept separate?

Professor POULSEN. The New Haven, which I would like to refer to first, has lost money on freight service. Last year it lost $10 million on its freight service and $12 million on its passenger service. This was in 1968 for a total loss of almost $25 million. I used to send my students down to deck the New Haven's locomotives with flowers since the railroad was already dead before it was discontinued and became part of the Penn Central. Apparently, the New Haven has come back and has given more liveliness to the Penn Central. But, the 1969 financial report is a very unhappy one.

The ultimate conclusion I would like to present is to include the rail right-of-way as part of the Interstate Highway System. I think this would give Mr. Volpe and the road gang a very good opportunity to look at a chapter in their engineering books, to apply their road manual to rail rights-of-way and allow us to get Senator PELL'S straight high speed railroad system in operation in southern New England.

The problem that the railroads have basically is that they're property heavy. They have the right-of-way on which taxes are paid, as well as maintenance costs for the rights-of-way and the signal system. These costs are not borne by the trucking industry nor by the airlines. The Federal Aviation Administration has 4,000 Federally employed persons. Most of these employees are air traffic controllers.

When you begin projecting population figures to the year 2000, we will have 320 million people in this country and one-quarter of the United States population will

be in this Eastern megalopolis. When you begin projecting the berthing of motor cars, the situation is perhaps just as bad. We have 120, excuse me, we have 87 million cars on the road now and by 1980, it is projected that we will have 124 million, an increment of 37 million cars. We have a rather irrational zero pricing policy for the use of highways which has resulted in an overuse of highway facilities.

The automobile of today is causing pollution of the air, it is presenting problems with noise and it is also taking a great deal of landspace for roads and parking. So I would like to suggest the possibility of instituting vehicle ration days; days of the week in which one would not be permitted to drive his car. This would basically take 1/7th of the cars off the road in one feld swoop. This would eliminate congestion, would eliminate air pollution, and of course would give an aid to the public transportation system in that those who could not drive their cars on a particular day would use rail, bus or air transportation and would give back, in Senator Pell's terms, some of the cross working hours which are lost while we drive our private motor car.

Secondly, the idea of a car-rail ferry system, whereby the motorist could bring his car to a marshaling yard, such as on Route 128 in Boston or near Providence on any large area, and place the vehicle on a rail car to be transported to the outskirts of say New York. This again would have a bonus of minimizing pollution and highway congestion. I think that completes the basic ideas of my system.

Congressman TIERNAN. Thank you very much Professor. Mr. Burke has a question.

Congressman BURKE. I would just like to comment with relation to the excellent statements our witnesses have made here today. According to highway statistics, the Division of the Bureau of Public Roads, the total highway expenditure in the United States for the five year period from fiscal 1965, and that includes 1970, was $24,753,000,000; for the expenditures towards railroads and passenger service, I doubt if it reaches even one-half million dollars. So you can see that while we have tremendous highways, there is really nothing along the lines of railroad passenger service.

Congressman CONTE. Mr. Poulsen, you intrigue my curiosity when you started banning automobiles from the road. It may be good and it may not be good. Do you have any details about who's going to do the banning and for what reason?

Professor POULSEN. Well the reasons are the pollution, noise and space problems connected with automobiles.

Congressman CONTE. I understand the reasons why we need less cars on the road. How are you going to say to at least 60,000 people: well, once a week, only 10,000 of you can use your cars?

Professor POULSEN. I would visualize that each car would have a different color number plate so that if you had a blue plate, you would not drive say on Thursday, while your neighbor might have a red plate and a car pool and you could travel with him on that particular day.

Congressman CONTE. Seven different kinds of registration in Rhode Island?

Professor POULSEN. No, seven different colors to indicate the day of the week when you might not use your vehicle. That would remove one-seventh.

Congressman CONTE. Who picks the people who get assigned the various colors?

Professor POULSEN. This could be at random or you could just pick your own color.

Congressman CONTE. What if everyone said well they didn't want to drive on Monday, which would you choose?

Professor POULSEN. Well it could become a lottery.

Congressman BURKE. Mr. Chairman, I might comment here that it isn't beyond the realm of possibility that in the future years a vehicle traffic will have to be banned from our urban areas just to clear the air so that we can breathe once a week because of pollution. I think that's what you might have in mind.

Congressman TIERNAN. Professor, your paper said in the fiscal year 1969, budget authority for the ICC was $24 million, whereas the FAA 1969 budget was $75 million, You make the point, which I think is very important, that the maintenance of the air traffic control system is fully at government expense, whereas the railroad has to maintain the safety devices that are required by the Federal government and by the states they operate in.

Professor POULSEN. What I'm suggesting in terms of making the railroad an Interstate Highway System is to allow them to join the socialized airplane companies that do not own the airport nor hire the controllers.

Congressman TIERNAN. Doctor, I want to thank you and I hope to have the benefit of some further assistance from you as we proceed along. The Senator has just joined us and I think we may have a question or two before I call on the next witness.

Senator PELL. None, except that I've long known and admired Dr. Poulsen and just put an article of his in the Record. Thank you.

Professor POULSEN. Thank you Senator. (Professor Poulsen submitted for the record the following statement.)

In classes at the University I provide my students at the start of each semester with a handout titled "Words of the 1970's." Many of the words are applicable to our concern here today: Megalopolis; Boswash; Northeast Transportation Corridor; SST; Metroliner. Adding some of the other words in the list: lasers; atomic power, ABM; and Age of Acquarius one gets the message. We are for better or worse on the sharply rising part of a graph whose vertical axis is labelled "change" and the horizontal axis, "time." The degree of change and the rapidity of change threaten the system as we have known it with a major breakdown. The problems of the 60's have not been solved by the turning of the calendar page to a new decade. Herman Kahn, amongst others, in his work "The Year 2000: A Framework for Speculation on the next Thirty-Three Years" (MacMillan Company, 1967), suggests some of the changes with which the transportation system must cope. By the start of the next century world population will reach 6 billion, while the U.S. will grow to 320 million. Of this total, one fourth (80 million) will bless the Boswash Megalopolis. Together with the growth of human population will come an ample birthing of new motorcars. By 1980, the AAA estimates motorcars in use will total 124 million compared with the present 87 million for a ten year increment of 37 million vehicles. If this forecast for the private sector proves correct, there will be required sizeable additional public investments in new roadways to be carved out of our diminished supply of parks, forests, playgrounds, marshes and city centers; enough to keep the "road gang" reasonably happy during this decade. The social cost side of this vehicle boom will be found in at least a troika of pollution factors—air, noise and visual—as well as the continued claim against an increasingly scarce resource—space.

In our cities and suburbs we have followed an irrational zero pricing system for highway users. In consequence of this policy, we suffer from severe highway congestion which leads to the demand for more highways to end the road overutilization brought about by the mistaken zero pricing policy.

In congested city centers, the pricing process has forced investors to recognize the high cost of horizontal space. The result has been tall buildings. On the other hand, the automobile industry and the motorist have not had to consider his economic fact of life and instead of tall cars we have cars 17–20 feet long, 6 feet wide but only waist high. Elsewhere I have proposed a graduated vehicle space use tax to counter this propensity to purchase space gobbling vehicles.

In view of the predicted increase in vehicle numbers and use, a manifestation of a latter day frontier of laissez faire spirit in a world far removed from either condition—the freedom to unlimited use of the motorcar—needs rethinking. A few years ago, Mr. Luther Hodges, then Secretary of Commerce, was most critical of commuter or vehicle space-use taxes, seeing in them a threat to "our right to come and go as we please". He saw this as "a heritage of our frontier days". This social nostalgia has been especially well described by Max Ways in *The Negro and the City* (New York, Time-Life Books, 1968). He points to the affluent white families who, seeking to live out the Jeffersonian dream, have "fled to the mini-meadows of the suburbs where each acts out the agrarian fantasy by owning a mini-farmhouse."

In the past an increase in the supply of motorcars has been met (with a lag) with an increase in roadspace. In the Galbraithian sense, the supply of vehicles has been the creator of demand for roadspace. A breach in this pattern is now developing. Recently Massachusetts Governor Francis Sargent decreed a virtual halt to roadbuilding and proposed the beginning of a balanced transportation system. A few days later (February 16, 1970), Governor Frank Licht of Rhode Island ruled out the construction of I895, a controversial segment of the Federal Interstate Systems. At the December sessions in Boston of the American Association for the Advancement of Science, the suggestion was made that in the future not all demands should be met, especially if to satisfy such demands would foul the air or water or further glut the highways.

Goods and services are all rationed by a social invention called price. Those who are unable to pay the dollar amount required are excluded from the consumption of the product. For example, those lacking the means to purchase an automobile are offered the opportunity to use public transportation or to walk. Other limits to human activities have developed in the post-frontier days. These include zoning regulations, speed limits, licensing requirements, building codes, air pollution controls, etc. Vehicle ration days, days of the week when one would be denied the use of the family car(s), would be merely an extension of such controls. In this case it would provide for affluent motorcar users who are the major dispensers of air pollution and the moving power in forcing the carving of white commuter expressways through black housing areas, the opportunity to join the poor one or more days of the week in travelling via public transportation.

A number of bonuses would be forthcoming from such a vehicle ration system. These would include a sizeable cutback in air pollution and road congestion. One bus can transport 41 persons occupying some 200 square feet of roadspace (and no parking space) versus the 3,400 square feet that private motorcars for that many drivers would occupy. It would also be a boom to the passenger railroad traffic, causing those travellers who might make an intercity trip such as from Boston to New York by car, to turn to the rail service on vehicle ration days. Further, although automobile related employment would probably decline, the need for workers to build, service and man the rail and bus passenger equipment would

grow sharply. Lastly, in Senator Pell's terms, it would recover some of the time lost from our Gross National working hours, as persons relieved of the burden of the motorcar on ration days could devote the time required for their trip by public transportation to reading or writing, work that could not be done in the private car enroute to its destination.

Despite limitations on vehicle usage, congestion and pollution problems will continue to grow. To mitigate these destructive forces a car rail ferry system would be especially useful. Such a system would allow the middle-aged love affair with the motorcar to continue with not too great a modification. The traveller in the Boston area, for example, desiring to go to New York City would be able to drive to a marshaling yard at Route 128 where he could put his car on one of a fleet of rail ferries operating on frequent and speedy schedules to an offloading point in the outskirts of New York City. Such a system would provide the same lineup of benefits as described above, but of course, would be especially beneficial to the railroad companies providing this different type of passenger service. When the new roads connecting major urban centers were completed, the driving time was drastically cut. For example, the New York-Boston trip time was halved. However, average speed on these and other routes has begun to fall, due to the number of vehicles using the roadspace and especially the large number of local users entering and leaving the expressways in Providence, New Haven, Stamford and Bridgeport. Escape from this speed-slowing congestion could be achieved at modest costs by an adjunct to the Interstate Highway System already in place and with ample excess capacity—the shoreline route of the New Haven region of the Penn Central put to use as a car rail ferry system.

Implementation of these proposals will require some period of time. In the meantime the passenger trains will continue to disappear and the rails will be pulled up unless prompt public financial aids are devised and put into effect. A look at the ills of the New Haven Railroad (NHRR) (now the New Haven Region of the Penn Central Transportation Company) reveals the difficulties which beset any railroad which provides passenger service.

Even though the NHRR traverses the heavily populated Boston-New York corridor, its long haul passenger business has declined year after year. Committed to the carrying of commuter traffic also, the losses by year have been:

Passenger losses

Year:	
1960	$13,257,000
1961	12,293,000
1962	10,899,000
1963	8,587,000
1964	10,508,000
1965	9,886,000
1966	8,699,000
1967	10,281,000

Judge Anderson, Justice of the United States Court of Appeals and responsible for the bankrupt railroad, stated especially well the plight of the New Haven when he noted that "a train proceeding from New York to Boston has truck competition on one side, sea borne competition on the other and air competition overhead. All of these other forms of transportation directly or indirectly are subsidized. Meanwhile the railroad has to maintain the tracks, roadbed and other facilities."

At the Federal level and concerned with railroads, motor carriers, pipelines, etc., is the Interstate Commerce Commission. The stated purpose of the ICC is "to regulate carriers engaged in transportation in interstate commerce, including regulation of carrier rates and enforcement of statutes and regulations affecting carriers." In fiscal 1969, the ICC had 1906 employees and was supported by a budget authority of $24,664,000.

Similar sorts of concerns exist at the state level. For example, the Rhode Island Public Utilities is responsible for the protection of the public in its dealings with common carriers and is specifically responsible for the operation and rate structure of public utilities and common carriers (rail, motor, pipeline). These state functions required the employment of 109 persons and program expenditures of $228,238 in fiscal 1969.

On the other hand the agencies concerned with aviation affairs are mainly supportive of the activity. A look at the statement of purpose of the Federal Aviation Administration bears this out. Under the Act of 1958, "the administrator of the FAA was made responsible for the development and operation of a common system of air traffic control . . . the regulation of air commerce to promote its safety, the promotion and development of civil aeronautics . . . as well as the installation and operation of navigation facilities". For these supportive/promotional activities, the FAA in fiscal 1969 employed more than 44,000 persons with Federal budget support amounting to $705,383,000. Of this total, over $498,000,000 was devoted to the operations and maintenance of the air traffic control system.

In Rhode Island, the Division of Aeronautics employed in 1969, 143 persons with total state supported personnel services of $958,362 and operating expenses of $908,758. Net cost to the state after revenue collections amounted to $994,120.

I believe these comparisons bring out the regulatory aspect of Federal and state agencies concerned with rail and truck services and the supportive/promotional aspect of the public agencies concerned with the air transportation industry, an industry largely dependent on passenger business as is the NHRR.

A further factor to hamper the railroads is found in their property heavy condition. A recent study points out that property taxes have absorbed nearly 3.5 percent of rail operating revenues, but only 0.4 percent for motor carriers and 0.2 percent for air carriers. The property tax plight of the railroads is borne out at the annual meetings of the National Tax Association. While a whole session is spent discussing various aspects of railroad property tax problems, no sessions are devoted to the property tax problems of the trucking or airline industries.

Other current costs are also implied in the property heavy designation. These include expenses incurred for the replacement of ties, new ballast, snow removal, maintenance of the right-of-way, and the signal system, etc. A specific New Haven expenditure item, that for cross ties, is shown below:

Year	Cross ties replaced	Cost per tie	Total cost
1956	100,367	$3.76	$337,380
1960	106,359	3.87	411,609
1963	86,761	3.85	334,030
1964	84,465	3.77	318,433
1965	87,191	3.98	347,020
1966	97,974	4.97	486,931
1967	50,543	5.04	254,736

During the decade from 1957 to 1967, another cost, that of new rails for replacement of track, rose from $99.61/ton (1957) to $127.93/ton (1967).

Another measure of the property heavy designation and cost of the railway is seen in the investment in transportation property which has ranged from $292,509,000 in 1963 to $274,879,000 in 1967. The third largest cost to the railroad has been that required to be expended on the maintenance of the right-of-way.

Railroads all over the country are rushing to invest in non-railroad ventures following the path blazed by the Chicago and Northwestern Railway with its Northwest Industries Corporation. This conglomerate business now includes chemicals, wearing apparel (Fruit of the Loom), electrical components, and insulated wire and steel (Lone Star Steel). Although non-rail income continued to advance, the $9.9 million deficit from railroad operations reduced per share earnings in 1967 by $9.13.

Penn Central, another conglomerate, fared somewhat better on rail operations. However, of the $3.11 per share earned in 1967, only $0.67 came from rail operations. A similar story is seen in the case of non-rail income of the Santa Fe ($28 million), Northern Pacific ($24.5 million), and Southern Pacific ($57 million).

The New Haven had few of these non-rail sources of income to fall back on to buoy its income position. However, in a sense the plight of the New Haven as a railroad was the plight of all railroad operations. In the long run, the local problem may become more widespread. Even now several other smaller lines are almost ready to go the bankruptcy route.

How can the situation be remedied? It is my belief that a large part of the problem could be resolved if the New Haven and other railroads were made property light. Relieved of the heavy burden for the right-of-way in ties alone the New Haven has in place over 9,600,000 with a total replacement cost of $48,384,000, the signal system, and freight and passenger terminals, the railroad would be viable.

A start toward a solution to the rail passenger problems could be accomplished by bringing the same kinds of government support as cited earlier to the rail operation as have long been afforded competitive modes of transportation. In this respect, a railroad signal system is analogous to the air traffic control system and the stated FAA responsibility for installing and operating aids to air navigation and traffic control. To this end, it is proposed that the Department of Transportation be empowered to assume the responsibility for the installation, operation and maintenance of the railroads' signal system, thus relieving the railroads of the expenses associated with these activities.

Second, the Department of Transportation would take over all rail passenger (and freight) terminals and be responsible, as the FAA is for air facilities, for their operation, maintenance, design and construction.

The third and final proposal would entirely free the railroad industry of its property heavy disadvantages. This proposal would have the rights-of-way purchased for inclusion as a part of the Interstate Highway System and leased back to the railroads. Charges to the railroads could take the form of locomotive registration fees or a tax on diesel fuel, or both. Such charges would place the railroads in a position similar to that of interstate truck and bus operators who do not build or own their rights-of-way. Furthermore, Federal support of a 90/10 variety would allow the state highway departments to undertake to improve the rights-of-way so that they would be compatible with the high-speed passenger equipment as well as allowing speedier freight services.

It appears doubtful that passenger railroad operations in the Northeast corridor will remain viable in the face of rising land and real estate assessments and maintenance of way costs in this densely populated part of the country. As the values and costs rise, so will the local property taxes charged the railroads, thus giving further advantage to the buses and trucks using highways upon which no property taxes are payable. To allow those involved to take advantage of the basic efficiencies of the railroads, a quantum change in the way the railroad industry is viewed seems to be necessary. To begin the implementation of such changes by giving as much public support to passen-

ger railroad facilities as that provided rail competitors, seems an especally good choice.

Congressman TIERNAN. At this time, I would like to call on another member of the panel, Mr. Ernest Gibson III, who is the Chairman of the Vermont Public Service Board. He has been most patient sitting here while other members of the panel and other witnesses have spoken. I would appreciate his comments in relation to what Vermont feels we might be able to do.

Mr. GIBSON. Thank you, Congressman Tiernan. I am very happy to be here today to participate in this panel. I think it is a very important matter. I think maybe a better person to be here in my place is my wife. She is most ardent and enthusiastic in trying to encourage the resumption of rail passenger service. I hear about it regularly from her.

I appear as a state regulator, on behalf of the state, a region which has no rail passenger service. Congressman Kyros mentioned that Maine, New Hampshire, and Vermont presently have no rail passenger service. Vermont lost its last passenger trains in September 1966. Vermont has had other railroad problems in the past.

Some time ago, in the early 1960's, the State of Vermont was confronted with an abandonment petition of the Rutland Railway Corporation. This railroad was not in the passenger business, but it provided a vital freight service up and down the western side of the state. Abandonment of this service could have resulted in the relocation of a number of businesses, and this would have been a severe blow to the economy of the state. The Vermont Legislature, however, appropriated a sum of money to be used for the purchase of the principal portions of this railroad located in Vermont, and following negotiations, the state did purchase major segments of the railroad. These segments were, in turn, leased to two privately owned railroad corporations, which are continuing rail operations.

Although the State of Vermont was able to take positive action on its own behalf in that situation, it and any other state is unable to go it alone with respect to passenger service. The Rutland Railroad had rail connections with other railroads so that freight could get in and out. However, unless there are appropriate passenger connections at the borders of a state, it will not do a state much good to try to provide passenger service on its own to such points.

The State of Vermont would like to indicate here its support for the Railpax concept, and we would urge that this concept be expanded to include those areas of northern New England which do not now have any rail passenger service. I know that there is interest in Maine and New Hampshire in having service into the Boston area. Vermont also has a community of interest with Boston, and in addition, for years there was also excellent passenger service between Montreal and New York City through Vermont. We believe that service between the metropolitan areas of Montreal and Boston and Montreal and New York should be reinstituted.

We would ask that the planning and thinking concerning rail passenger service include at the outset the states of Maine, New Hampshire, and Vermont which do not presently have any rail passenger service, and I assure you that the Public Utility Commissions of these states will be glad to assist in this in any way possible. Thank you.

Congressman BURKE. Thank you very much. We will now hear from Mr. Richard T. Fleming, Washington Representative of the Massachusetts Port Authority.

TESTIMONY BY MR. FLEMING

The Massachusetts Port Authority has demonstrated in a most significant and practical way its support of rail service between Boston and New York. The Authority is developing the New England Trade and Transportation Center at the South Station which we trust will anchor rail service to downtown Boston.

This Trade and Transportation Center will represent an investment of over 60 million dollars. Its major components will include a 500 unit motor hotel, 5000 space parking garage, special-use office building, a trade mart, and a combined terminal for rail and bus lines. This facility will be connected with the downtown retail center by minibus and moving sidewalks.

By this commitment to a new trade and transportation center for Boston, the Massachusetts Port Authority has manifested its belief in the potential of high speed rail service to carry significant passenger volumes between Boston and New York. Through the Governors Advisory Council on Transportation, the Authority has supported proposals for the creation of a structure of government and business cooperation, to reconstitute Boston-New York rail service, on a sound, long term basis.

The Massachusetts Port Authority respectfully submits that it is highly desirable, as as matter of public policy, to maintain rail service between Boston, New York, and Washington as a transport alternative to the airways and highways.

We submit further that the capital costs involved in developing an adequate rail transport system in the Northeast Corridor are too high to expect that they can be met by private organizations without participation by the government.

Therefore, it is earnestly suggested that the Federal government present a rail transportation policy and plan in which the New England Regional Commission, state governments, local governments, and business interests can cooperate.

Policy and guidance might well come from the Federal Railway Administration. Congress has given this agency basic responsibilities for the development of interstate transportation.

If a plan is forthcoming from the Federal Railway Administration and if it is implemented by other levels of government and by the railroads, it will be matched by a handsome trade and transportation center of the Massachusetts Port Authority on the site or the present South Station in Boston.

Senator PELL. Thank you very much and thank you for coming down. There are a couple of people of great interest in the audience. I can't help but see Mr. Horner of United Aircraft who has given as much as anybody of himself and his company to make the Turbo Train. I see Dick Wright of the New England Council. I don't know if either of them can be persuaded to come forth. I think it would be helpful to the record. I turn it back to my good colleague.

Congressman BURKE. I introduce Mayor Phil Noel of the City of Warwick, Rhode Island.

Mayor NOEL. As Mayor of the City of Warwick, Rhode Island, the second largest in the state and part of the Providence Metropolitan area, I am very aware of the problems which beset the residents of our entire area in terms of transportation.

Within our city is located 9 miles of the main line of the Penn Central Railroad. Our residents find daily requirements to commute to Boston and frequent trips to New York. We are part of the Northeast Corridor so frequently referred to as the most densely populated area of our country.

The Northeast corridor of the United States is probably the most unique human settlement in the world. This fact was pointed out by Jean Gottman in his book, *Megalopolis*, in which he noted that this type of urban development was a prototype of what is expected to eventually be a world wide phenomenon. Because of this point, the solutions to transportation problems that are developing in this area must by their nature be of major significance to the entire nation.

This section of the United States is the country's most heavily developed area. Because so many cities have developed in such close proximity to each other, and because their metropolitan areas have grown together, great problems have arisen in travel between, within, and out of these centers.

Three types of transportation can be identified concerning the northeast corridor; 1, travel between centers in the corridor and centers outside of it, 2, travel between centers within the corridor, and 3, travel within each center and metropolitan area in the corridor.

Travel out of or into the region is for the most part provided by air transport; in spite of many problems this mode of transportation basically serves this need.

A more significant problem of concern is travel between the different metropolitan areas. This is a need that cannot be served adequately by either the automobile or the airplane, by the very nature of their technological capabilities. A trip between, for example, Providence and New York or Boston, becomes a lengthy and frustrating experience if made by automobile; likewise, if the trip were made by plane it would have the disadvantage of excessive cost. Only rail travel has the potential of being an acceptable mode of transportation for a trip of this nature, when considering cost and time. The importance of the railroads as a means of inter-metropolitan transportation cannot be overemphasized because of the reasons just noted, but it is just this type of transit that has been and continues to be discouraged.

Similarly, as the metropolitan regions have grown, intra-metropolitan travel has been increasing as a major problem. In many sections use of the automobile on congested highways has become no longer a functional mode of transportation. Existing highways are already taxed beyond their capacities, and new highways are meeting economic, social and political rejection. Highways are simply incapable of adequately meeting the transit demands in metropolitan areas. Here again is an instance where rail transit or other forms of mass transportation are the only feasible solution. But it is here also that rail transportation is being discouraged and constantly reduced.

Given this position, it is evident that any further curtailment of inter-metropolitan and intra-metropolitan rail transit for passengers would be disastrous in the long run. In fact, this rail passenger service should not only be saved from further curtailment, but should be expanded to meet the need that exists for it and its further modification.

In recognizing these needs, we make several points which we feel to be of utmost significance.

1. That state compacts for the subsidization of the railroad by state governments are not viable; and even more important, that this subsidization procedure cannot be continued indefinitely, especially as long as there is no long-term program designed to eliminate the need for this subsidization.

2. That during the 1970's, the Federal government must establish the same commitment for the passenger railroads and other forms of mass transit that it did in the 1950's for the automobile with the Interstate Highway Program and with it must provide 90–10 Federal funding.

3. That although the major emphasis should be on rail or other mass transit, this should not be to the exclusion of other modes of transportation as has been done in the past. This need for coordination of all forms of transportation, while emphasizing mass transit, could be experimented with via a prototype system to determine what could be done. The New England region could be

selected as the study area for the prototype, in which case the vehicle for study and enaction of the program could be the New England Regional Commission.

4. Finally, that the Federal money demonstrating this commitment should be intended either for improvement of capital facilities (such as terminal facilities, rail beds, etc.) or for operational subsidies, and with either should be restricted to passenger-oriented service.

Surely the railroads are not the panacea for all of our transportation problems; but they must be recognized as one of the important networks in the comprehensive transportation picture. They have too long been cast aside as a mode of transporting passengers. They must be retained and expanded to serve their respective sector of the transportation market, but be designed to work together with and compliment other modes of transit to provide an adquate and functional total network for transporting passengers.

Congressman TIERNAN. Thank you very much Mayor. I understand that Steward Lamprey will take the stand and testify. I also would like to acknowledge the fact that Mr. Tucker from the Penn Central RR, New Haven Division has been present most of the afternoon and has been required to leave occasionally for business but has asked that he be allowed to submit a comprehensive statement with regard to some of the suggestions that have been made here and some of the statements that have been made. He will make that sometime before we close the record. Please step forward at this time.

Mr. LAMPREY. Mr. Chairman, the New England Regional Commission's purpose is primarily to foster the economic development of the region, and of course one of the vital areas of economic development is transportation. I think it would be a fair question to ask, "What has the New England Regional Commission's involvement been relating to this problem of transportation"? First, we began by making a broad comprehensive study of the transportation needs of the entire region, and based uopn that study we followed up with a high speed rail transportation study. We have formulated an advisory board, whereby at least one person from each State is represented to advise us on rail transportation.

The more important aspect and developments of the New England Regional Commission has been in the backing and the allocation of funds: $50,000 to the transport corporation to see if we could develop a privately sponsored organization to carry out the passenger service transportation facilities. On top of that, if our 1971 budget is approved by Congress we have tentatively allocated $45,000 for this project. We've been searching for information, allocating funds and we hope to be of service to this Committee, to the Congress or wherever we might be able to help solve this problem. I would now like to introduce Mr. Wright.

Mr. WRIGHT. I don't believe that there is anything that I can add. I think the Federal Co-Chairman has very succinctly stated our interests. We are vitally concerned in health, housing, education, environment and transportation. We look to the deliberations of the people who appeared today to find the actual solutions to the problems.

Senator PELL. With regard to the Turbo, would the papers be taken over by GEO because it is not doing well financially?

Mr. WRIGHT. That's one of the thoughts.

Senator PELL. Can you think of any project that would be more suitable for the New England Regional Commission?

Mr. WRIGHT. Trains and environment are probably the basics of our problems in New England.

Congressman TIERNAN. I want to thank you both for taking the time to come down to testify.

Mr. WRIGHT. If there is any way we can help, please call on us.

Congressman TIERNAN. Is the Mayor of Newton here. Nice to have you with us Mayor.

Mayor BASBAS. My name is Monte Basbas, Mayor of Newton, Massachusetts. I appreciate this opportunity to address myself to the subject of public transportation because it has been an area of great concern to me during the four-plus years of my administration.

Newton is a city of almost 95,000 people in 18 square miles and sits astride all of the transportation facilities leading into and out of Boston from the west. One of the most important facilities we have is the Penn Central rail line running from Boston to New York via Worcester, Springfield, Hartford and New Haven. We are essentially a bedroom community and many of our citizens work in Boston. Thus, Mass Transit, including Penn Central commuter service, is most essential to us.

It is interesting to note, however, that a recent study submitted to the Massachusetts Port Authority, which operates Logan International Airport, indicates that Newton is the center of air traffic generation in metropolitan Boston. Our population, comprised of a large percentage of business and professional people, has interests that extend beyond the boundaries of Massachusetts and travel a great deal. The vast percentage of flights out of Logan, of course, are to New York City.

The downtown to downtown travel time is increasing every day because of air congestion, traffic congestion between airports and city centers and the mounting congestion in the skies. Many people drive to New York, preferring the four to five hour drive to the plane trip and all of the aggravation and delays involved on many occasions.

Our country aided the railroads when they were first established early in the last century, but since that time any public monies invested in transportation have built roads or aided air travel in one way or another. The railroads have proved conclusively, either intentionally or unintentionally, that private enterprise cannot cope with mass transportation of people. No serious effort has yet been made, however, to determine whether or not the railroads and government together can offer a comfortable, convenient, competitive, as to time and price, alternative to air travel in mid-distance trips between 100 and 500 miles. I respectfully suggest that this effort should and must be made. I further suggest that, for reasons already cited, the Penn Central inland route should be included in any such experiments.

My primary interest must of necessity be in metropolitan mass transportation. I was most pleased when our Governor halted the road building and called for a study of a balanced transportation plan with greater emphasis on mass transit. I would not want anything to blunt that trust now.

From the larger view, however, I would be remiss in my duties to my citizens if I did not view with alarm the problems of transportation between metropolitan areas or mass transit for the megalopolis, if you will. I urge your most serious consideration of the concepts envisioned in such a plan as railpax.

Congressman TIERNAN. Thank you, Mayor—what type of passenger service do you have now?

Mayor BASBAS. We do have a passenger line available.

Congressman TIERNAN. Has there been any discontinuance?

Mayor BASBAS. There have been attempts but we have been able to avoid it to date.

Congressman TIERNAN. Thank you, Mayor. I want to introduce Mr. Archie Smith, the Utility Commissioner from the State of Rhode Island. He has been here all day and has been doing a good job trying to keep Penn Central on the ball. He has to make a 5 o'clock flight and I wanted to acknowledge him before he left. Mr. Horner of United Aircraft.

Mr. HORNER. We can provide a total transportation system, complete with train fleet and supporting maintenance supervision. We have built 2 prototype Turbo Trains, equivalent in capacity to 4 Metroliner cars, and have operated continuously with one train, with one standby, since April 1969 with an on-time record of 95%. Our trains have left Boston in the early A.M. daily with an average of 40 passengers, later to be filled to capacity on arriving in New York most of the time with a load-factor of 65%–70%, leaving New York filled every night.

The key to the train's performance is a pendulous suspension system which permits substantially higher speed on curves than do standard cars having 2–2 axle trucks per car. The trains have received good passenger response. People like the trains. We are looking forward to the continuation of this program.

Congressman TIERNAN. Could you tell me what capacity the train is running at?

Mr. HORNER. The train is running at 65% capacity.

Congressman TIERNAN. What is the total capacity of the train?

Mr. HORNER. 242 total capacity.

(The following is the complete testimony submitted after the hearings by Mr. Horner.)

Wherever a railroad passenger service, meeting modern standards of speed, comfort and frequency, has been placed into operation in a densely populated corridor, the results have been rewarding. The Boston-New York corridor is such a location. The United Aircraft Turbo Train provides the necessary type of service and the passenger response to the service has demonstrated that it satisfies a public need. Furthermore, the Turbo Train technology, existing today, meets the goal of investment minimization.

Both social and economic considerations justify public support of rail passenger service. The public is becoming increasingly concerned with conservation of the total environment. Proliferation of freeways is meeting more and more public opposition because of the dislocation of people, the destruction of small businesses, the diversion of prime land from the tax rolls and the increasing air pollution caused by automobile exhausts.

Increased use of the rails does not disrupt lives or businesses. The rights-of-way have existed for decades, and both residential and industrial site patterns have long since adjusted to their existence. Each track on a railroad has passenger carrying capacity equal to approximately 20 lanes of freeway. The rails are not used to capacity. Up-to-date statistics are not available, but in 1962, only 600,000 passengers traveled between New York and Boston by rail. The same year, 4,200,000 made the trip by auto. Each 325-passenger Turbo Train can carry, at the normal load factor, the passengers now occupying 228 autos. This would reduce the horsepower producing exhaust pollutants from roughly 45,000 horsepower to only 2,000 horsepower, roughly 5%.

The population and economic activity of the three southern New England states are concentrated along the railroads of the region. More than 60% of the three state population resides in the cities along the routes between Boston and New York, either along the shore line or along the New Haven-Springfield-Boston route. Noncommuting rail passenger traffic along these routes dropped from 3,000,000 in 1955 to 680,000 in 1968. Independent studies project that rail patronage on these routes can grow to 2,100,000 by 1975 if full Turbo Train service is introduced. All figures are approximate. Such a corridor system would serve both routes, with a total of 11 Turbo Trains operating on a three-hour schedule between Boston and New York. De-

pending upon the route segment, from four to 11 train schedules each way would be provided.

The Turbo Train portion of the Northeast Corridor High-Speed Rail Demonstration has been under way since October 1968. It expires in October 1970 unless extended by the U.S. Department of Transportation or taken over by others. To date, it has had excellent passenger acceptance. Of Turbo Train passengers polled in a DOT survey, 45% had used trains on their next previous trip. Seventy-five percent intended to use the Turbo Train on succeeding trips. The validity of the survey is supported by the fact that Turbo Train load factors have averaged 67% compared to 30% for intercity passenger trains nationally. This success is due not only to the improvements in comfort and decor designed into the Turbo Train, but also to the improvement in schedule it has made possible. The Turbo Train has reduced the Boston-New York schedule from 4 hours and 15 minutes to 3 hours and 39 minutes, with no improvements tracks or signals. With minimum such improvements and with better protection at road crossings, the Turbo Train can further reduce this schedule to three hours or less.

The two principal design features of the Turbo Train affecting economics are the ability to take curves at higher speeds and the high-powered performance available from the compact, lightweight, aircraft type gas turbines. These two features reduce the investment required for roadbed improvements and eliminate the need for electrification of this route. As the result, it is estimated that a complete, modern New England Corridor Turbo Train system can be established for approximately $105,100,000. Not all of these funds need be expended initially. The present demonstration could be expanded to more frequent service on the present attractive schedule by the addition of Turbo Trains only. Other physical improvements could then be applied to further enhance the service. An approximate schedule of expenditures is as follows:

[Dollars in millions

	1971	1972	1973	1974	1975	Total
Turbo train equipment	5	10	12.5			27.5
Roadbed improvements (minimum amount 3 hours shoreline New York to Boston)	2	4	2.6			8.6
Stations and parking	2	2	2			6.0
Grade crossing elimination	2	4	8	9	9	32.0
Signalling improvement	1	4	8.0	9	9	31.0
Total	12	24	33.1	18	18	105.1

Logical sources for these funds are the Federal Railway Administration, the Federal Highway Administration, the states and the cities.

Senator PELL. It's almost a state secret to find the Turbo Train on the Penn Central RR schedule. Penn Central has reluctantly run the train. Middle management in PC is not interested in hauling people. Mr. Saunders, Chairman, PCRR, is interested. Organized labor wants to run the train. United Aircraft has built the trains with their own funds, and nobody wants to buy them now. The Turbo Train demonstration program contract with DOT expires on October 22, 1970. I understand that UAC has more overhead personnel required to support a lessor number of maintenance people. I understand that UAC could support 20 trains with the maintenance personnel they have now. The PC has not spent any money on advertising the Turbo Train.

Congressman TIERNAN. You have a question Dr. Poulsen?

Professor POULSEN. The railroad industry is not aware of advertising. Running a business without advertising is like kissing in the dark; you know that you're doing but no one else does.

Congressman TIERNAN. Recognized James Kelso, Executive Vice-President of the Greater Boston Chamber of Commerce. Mr. Kelso asked permission to submit a written statement following the meeting. The following testimony was sent to CIPS by Mr. Kelso:

The problem of maintaining adequate and effective means of intercity and interstate rail transportation becomes increasingly heavy with each passing day. The roadways and air traffic lanes are becoming not only congested but are raising serious questions of safety. It is the opinion of the Greater Boston Chamber of Commerce that development of high-speed ground transportation is the highest priority. The Chamber would like to direct its attention to the specific problem of congestion in the Boston-New York corridor. This area is rapidly growing in population and will shortly become one of the country's highest density populations. Between Boston and New York, on an annual basis, 2 million travel by airplane, ½ million by bus and approximately ¼ million by rail and another 16 million by private car over the highways.

The Federal government has accepted the responsibility of providing a balanced national transportation policy which requires appropriate financial aid to the nation's bus passengers, air travelers and railroad passengers. The Federal government is now preparing to submit legislation for a 5 years, $3.1 billion transit aid program sponsored by Senator Harrison A. Williams, to give financial aid for public transportation. His program is the first phase of an extended $10 billion program as outlined by President Nixon's administration. The most important part of this legislation is that it does work with rapid transit facilities. There will be a need, there is no question, by rapid transit within the major cities, such as Boston, for a large infusion of Federal aid as well as that raised by local authorities. In addition, at least $1.3 billion will be required for the improvement of commuter railroad systems in the Northeast cities.

The Chamber would like to go on record that, in addition to these many needs, there is a very pressing interest on the part of the business community to provide high-speed rail transportation between Boston and New York via Providence. Unless a solution to the rail problem can be developed, increasingly huge expenditures must be made to increase highway and airway capacities. It is our opinion, as shown by the recent experiments with the Turbo Train from Boston to New York, and that also run on the Metroliner from New York to Washington, that people can be encouraged to travel by railway. It must be admitted that the present railroad service has not done much to encourage the use of the railroads by the public.

I would hope that the Congress of the United States would immediately pass legislation to provide limited assistance for rail transportation in the emerging megalopolis of New York-Boston and Washington. Clearly private enterprise cannot do this. Large expenditures must be made for the improvement of road beds, as well as provide for adequate equipment.

It would seem that such expenditures might not be justified if one looks at the dollar amount alone. We should like to point out that it would provide indirect benefits such as reduction of air pollution and noise and the reduction of expenditures necessary to increase the capacity of the air-highway transportation systems and provide stimulus to urban redevelopment.

The Greater Boston Chamber of Commerce would like to urge that Federal legislation be enacted to provide adequate substance to the promotion of ultra-highspeed rail transportation between Boston and New York. A minimum of three years would be required for construction and since congestion on airways and highways is upon us, no time should be lost in obtaining the necessary Federal government action. If action were taken this year, 2½ hour service between New York and Boston could be reached by 1974. Such a service would do much to build and to bolster the economy of the Northeast.

I introduce Armistead Rood.

Mr. ROOD. The following is written testimony by Mr. Rood.

Protect the Commonwealth's option to buy the Boston & Providence Railroad by intervening at once in US Supreme Court proceeding No. 882.

Massachusetts Senate Bill 1122 calls for the Commonwealth to exercise its present option to buy the properties of the Boston & Providence RR Corporation at a price based on original cost with adjustments. The Commonwealth reserved the option when it created the B&P Corporation in 1831. B&P is on the verge of having its properties sold by a court plan to the New Haven RR Co. for resale to Penn Central, a foreign corporation. The court sale will cut off the Commonwealth's present option.

B&P owns the main line between Boston and Providence—via South Cove, Back Bay, the South End, Northeastern University, Roxbury Crossing, Jamaica Plain, Forest Hills, Hyde Park, Readville, Route 128 Station, Canton, Sharon, Mansfield, Attleboro, Pawtucket. B&P owns branch railroads to Roslindale, West Roxbury, Dedham, Stoughton, East Providence. B&P owns the Back Bay Station and the Southwest Corridor, extensive lands and shops at Readville, Providence lands and half of Providence Union Station. B&P shares with Penn Central the Midland Route from Readville to Boston including South Boston yards.

Particular values for the Commonwealth include—a ready-made suburban mass transit system via Forest Hills; a straight line for the Boston-Providence-New York high-speed route; the Southwest Expressway route; routes for local streets and avenues, especially in South End; land for Northeastern University (removing the Chinese Wall); lands for various urban developments; air rights for development in Boston (with Mass. Turnpike) and fast route to new airport for Boston, Worcester, Providence.

U.S. Senate Bill 3154 would provide $3,100,000,000 in Federal subsidy to States and local agencies such as MBTA to acquire and develop railroads and other facilities but not highways for mass transport routes in urban areas. New York, Connecticut, New Jersey will get large share. Connecticut is taking over the New York route west of New Haven, why not Massachusetts too?

A pending court plan would force sale of B&P's properties to Penn Central. The plan price is based on low scrap value. The District Court in Boston approved the sale because no other buyer showed up.

The Commonwealth can expect Penn Central to charge high prices. The other day Penn Central charged the MBTA $7,000,000 for 24 acres of surplus yard land. The Commonwealth cannot take the Boston and Providence franchise by eminent domain which would in any event require a very high price. Its only right is founded on the option reserved in B&P's 1831 Charter. Eminent domain values are indicated by the 1965 B&P appraisal of Boston area properties at $43,274,923. The ICC calculated original cost of all B&P properties at $20,659,622, except for land valued at $5,316,180.

Congressman TIERNAN. I want to know if the Commonwealth of Massachusetts is the

only one who has the option to purchase the line?

Mr. ROOD. Yes, it is the only one with the right to purchase the Boston to Providence line. Boston and Providence will be sold and New London will sell to Penn Central. What the Penn Central plans, no one knows. It is part of a package deal.

Congressman TIERNAN. Why is Boston-Providence selling?

Mr. ROOD. Boston-Providence is forced to sell because of reorganization costs.

Congressman TIERNAN. Are there any other questions? Thank you very much.

Senator PELL. I want to compliment you for your leadership in calling attention to the adversity of viewpoints here. It was an altogether excellent meeting.

Congressman TIERNAN. Thank you very much Senator. I want to indicate that this is just the beginning. We will compile the minutes of this meeting and distribute them. A meeting of the CIPS membership in order to go over the suggestions made today will take place in approximately a month. One further word, I hope you all took the time to notice the CIPS program. It was prepared by a young student intern of mine from Mt. Vernon Junior College, Tina Hyland: As you can see, she did an excellent job.

(Subsequent testimony was submitted by the following persons. We apologize to Senator Pell, whose statement below was given at the opening of the meeting. Senator Pell; Congressman Burke; Congressman Harrington; Gov. Walter Peterson of New Hampshire; Hon. Kevin H. White, Mayor of Boston; Mr. G. Wm. Miller, Textron, GEO-Transport Foundation of N.E.)

Senator PELL. Congressman Tiernan, Senator Brooke, and other Distinguished Members of the Panel and of the Committee for Improved Passenger Service.

After eight years of lonely advocacy for improved passenger service, I must say how encouraged I am with the formation of the Committee on Improved Passenger Service. I am very impressed by the distinguished gathering of people concerned with rail passenger service which are here today. So much so, that I believe that if everyone in this room could agree to support one substantial bill to assist rail passenger service, legislation to aid rail passenger service could pass the Congress this year.

I do not think we can afford to delay legislation any longer. In 1958 there were over 1400 intercity interstate trains, today there are only 448 intercity trains. Never have I seen the condition of rail passenger service in worse shape, and never in my eight years working at the rail passenger problem have I seen so much public support for Congressional action.

I do not think that the Congress can afford to await a Presidential message on rail passenger service which may never come. I believe the basic Legislation we need to save passenger service exists, and that this Committee should serve as the catalyst for moving the House and the Senate to pass legislation this year.

Our first concern should be directed to our Legislative Committees.

In short, I would ask our respective Houses of the Congress to consider passage of the omnibus bill which I have outlined in my testimony for the Commerce Committee tomorrow and which testimony is available to you here today.

The omnibus bill I suggest contains three sections:

The first section would be my own bill, the Regional Intercity Passenger Authority Act of 1969. My bill provides for the creation of a regional authority based on interstate compacts to operate passenger service. The Federal government would guarantee up to $1 billion of the bonds which an Authority would issue to raise capital. The States would be required to subsidize any operating loss of trains not included in the National Transportation System provided for in Section 2 of the omnibus bill.

Section two of the omnibus bill would be a modified version of the Senate Commerce Committee's proposal for the provision of new passenger equipment, and for authority for the Interstate Commerce Commission to regulate the quality of passenger service. I would modify the Commerce Committee's print to make my Regional Authorities eligible for the same limited and temporary subsidy and passenger equipment assistance for which the railroad industry would be eligible.

Section three of the omnibus bill I suggest would be the National Transportation Act which has been introduced in the Senate and in the House. The National Transportation Act calls for regional commission to undertake balanced transportation planning and demonstrations for all transportation modes in the major regions of the country.

Our second and more immediate concern should be the Appropriations Committees. In the Senate I hope to attach to the Administration's budget supplemental request an appropriation of $8.6 million for improving the roadbed used by the Turbo train between Boston and New York. This amendment would have numerous safety and speed benefits and I would hope the House members of this ad hoc Committee could gain some support for my amendment within the House Appropriations Committee.

Our third concern should be to provide money in the 1971 budget for the New England Regional Commission to pick up the contract for the Turbo train if the Department of Transportation does not continue the contract October, 1970.

Rather than take any more time of the panel, I am making available to the committee two statements in which I have outlined in more detail my thinking about improving rail passenger service.

To sum up, I would simply add to the statement which Stuart Saunders, President of Penn Central, made last fall regarding the condition of the rail passenger industry. He said, "The house is on fire." I would say in response, "We need public fire engines not a bucket brigade to save passenger service!"

Congressman BURKE. The problem of maintaining effective modes of transportation along the Northeast Corridor becomes increasingly acute with each day. The congested roadways and heavy air traffic have made the inception of high-speed ground transportation in New England an item of the highest priority.

There is one encouraging aspect to the cry for Government help that went up from the Nation's railroads. It is simply that they have finally begun to face up to the fact that they are not going to be allowed to get completely out of the passenger business. This is the crucial first step towards creating a national transportation policy in which the railroads have a major role.

The first response to the Metroliners running between Washington and New York City indicates there is a substantial and perhaps growing market for the railroads on intercity runs, particularly in heavily populated sections of the country. And, as the airways and the highways steadily grow more crowded, there may even be a future for the railroads in the summer vacation travel.

To tap such markets, however, the railroads have a generation of neglect to overcome. The tragedy of rail transportation is that the industry after World War II was seized by the idea that its future lay solely in freight operations. Instead of responding to the challenge presented by the airlines, many railroads set out to destroy their own passenger train operations and did almost everything they were allowed to do to make traveling by train as inconvenient and uncomfortable as possible.

If the railroads are to overcome this era of neglect, they need ask for more than just a Government subsidy to non-profitable trains. It is going to take railroad management that is creative and eager to build up public interest once again in "getting there" by train. This means fares that are competitive, cars that are clean and comfortable, tickets and reservations that are simple to obtain, other passenger services that are the equivalent of those offered to air travelers, and a strong effort to convince the public of the advantages, such as arriving on time, of rail transportation.

The Metroliner experiment, in which both the Federal Government and the Penn Central are expending substantial funds, has provided the impetus this moribund industry needs. The railroads may be correct in claiming they need governmental support in order to be competitive with air and highway transportation, both of which are heavily supported by tax revenue.

The greatest era for the construction of rapid transit facilities in the history of American cities will occur in the decade of the 1970's.

During the 1970's at least $17 billion is expected to be spent for creating entirely new rapid transit systems and for modernizing and extending older systems in the major cities of the United States, as well as for improving commuter railroad operations.

Not since the turn of the century when the initial rapid transit systems were built in such cities as New York, Boston, Philadelphia and Chicago will there be such a surge in this important construction activity in public transportation.

In fact, the construction of rapid transit facilities in the 1970's will far surpass anything we have experienced. In addition to improvements to older systems, this vital form of high-speed, grade-separated public transportation is expected to be brought for the first time to at least eight other major cities.

Underlying this high level of rapid transit construction will be an extensive public awareness of the crucial need for modern transportation facilities. Also of special importance will be the further recognition by all levels of government—city, county, state and federal—of the need for providing the best in public transportation for our growing metropolitan areas.

In the 1960's the need for public financing of rapid transit facilities, as well as other transit improvements, was recognized by Congress and the federal government by the passage of the Urban Mass Transportation Act.

Now, the federal government is preparing to give further financial assistance and recognition to the need for new public transportation facilities in a five-year, $3.1 billion transit aid program sponsored as a bi-partisan measure by Senator Harrison A. Williams (D.-N.J.) with the backing of the administration of President Nixon.

This five-year program is to be the first phase of a 12 year, $10 billion program set forth by the Nixon administration as the federal government's contribution to the vast rapid transit and other transit improvements that are needed.

One of the most important features of this new program is that it will provide the long-term guarantees of federal aid which states and cities need to embark upon the construction of new modern mass transportation facilities which requires some years to complete.

Over $17 billion is estimated as the minimum expenditure needed for rapid transit facilities in the 1970's. Likewise, in the decade of the 1970's it is estimated that $8 billion will be spent for modernization and extensions of existing rapid transit systems in New York, Chicago, Boston, Cleveland, Philadelphia, and the South Jersey area. This total is expected to include $2.6 billion for modernization and $5.4 billion for extensions and other facilities.

During the 1970's it is expected that more than 8,000 new rapid transit and other commuter cars will have to be built to meet the needs of replacing outmoded equipment on existing systems and to fill the equipment requirements for new systems.

In addition to rapid transit facilities, the estimated $17 billion in expenditures for the 1970's also include approximately $1.3 billion for improving commuter railroad systems, mostly in the New York, Boston, Philadelphia, and New Jersey areas.

The Northeast Corridor of our Nation is faced with real problems. The Corridor is saturated with highway and air traffic often to the point of near immobility. The highway-airlane congestion persists in this populous Corridor and is becoming more of a problem every day. We are fast approaching the day when the Northeast Corridor will become so clogged with planes and autos that they will be unable to move.

We in New England must face the facts—either we start now to take steps to remedy the chaotic problems that lie ahead or we allow the states of Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont and Maine to die on the vine.

According to the Highway Statistics Division of the Bureau of Public Roads, the total highway expenditures in the United States from fiscal year 1965 to fiscal year 1970 totaled:

Year:	*Million*
1965	$4,026
1966	3,965
1967	3,973
1968	4,171
1969	4,151
1970 estimate	4,467
1965–70 year total (highway)	24,753

The French National Railways is in the form of a commercial corporation, with the Government holding 51 percent of the stock and private holdings accounting for the remaining 49 percent. The average daily speed for French passenger trains is considered to be quite high. For instance the Paris-Dijon run reaches 82 miles per hour; from Calais to Amiens, 87 miles per hour; and the short run from Anas to Longveau (some 41 miles in length) averages 84.9 miles per hour.

In Italy the present day Italian State Railways is an amalgamation of three large private railroad systems. The system now is Government owned and operated, and includes all railroad mileage in the country except for some small local lines which are privately held. The good express trains of Italy are fast, often averaging 75 miles per hour.

The railroads of the German Federal Railway are Government owned and operated. Speeds are relatively high. For example, the Hamburg-Frankfurt 435 mile trip is made in just 7½ hours, and includes 13 stops.

Approximately half of Canada's railway net is publicly owned and operated while the other half is private. Speeds are reported to be high. For instance, the Rapido, installed in 1965, is billed as North America's fastest intercity passenger train. It covers the 335 miles between Montreal and Toronto in 5 hours, with one stop, reaching speeds of 90 miles an hour.

In Japan, since June, 1949, the major railway network has been in the hands of a public corporation called the Japanese National Railways, under the supervision of the Minister of Transport. To achieve greater efficiency, most of the central authority was decentralized to six regional offices in 1957; enlarged to nine in 1959. Speed wise, Japan's railroads have achieved a notable success. The much publicized Tokyo-Osaka line is 320 miles long. Opened in 1964, the line serves a corridor encompassing nearly 50 percent of the country's population. The average day sees 170 trains covering the route, carrying a total of 180,000 passengers. The run is made regularly at speeds up to 125 miles per hour, and consumes 3 hours and 10 minutes, including several stops. This is an average of 101 miles per hour.

It is interesting to note the two nations that allegedly lost World War II have made far greater strides in improvements in railroad passenger service, than our Nation the United States. It is quite apparent that we in the United States, being able to place men on the moon, now find it difficult to move people from city to city in our most populous areas by a modern pattern of passenger service. It is my sincere hope that at this meeting held today that Members of the New England Congressional Delegation, including Senators and Congressmen, Governors, Mayors, State Legislative leaders, State Public Utility Commissioners, railroad officials, and other interested parties will ignite a spark to awaken New England to a real problem that requires immediate and further action. The railroad passenger line traveling from Boston to New York in 2½ hours connecting with the Metroliner to Washington, D.C., would make it possible to travel to Washington, D.C., in approximately 5 hours. This should be one of our goals.

Mr. HARRINGTON. Over 11 million people live in the New England Northeast Corridor Area. The population of this area continues to grow at the rate of 1.2% per annum. In spite of this continuing concentration of population and urban development, the New England area still must contend with a transportation system that is largely inherited over its 250-year history. The single major improvement in transportation service has been the continued expansion of the interstate highway facility. Yet, the impact of this new highway construction and the greatly increased use of private automobiles has been the primary factor leading to the widespread abandonment of passenger trains throughout much of the New England area.

Since 1955, rail service between a dozen cities has been discontinued. Service to Vermont, New Hampshire, and Maine has been abandoned altogether. The only service remaining of significance is the subsidized commuter service between Springfield, Worcester and Boston, and Springfield and New York. In the same period, we have seen the emergence of air service becoming the predominant public carrier service connecting New England with the rest of the Northeast Corridor and the nation.

In excess of 10 million person trips are made annually between the New England cities and cities in the remainder of the Northeast Corridor. The rail share of this market has slipped from a high of 20% in 1960 to under 5% today. The numbers of passengers traveling between Boston and New York reached a war-time peak of over 4 million passenger travelers in 1944. Since then, the number has decreased to less than 320,000 in 1969. The remaining rail service still in operation has deteriorated to the point of reaching barely tolerable levels of cleanliness, reliability and comfort. Only in the last two years, through the introduction of limited turbo train service in 1969 between Boston and New York, has hope been given to restoration of improved rail travel. These runs are only experimental in nature and have been designed primarily to test new and improved equipment, but not service. The abandonment of this experiment in September 1970 appears imminent.

The only promising commitment by the railroads is a statement by Chairman Saunders—Penn-Central Railroad—that despite heavy losses from passenger operations, the Penn-Central is stepping up efforts to provide cleaner cars and better service with the use of conventional equipment. Yet, the Penn-Central, on absorbing the bankrupt New Haven Railroad last year reduced the number of Boston/New York round trips to eight trains daily.

The need for improved passenger service in the New England area must be placed in context with the dilemma of the total transportation system in this area. There are many who make the argument that rail service should be abandoned in light of its advanced stage of deterioration. Except for the brief experiment with the turbo trains, the public would appear to have abandoned rail service in favor of either the private automobile or air travel for over 80% of their travel. But the argument is false.

During the next decade, continuation and improvement of passenger service is likely to be the one prospect remaining, i.e., for improvement of service between the New England area and the rest of the Corridor cities. In spite of expansion programs at Boston's Logan Airport and Hartford's Bradley Field, demand for air service will exceed the capacity of these fields before the end of the decade. The prospects for new international airports in this area are slim until the mid-1980's. The air traveler, over the next five years, will experience increasingly long delays due to air traffic congestion. The air travelers' problems will be further intensified by the difficulties of access between home, business centers and the three major commercial airports located in Boston, Providence and Hartford. Increasing traffic congestion will be experienced on urban highways in our major metropolitan areas with little prospects of improvement over the next decade.

But the problems of access within metropolitan areas will continue to worsen with the small prospect of improvement of urban highway facilities.

Therefore, the arguments for maintaining and improving passenger railroad service are clear. It is the single public mode that has the available capacity and the ability to move a large number of people between our major metropolitan areas and New York City and the remainder of the Corridor. Average travel costs by rail are less than costs by air and no greater than the costs of using one's own automobile.

Travel time to New York by rail including line haul and other times, i.e., access to and from railroad stations, is just over five hours.

Travel time by air including the access time at both ends of the trip now exceeds 2½ hours between Boston and New York. Well over half of this time is spent on the ground waiting for airplanes or in access to and from the downtown areas. Coincident with the marginal prospects of continuing air service at its present level, we can expect to see dramatic increases in the air travel time as a result of increasing delays through air traffic congestion and longer access times to central city and businesses. Auto driving times and travel times by bus exceed the five hours by rail. Over the next decade, rail remains the single prospect of improved travel service, i.e., reduction in door-to-door times. Increases in travel times by all other private and public carrier modes are imminent.

The resounding conclusion has to be the commitment for improved passenger rail service connecting the major New England cities, New York and the rest of the Corridor. Therefore, the challenge is not whether we continue the service, but rather how we bring about improvements in service without increasing the debt requirement on the private railroads on the one hand, and not requiring high capital expenditures by public authorities, local, state and federal, on the other hand. This challenge is prefaced by an understanding of the current status of the rail passenger service.

STATUS OF RAIL PASSENGER SERVICE IN NEW ENGLAND

The former New Haven Railroad, now the New Haven region of the Penn-Central, resulted from many mergers and several rebuildings. The last major rebuilding of

tracks occurred in the late 1890's and the early 1900's when the main line from New York to New Haven was reconstructed from two to four tracks and the entire length grade separated. However, the absence of a coastal plain in New England necessitated a track alignment closely following the shoreline resulting in a route with considerable amount of curvature and numerous bridges. Electrification of the tracks between New York and New Haven took place between 1907 and 1925. This was possible without the expense of major construction. The remainder of the line, however, to Boston is not electrified, and except for several passing tracks for freight, is a two-track route. The last few miles from Readville to South Station are again four tracks. Consequently, over this alignment between New Haven and Boston little prospect exists for the use of the new Metroliner trains between Boston and New York.

The rail terminals in the New Haven region predate World War I, except for the Route 128 terminal in Boston, built in 1953. Except for the Route 128 station, the terminals lack adequate parking facilities, and as a result are in an advanced state of deterioration and are located in parts of the city which make them attractive hangouts for derelicts and other undesirable elements of our society.

With the exception of the new Turbotrain, the standard coaches and parlor cars used in the New Haven region are over 20 years old. Many of the cars in this part of the region were built in pre-war years and are still in use. As a rule, maintenance has been deferred on all passenger rail equipment due to the poor financial condition of the railroad and the lack of profit in the passenger service. To save maintenance costs, cars in need of repair have been taken out of service instead of being maintained. The decline of intercity passenger rail travel has made this policy of the railroads possible, resulting in a steady decline in the number of usable cars. During the peak period, these poor cars are pressed into service, increasing the likelihood of breakdowns and further aggravating the passengers.

This maintenance policy was especially true of the New Haven Railroad during its period of receivership. Since assuming the obligations of the New Haven Railroad, Penn-Central has begun a program to renovate both commuter and regular passenger cars. This program is proceeding at the rate of 6 cars a month, accounting for 20% per year of the New Haven fleet. Recent statements by Chairman Saunders continue to confirm this policy of improving the quality of the railroad passenger cars.

The major problem facing improvement in passenger service is the severe speed restriction on train operations over the road bed between New York and Boston. For 15 miles immediately north of Penn Station, speeds are limited to 40 mph or less because of curves, track conditions and severe grades over the roadbed. Track condition, signal spacing alignment from New Haven to Providence are superior to the New York to New Haven portion, allowing conventional passenger train speeds of 80 mph over considerable distances.

There are, however, severe curves at several locations including Branford, the Connecticut River crossing, New London, Groton, Mystic, Stonington, and several locations south of Providence. In many locations, horizontal and vertical clearances at overpasses, underpasses, and catenary support structures at curves are inadequate to permit higher speed operations. Multi-million dollar expenditures would be required to replace the tracks or rebuild these structures to improve this situation. More restrictive curves exist through Providence and north into Massachusetts.

Speed restrictions also result from the mix of traffic, including freight, commuter and intercity passenger trains on a single rail line. Trains are normally operated on a priority basis, with passenger trains having priority over freight. A number of draw bridges exist between New York and Boston. Ten in total exist on the New Haven line. The one at New London is probably the most frequently opened because of the submarine base upstream, where traffic comes to a halt in order to permit naval movement. Many grade crossings exist on the New Haven track of which many are seldomly used or are nonexistent, except for legal consideration. The continued presence of these grade crossings adds to a safety dilemma both for automobile traffic and the railroad operation.

While a number of facility improvements are being made by the Penn-Central on the facilities between New York and Washington, no specific plans have been given for the New Haven area mainline. Between New York and Washington, a considerable amount of welded rail has been laid to permit high speed travel. Installation of centralized traffic control over the entire line is under way in order to improve safety. Few improvements are being made in the New Haven region. Many reasons are stated for the lack of plans for the New Haven region, the main one being the diversion of through-freight from the present shoreline alignment to the Boston/Albany mainline due to the completion and operation of the Selkirk Yard. The diversion of this freight traffic now leaves some doubt about the desire of the Penn-Central to maintain the New Haven line as a high grade facility. *Only through public action requiring commuter area improvements and general upgrading programs does there remain a prospect for improved trackage, new welded rail, signal improvements, removal of grade crossings, elimination of curvatures, etc.*

The future outlook and continuation of rail service in the New England area will depend upon governmental willingness to guarantee the operation against a loss on the part of the railroads. Due to high loss in its operation, it is a matter of time before passenger service will be reduced drastically or discontinued entirely. The commuter rail service in metropolitan Boston is now subsidized and otherwise would be discontinued. Without some form of assistance, such as subsidy or capital grants, the railroads can be expected to request abandonment of their service in the near future. *The challenge, therefore, is how to respond to this need to provide adequate support and funding to revitalize and improve passenger rail service in the Northeast, one of the few prospects for improved transportation service over the next decade for New England travelers.*

AN ACTION PROGRAM FOR IMPROVEMENT OF PASSENGER SERVICE IN NEW ENGLAND AREA

Based upon the evidence outlined above, I believe a definite requirement exists for improvement of passenger service to link our major metropolitan areas to New York and the rest of the Northeast Corridor—Philadelphia, Washington, and Baltimore. With the anticipation of increased air traffic congestions, large delay times in air travel, and increasing problems in the urban areas with urban highway traffic congestion, *a clear prospect for improved metropolitan service and intercity service is the continuation and improvement of rail service for commuters and line haul operations.*

A vital link exists between the Boston & Maine commuter rail service such as serves the Congressional District 6 and downtown Boston, and its direct connection to the mainline of the Penn-Central New Haven regional service to New York City. This service is vital to the continued prosperity and growth of our progressive New England area. The problems facing the improvement of this service are largely financial. In our race to accommodate the automobile, and take advantage of highspeed intercity service by air, we have neglected our vital network of railroads and allowed their rapid deterioration.

Expenditures for new highways over the next decade will exceed a billion dollars for this area. A new international airport in Connecticut and Massachusetts will require expenditures in excess of a billion dollars, and yet will not be completed in time to meet traffic demands of this decade. *Surely, modest investment in improvements in the rail passenger service, both in the roadbed and the equipment are justified.*

We can no longer expect the railroad industry, whose annual net profit is less than 2.3% and this amount coming largely from non-transportation operations to continue to subsidize and write-off multi-million dollar losses on passenger service, let alone expect the railroads to make improvements in equipment, trackage and signals, all vital to the continued improvement of this necessary service.

A three-pronged action oriented attack is required to provide a workable solution for the transportation dilemma facing us over this decade. A commitment is required from three levels of government, the federal, state, and metropolitan/local. In light of the requirement for improved passenger service and the deficit ridden operation of the railroads, formation of a Quasi-Public Transportation Authority is warranted and urgently needed to find the solution to this problem. The need for improved passenger service requires a multi-jurisdictional commitment by all of the New England States—Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island and Vermont. By special act of Congress, a six-state compact would be formed involving participation by the Federal Government, Department of Transportation, and each of the six states to band together for a concerted commitment of improvement of passenger service. By public take over, or long term lease, the compact would acquire the operating assets of the railroads for the purpose of continuing and expanding intercity passenger rail service.

Long term financing for the compact would be arranged and guaranteed through several sources as follows:

1. Sales of revenue bonds guaranteed by the State and municipal authorities affected.

2. Capital grants or long term financing through appropriated funds by State Legislature. For example, precedent has already been set by the State of Connecticut which has appropriated in excess of $20 million for subsidy of the operation of the New Haven Railroad.

3. Capital grants and long term low interest loans from the Federal Government under the Mass Transportation Act or other special appropriations by Act of Congress.

In reference to the third point, it is suggested that funds under the Mass Transportation Act be made available to this compact in recognition that the intercity transportation problem is becoming more and more a problem of providing service within metropolitan areas and the total metropolis in the New England area. Clearly, the distinction between intercity operations and urbanized commuter rail operations are diminishing as urban development and population sprawl continues to develop all available land in the area.

It is estimated that in the neighborhood of $50 million will be required for immediate improvements over the next five years, for new roadbed, signal and elimination of grade crossings over New Haven region roadbed. In addition, $5–10 million will be required for the revitalization and refurbishment of conventional train coaches for improvement of the service. Finally, limited subsidies in the neighborhood of $3–5 mil-

lion dollars annually will be required initially to maintain operations between Boston and New York. This level of capital investment and subsidization of passenger service operations are warranted. This commitment over the next 5 years would result in improvement in passenger service, reduction in travel times up to an hour between Boston and New York, and should eventually lead to significant increases in ridership on rail passenger equipment.

In conclusion, I recommend immediate action on new legislation:

1. to create a six-state concept for the purpose of operating intercity passenger rail service;

2. for clarification in the pending mass transportation legislation to permit the use of capital grant funds and long term loans for improvements in the metropolitan area portions of the intercity passenger rail service;

3. for legislation to permit the sale of revenue bonds for long term financing of passenger rail service to be underwritten by and guaranteed by Federal, state and local government.

Governor PETERSON. For the nine year period between 1958 and 1967, passenger service in New Hampshire was gradually reduced to the point of elimination. During the last two years of this period, a single round trip daily was operated between Concord, New Hampshire, and Boston, Massachusetts, and a single round trip Monday through Friday was operated between Dover, New Hampshire, and Boston. This last single round trip on each line was provided essentially for commuters, most all of whom traveled daily to their work in Boston and returned.

The Massachusetts Bay Transportation Authority was created in 1964. Contracts were made with railroads and other transportation agencies to provide passenger service between Massachusetts points and Boston. Rail passenger service has been continued and is being operated to Lowell, Massachusetts, on the line previously serving Concord; to Haverhill, Massachusetts, on the line previously extending to Dover, and to Newburyport, Massachusetts, on that which formerly extended to Portsmouth, New Hampshire.

The 1969 session of the New Hampshire Legislature adopted Joint Resolution No. 62 requesting the Public Utilities Commission to "Examine the action that will be necessary to re-establish rail passenger service between Nashua, Manchester, Concord and Boston, and Dover and Boston, and is authorized, subject to the approval of the Governor and Council to enter into such agreement or arrangements as may be determined appropriate with interested agencies."

The final report concerning this has not been submitted, but it has been found that there is no passenger equipment available at present to provide this service. Such equipment as is available is under contract with the Massachusetts Bay Transportation Authority, and this Authority is not empowered to enter into agreements or contracts with other states.

It is quite apparent that no restoration of passenger service can be made as an extension of existing service, because there is no overall agency authorized to coordinate the extension of the Massachusetts service into New Hampshire. Service once discontinued is much more expensive to reactivate.

Most students of transportation feel that ultimately rail passenger service will be required from central New Hampshire and from southeastern New Hampshire into the Boston area. This is particularly true when the new high speed service between Boston and New York becomes a reality. One of the greatest factors in competition with rail service is the private automobile operating over express or interstate highways into central and southeastern New Hampshire. Looking toward the future, and with direct connections in the Boston area for high speed service, it is well within the realm of possibility that speeds in excess of 100 miles per hour can be operated north of Boston to provide for facilities required for the expanded population and the phenomenal growth that is being realized in New Hampshire.

To adequately provide for these requirements, we, in New Hampshire, feel that it is absolutely essential to have some agency authorized to cross over the boundary lines of New England, such as the New England Regional Commission or an interstate authority, to adequately plan and authorize or require such action as is necessary to meet the public demands for rail passenger transportation.

Mayor WHITE. Good afternoon. I am Kevin White, mayor of Boston. When Congressman Burke asked me to appear today, I told him that I already had commitments in Boston, but that I would make every effort to be present, because I always support his efforts to help New Englanders.

Jim Burke has long fought for the people of New England. He has fought to make sure that we were not overlooked when Federal funds were allocated. Soon we will have a modern mass transit system serving the areas south of Boston. In no small measure, we in Boston can thank Jim Burke because that system never would have been possible without a Federal commitment of funds.

This afternoon we are looking for another Federal commitment—a commitment to help the people of New England build a modern rail line between New York and Boston. And so that there can be no mistake, let me clearly state that I favor the creation of such a system.

A high-speed ground system betwen New York and Boston. And so that there can be no mistake, let me clearly state that I favor the creation of such a system.

A high-speed ground system between New York and Boston would be the heart of an efficient transportation network for all of New England. Let me outline for you some of the benefits for Boston.

First, a high-speed ground system would dramatically reduce traffic at Boston's Logan Airport. Roughly 40 percent of the passengers at Logan travel between New York and Boston. A study for the New England regional commission estimates that half of these would switch to a fast ground system—resulting in a 20 percent reduction in total Logan passengers. Fewer passengers mean fewer flights, less air pollution from planes, lower noise levels, and less congestion on highways near the airport.

Second, fast, dependable transportation is essential for the continued growth of the new Boston. Even if we built a dozen new airports in Boston, we might not have adequate air transportation to New York because of the severe overcrowding of the New York airports. Planes cannot take off if there is no place for them to land—and a fourth airport for New York has never gotten off the drawing boards. If the flow of commerce between Boston and New York is restricted, the growth of both cities will be retarded.

Third, a rail system would draw over a million passengers a year away from our highways. Highways have become, in many respects, an inner city's worst enemy. Our highways are congested; they contribute to the pollution of our air; they deface the landscape; they destroy homes and buildings; and they consume vast amounts of scarce land. In fact, a highway occupies ten times as much land as a railroad of equal capacity. If we wish to save our inner cities, we must find ways to take pressures off the highway network.

Some observers have argued that we should not build a high-speed rail system at this time—that we should await technological advances such as development of air-cushion vehicles. To them, I answer that we cannot afford to wait. If the Penn Central passenger service is truly in serious financial distress, the cost of waiting could be the loss of *all* passenger rail service. And the result will be another 600,000 travelers each year dumped onto our already overcrowded highways and airways.

I've briefly outlined for you several reasons why we in Boston need a fast rail service to New York.

Now let me express just two thoughts on how to pay for such a system.

First, I am convinced that this system will be self-supporting in the long run. Just as the New York-Washington service has exceeded expectations, I am sure that a new York-Boston route would be more heavily utilized than we dare estimate at this time. What government must do is provide the spark—invest in the necessary research and development to begin the process. Therefore, I strongly recommend that developmental funds be appropriated immediately to the Federal Railroad Administration to allow engineering and development work to proceed. As soon as firm financial requirements are outlined, the Federal Railroad Administration should be required to submit to Congress a financing plan utilizing to the maximum extent feasible private financial sources. The Federal Government should supply only loan guarantees plus any direct subsidy required during the early years of operation.

Second, I am wary of using for this system resources which are currently set aside for urban mass transit. We should not be robbing the commuter to pay for the intercity traveler. As a nation we can afford to meet the needs of both—and we should.

Thank you.

TEXTRON,
Providence, R.I., March 16, 1970.

HON. ROBERT O. TIERNAN,
Longworth House Office Building,
Washington, D.C.

DEAR BOB: I regret being unable to personally participate in your recent public meeting on the problems of passenger service. However, as you have requested, the following statement represents the views of the Geo-Transport Foundation of New England of which I am President:

"The provision of high speed intercity ground transportation services in the corridors between Boston, Providence, Rhode Island—central Connecticut and New York, is an objective of established public policy (as evidenced by the Northeast Corridor Demonstration Project and by existing state and federal plans and programs).

"The United States Department of Transportation's East Coast Corridor Program is conceptually and technically sound, but has been seriously hampered north and east of New York by the lack of an adequate mechanism for implementation.

"The present situation calls for an evolutionary approach, starting with an improvement of existing rail intercity passenger services and progressing through several stages of development to the design, construction and operation of an entirely new high speed ground service utilizing the best of the new technologies (such as tracked air cushion vehicles or gravity vacuum tubes).

"The implementation of any plans of this magnitude will require the active support and cooperation of local, state and federal governments and of private industry. However, no organizational mechanism presently exists for establishing this essential cooperation and implementing the resulting service.

"There exists a demand for high speed passenger transport over shorter route segments (such as Hartford to New York, and Providence to New York) where highways are congested and good air service is expensive to support and difficult to provide. Fur-

ther, the Boston-New York market is growing so fast there is need right now for a good high-speed ground transport system to supplement air and highway facilities, these being areas where future major increases in capacity will be difficult and costly to achieve."

Studies indicate that with modest local, state, and federal assistance it would be possible to create and maintain an attractive useful intercity high speed passenger transport service on a self-supporting basis in the Boston-New York corridors, both for an ultimate new-technology high speed service and for an interim fast railroad service.

The Geo-Transport Foundation of New England was formed with the specific task of setting up a new agency which can:

(i) Take over and operate intercity railroad passenger services.

(ii) Design, build and operate a new-technology high-speed ground passenger transport system.

(iii) Effectively blend public and private capital in the conduct of these tasks.

(iv) Be eligible to receive grants from local, state and federal transportation assistance programs.

The Geo-Transport Foundation of New England (GTF) was incorporated under the laws of Massachusetts in February 1969 as a not-for-profit organization concerned with the evolutionary development and implementation of high speed intercity ground transport in New England. It is intended to be a regional organization in nature, supported by New England industry and government, and therefore responsive to local interests and concerns.

GEO-TRANSPORT FOUNDATION OBJECTIVES

The GTF is intended as a transitional organization which will bridge the gap between an informal study group and the creation of a new, permanent agency which can actually finance, acquire, build and operate interstate high speed ground passenger transport systems. GTF has as its principal task the creation of this new agency and getting it set up and in business. The following objectives are the basis of the Foundation's future plans and programs:

(a) The principal objective is the design, construction and operation of a new high speed ground transportation system in New England, based upon utilization of the best of the new transport technologies.

(b) It is estimated completion of the new technology routes will require between 15 and 20 years. During this period it is planned to design and operate modern, fast railroad intercity passenger services based on the use of existing railroad tracks and facilities (but with some improvements), and new equipment.

(c) A secondary objective is to develop a means for blending public and private investment in a manner which will preserve the advantages of each.

(d) The third objective is to fill an existing void by providing an organizational instrument which can effectively carry out the implementation of plans for the design, construction and operation of interstate, intercity passenger services. Service will be restricted to the handling of passengers and their baggage, priority mail, and of priority parcel-express packages.

Sincerely.

G. WILLIAM MILLER.

PRESIDENT'S ACTION ON POSTAL STRIKE

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

Mr. ARENDS. Mr. Speaker, this afternoon President Nixon in a very forthright and firm speech on television and radio, set forth his views on the present postal strike. He did not equivocate or mince words. He spoke as I feel the citizens of this Nation wanted him to speak. He clearly stated the facts of the issue so all might understand. He gave assurance that all issues were negotiable after the postal workers have returned to work. It was necessary to send into the New York post office the needed military personnel that the all-important mail shall continue to move. They dare not be in defiance of the law of the land regardless of what the grievances of any group might be. I salute the loyal, patriotic workers who remained at their posts of duty. My hat is off to them.

I am including with my remarks: First, the President's declaration of a national emergency; second, his Executive order; and third, his complete remarks on the issues involved.

I most heartily support and endorse the President's action.

DECLARING A NATIONAL EMERGENCY

(By the President of the United States of America)

A PROCLAMATION

Whereas certain employees of the Postal Service are engaged in an unlawful work stoppage which has prevented the delivery of the mails and the discharge of other postal functions in various parts of the United States; and

Whereas, as a result of such unlawful work stoppage the performance of critical governmental and private functions, such as the processing of men into the Armed Forces of the United States, the transmission of tax refunds and the receipt of tax collections, the transmission of Social Security and welfare payments, and the conduct of numerous and important commercial transactions, has wholly ceased or is seriously impeded; and

Whereas the continuance of such work stoppage with its attendant consequences will impair the ability of this nation to carry out its obligations abroad, and will cripple or halt the official and commercial intercourse which is essential to the conduct oi its domestic business:

Now, therefore, I, Richard Nixon, President of the United States of America, pursuant to the powers vested in me by the Constitution and laws of the United States and more particularly by the provisions of Section 673 of Title 10 of the United States Code, do hereby declare a state of national emergency, and direct the Secretary of Defense to take such action as he deems necessary to carry out the provisions of the said Section 673 in order that the laws of the United States pertaining to the Post Office Department may be executed in accordance with their terms.

In witness whereof, I have hereunto set my hand this twenty-third day of March in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America the one hundred and ninety-fourth.

RICHARD NIXON.

EXECUTIVE ORDER—CALLING INTO SERVICE MEMBERS AND UNITS OF THE NATIONAL GUARD

Whereas certain employees of the Postal Service are engaged in an unlawful work stoppage which has prevented the delivery of the mails and the discharge of other postal functions in various parts of the United States; and

Whereas the laws of the United States, including Sections 707, 5102, 6001, and 6101 of Title 39, United States Code require that the business of the Post Office Department, including the expeditious processing and delivery of the mail, be regularly carried on; and

Whereas the aforesaid unlawful work stoppage has prevented and is preventing the execution of the aforesaid laws relating to the Post Office Department; and

Whereas the breakdown of the postal service in the numerous areas affected by the said unlawful work stoppage is a matter of grave national concern; and

Whereas I am charged by the Constitution of the United States to take care that the laws be faithfully executed, and I have determined that I am unable solely with the regular forces to cause the aforesaid laws to be executed:

Now, therefore, I, Richard Nixon, by virtue of the authority vested in me by the Constitution and laws of the United States, including Sections 3500 and 8500 of Title 10 of the United States Code and Section 301 of Title 3 of the United States Code, do hereby order as follows:

Section 1. The Secretary of Defense is authorized and directed to take all appropriate steps to respond to requests of the Postmaster General for assistance in restoring and maintaining Postal service and to executive the Postal laws of the United States.

Section 2. In furtherance of the authorization and direction contained in section 1 hereof, the Secretary of Defense is authorized to use such of the Armed Forces of the United States as he may deem necessary.

Section 3. I hereby authorize and direct the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard that he deems appropriate to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of this order, the Secretary of Defense is authorized to use the units, and members thereof, of the Army National Guard and of the Air National Guard called into the active military service of the United States pursuant to this section.

Section 4. The Secretary of Defense is authorized to delegate within the Department of Defense any of the authority conferred upon him by this Executive Order.

RICHARD NIXON.

THE WHITE HOUSE, *March 23, 1970.*

THE WHITE HOUSE.

REMARKS OF THE PRESIDENT IN THE TELEVISION AND RADIO ADDRESS REGARDING THE POSTAL WORKERS' STRIKE

My fellow Americans: I want to report to you on developments in the postal work stoppage and on the actions I have decided to take.

First, the overwhelming majority of postal workers across the nation remain on their jobs—upholding their tradition, and their oath, to support the Constitution of the United States.

Second, in many communities where walkouts occurred last week, postal employees are returning to their jobs.

However, in several large cities, the post offices are shut down. In New York, for example, the mail system is wholly paralyzed by the illegal walkouts; and essential services have been halted.

Last Saturday, I pledged to the nation that, if the current situation existed on Monday—today—I would take action to fulfill my constitutional obligation to move the mails and I am taking that action now.

Injunctions have been sought, and in most cases already granted, forbidding striking postal workers from interferring with those who wish to return to work.

I directed the Attorney General to take whatever action he believes necessary to see that these court orders are obeyed, and work-

ing with local authorities, to see that no illegal picket lines interfere with workers returning to work.

Secondly, I have just now directed the activation of the men of the various military organizations to begin in New York the resortation of essential mail services. New York City is where the current illegal stoppages begin; it is where the mail has been halted the longest; it is where the resultant problems have become most acute. If the Postmaster General deems it necessary to act in other affected major cities, I will not hesitate to do so.

These replacements are being sent in as a supplemental work force to maintain essential services. Only as many workers as are necessary to accomplish that will be used and they will be withdrawn as the striking postal workers return to their jobs.

Let me now address my comments to both the postal workers who have stayed on the job—and those who are engaging in the work stoppage.

The United States Postal System is a vital element of our entire communications system. The poor depend heavily upon it for medical services and also for Government assistance. Veterans depend upon it for their compensation checks. The elderly depend upon it for their Social Security checks. The nation's businesses depend upon it as a way to stay in business so they can meet their payrolls and our men in Vietnam depend upon "mail call" as their only link with their loved ones at home.

From the time I came to Congress 23 years ago, I have recognized that the hundreds of thousands of fine Americans in the mail service—the Post Office Department—are underpaid and they have other legitimate grievances.

For the past year, almost since the day we took office, both the Postmaster General and I have been working to alleviate not only the legitimate grievances of postal workers but to move to eliminate the source of those grievances—that is, the obsolete postal system itself, a system that no longer serves its employees, its customers or the country as it should.

That was why that among our first legislative proposals was wholesale reform of the United States Post Office. Included have been requests for increased pay for postal workers, for increased benefits, for compression by 60 percent of the time it takes a worker to move from the bottom to the top of the pay scale.

I believe that if that postal reform had become law we wouldn't have the current crisis. But that crisis is here and it has brought additional grievances to the fore. The country has recognized these inequities in postal pay and benefits.

This Administration has always been willing to work them out. As the Secretary of Labor and postal union leaders indicated again Saturday, we stand ready to begin negotiations, discussions on all issues including pay immediately after postal workers are back on their jobs. But we cannot and we will not negotiate while thousands of postal workers are participating in an illegal work stoppage.

At this time, it is only those who have struck and are staying off the job who are preventing meaningful negotiations and resolution of their problems through those negotiations and the legislative process.

And so I urge you to return to your jobs so that these negotiations can begin with an urgent but reasonable climate.

Just as this issue goes beyond the question of mail service, so my remarks at this time are addressed to all Americans. What has occurred here is that some employees of the Federal Government are now not only going against the best interests and the best tradition of their service, but against the recommendations of their national union leader, against the oath of office that they took, against orders handed down by the Federal Courts and they are cutting off service essential to thousands, millions of Americans.

What is at issue then is the survival of a government based upon law. Essential services must be maintained and, as President, I shall meet my Constitutional responsibility to see that those services are maintained.

And I am asking for the understanding and support of every American in this decision that I have made in behalf of our country.

THE POSTAL STRIKE

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

Mr. ZABLOCKI. Mr. Speaker, I wish to associate myself with the remarks of our esteemed colleague, the gentleman from Montana, a ranking member of the Post Office and Civil Service Committee.

This House has favorably acted upon comparability measures four times. H.R. 13000 was approved by the House on October 14, 1969 by the overwhelming vote of 311 to 51. There is no excuse why the legislative branch has not completed action on this measure. It should have been sent to the President for further consideration months ago.

Understandably the patience of the postal workers, including those of Milwaukee, has worn thin. I regret, however, that they have resorted to the unprecedented illegal action of a "wildcat" strike against the Government. I sincerely hope that the plea of the officers of the National Association of Letter Carriers urging the striking postal employees to return to work will be heeded. They have made their point emphatically, albeit illegally. As they return to work Congress must act immediately on the pending pay raise legislation, H.R. 13000 to rectify an inequity perpetrated on the postal employees.

Mr. Speaker, regardless of prior plans to recess for the Easter holidays, I believe the Congress should stay in session until legislative action has been completed on the postal pay raise bill.

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

Mr. ZABLOCKI. I yield to the gentleman from Montana.

Mr. OLSEN. Mr. Speaker, I think the fact must be reiterated again that we have the word of the gentleman from the other body, the chairman of the Senate Committee on Post Office and Civil Service, that the President has threatened he would veto the lesser bill, H.R. 13000, and for that reason the gentleman in the other body will not go to conference with the House. H.R. 13000, which was passed by this House in cooler days and with cooler heads, last October 18, would be effective. At any time, with the kind of strike we have the thing to do is to try to settle it.

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

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

Mr. PUCINSKI. I also certainly agree that we have a responsibility in the legislative branch of the Government. I would join the gentleman in urging that Congress send the bill to the President with no further delay. I hope that the chairman of the Committee on Post Office in the other body would call the chairman of the House committee within the next few minutes, arrange a meeting forthwith, and arrive at a compromise so they can report this bill out and send it to the President. If the President wants to veto it, let him take that responsibility.

PRESIDENT'S ACTION ON POSTAL STRIKE

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

Mr. DUNCAN. Mr. Speaker, I would like to take this opportunity to commend the President of the United States for his leadership and his forthright action regarding the unlawful work stoppage of certain employees of the Postal Department.

The President recognized his constitutional obligation. He also recognized the necessity of the continuous expeditious operation of this vital element of our entire communication system.

His statement, together with his declaration of emergency and the Executive order were the actions of a diligent and courageous President.

PRESIDENT'S ACTION ON POSTAL STRIKE

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

Mr. LATTA. Mr. Speaker, I support the action that the President took this afternoon and in so doing would respectfully urge all postal employees to return to their jobs which will make the use of Federal troops unnecessary. We all realize that this is an unprecedented action but a necessary action on the part of the President.

The mails have to move, and they have to move now. We would hope that these individuals—and there is a small majority of them now out—would return to their jobs before those troops arrive.

POSSIBLE POSTPONEMENT OF EASTER RECESS

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

Mr. ALBERT. Mr. Speaker, while I have not been able to discuss this matter with the distinguished minority leader, I think the Members of the House should be aware that the emergency of considerable proportions which has developed this week may cause a postponement or a delay in commencement of the Easter recess.

I believe the Members should be so advised.

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

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

Mr. RHODES. Mr. Speaker, does the majority leader have any way of knowing at what time in the future he might be able to be more specific concerning the adjournment for Easter?

Mr. ALBERT. Mr. Speaker, as the gentleman knows, this is a matter over which no one has any real control, but we will advise the Members just as soon as we have facts that might enable them to govern themselves accordingly.

Mr. RHODES. If the gentleman will yield further, is it the feeling of the gentleman that there will be a recess for Easter at some time, and of uncertain duration?

Mr. ALBERT. I would state to the gentleman from Arizona that the entire recess may be possible; it depends on events. I wish I could say that the problem will be resolved by Thursday night so that we can recess on schedule, because nothing would suit me better. I hope that it is possible, and if it is possible we will recess in accordance with the previously announced schedule. If it is not possible to resolve this matter at any time between now and Monday, and it is resolved at that time, then we will recess at that time for such time as we may be able to take off.

I have just been advised by the distinguished leader of the other body, Mr. MANSFIELD, that they have only 2 days of recess scheduled, and that they will forgo that recess if necessary.

POSTAL STRIKE

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

Mr. PUCINSKI. Mr. Speaker, I want to congratulate the distinguished majority leader for suggesting we may have to bypass the Easter recess to deal with the problem that, of course, confronts the whole country. We would be foolish to even consider a recess if this crisis is not resolved by week's end. But I must say that it is indeed a sad and dismal day for America when the President of the United States has to call out the troops to keep the mail moving in New York. I regret that the President had not first made an effort to call on the chairman of the House Committee on Post Office and Civil Service and on the chairman of the Senate Committee on the Post Office and Civil Service in an effort to see whether or not the impasse which has held up the pay raise for postal workers—a pay raise that has been approved by this Chamber back in October, and approved by the Senate in December, could be resolved by legislative action. It has been held up because the President had threatened to veto it. The President has developed a habit of threatening vetoes. He used a veto on the education bill, and he threatened to use the veto on the only decent mine safety bill that was ever passed by the Congress, and now he threatens to veto a pay raise for the postal workers who are getting less in Chicago than a dishwasher in a restaurant.

Mr. Speaker, these postal workers have had it. They have seen the House of Representatives pass a bill by a substantial majority for a pay raise last October. And then they see the President delaying and delaying, and holding the pay raise as a hostage for postal reform.

Again I say this is a sad day for America when there is no leadership coming out of the White House to solve this problem.

Thankfully, I have reason to believe the Chicago postal employees will go back to work tomorrow, and no military threat will be needed to get them back. Late this afternoon, Henry Zych, president of the Chicago Letter Carriers, urged his men to return to work. We cannot let these men down by any further delays in their pay boost.

THE POSTAL STRIKE

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

Mr. LOWENSTEIN. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Illinois. I also want to say that I think Congress should abandon the idea of recessing this week if this crisis has not been resolved. The President in my judgment has played a peculiarly cynical and dangerous kind of politics with the post office workers, and the primary responsibility for getting us into this mess is plainly his. But the Congress is far from blameless—especially the Senate, which seems to have allowed one or two men to stymie its capacity to function on these matters while so many crucial months have passed.

But alloting blame for the failures of the past is not the point now. The point is that we are faced with a totally needless national calamity. Dedicated public workers are on strike against the Government they have served loyally for decades, and the people of the country are suffering multiplying inconveniences which cannot be allowed to continue—and which will soon seem minor if we do not deal with this situation properly and swiftly. The President ought to move at once to end the strike by ending its causes. He could do that simply and swiftly. There is nothing unreasonable in the demands of the postal workers—we all know that.

But if the President will not lead in this spirit and in this direction, Congress will have to. To start with, we should pass H.R. 13000—finally, immediately, now. If the President vetoes it, we must then override his veto, or at any rate find out who besides the President is willing to deny simple minimum justice to millions of Americans.

Surely it is clear how much it would help at this point for the Government to show some degree of good faith to the postal workers after so many years of broken promises and buck-passing. And before anyone says we should not now start to undo long-standing injustices because a strike constitutes blackmail, let us remember that the House adopted H.R. 13000 by an overwhelming vote last October—on its merits. The Senate passed a somewhat similar bill not long after that—on its merits. Is it not awkward to accuse someone of blackmail for asking what you have long since said is rightfully his? The blackmail, if "blackmail" is an issue, lies with those who would deny—who have denied—the postal workers their due in hope of extracting support for other legislative proposals—as if a man's right to fair wages in the Federal employ is dependent on how he, or rather someone else, resolves other issues.

People employed by the U.S. Government do not like being paid starvation wages any better than anyone else likes to be paid starvation wages. I hope most of us here are ashamed that the Government of the most enlightened and wealthiest Nation on earth pays such wages. I do not like illegal strikes. Neither do those who are on strike. Neither do I like the public to suffer massive dislocation because their Government cannot find an orderly way to do what literally everyone concerned knows it ought to have done long ago. None of these terrible things needed to happen, which makes the whole situation even sadder and more absurd.

Under these circumstances, I cannot believe the President will fail to act immediately to correct the worst of the injustices that afflict the postal workers. Once he starts to do that, there will be time to work out other problems. Meanwhile, no matter how eager we may be to get away from each other, it seems to me that we have no business going on a recess until there is a resolution of this situation that guarantees people their mail and guarantees people working in the post office some minimal form of justice.

POSTAL STRIKE

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

Mr. SCOTT. Mr. Speaker, in response to the gentleman from Illinois, I believe we realize that both bodies of the Congress are controlled by the Democratic Party and it must assume a part of the blame.

I agree with the distinguished gentleman that the President did threaten a veto. But a pay raise in different forms has passed both bodies, and if the Democratic leadership wanted this bill passed by the Congress, they could have had a conference between the two bodies. I think it is wrong to lay the entire responsibility at the White House without the Democratic leadership assuming a portion of the blame. So I would disagree with the distinguished gentleman when he places the entire blame at the steps of the White House. Our responsibility today is to cooperate with the President in attempting to resolve the present dilemma. It transcends party loyalty and it would seem to be contrary to the best interest of the country to attempt to obtain political mileage out of the illegal strike now in progress.

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

Mr. SCOTT. I yield to the gentleman.

Mr. GUBSER. Mr. Speaker, I must say that I was appalled to hear the gentleman from Illinois assert that this House, a coequal branch of the Government, is cowardly and acts only because of a threat from the executive branch. I will not accept that as a Member of this body. The gentleman from Illinois may speak for himself, but he does not speak for me.

POSTAL STRIKE

(Mr. WILLIAM D. FORD asked and was given permission to address the House for 1 minute.)

Mr. WILLIAM D. FORD. Mr. Speaker, I am sorry that the gentleman from Virginia chose to make this a direct partisan issue by his assertion that the Democrats were responsible in some way for holding this up. The gentleman and I both serve on the Post Office and Civil Service Committee, and he may remember that less than 10 days ago he, a Republican, and I, a Democrat, voted the same way against what we both, I assume, believed at that time was a blackjack effort by President Nixon trying to blackmail us into accepting his postal corporation as a condition of doing anything for postal employees, or for that matter, all of the Government employees in the form of pay raise legislation.

That goes beyond the simple threat of a veto and goes to the actual intervention by the President, using direct force and coercion, of all kinds that are available to him as a President within his political party and within the use of that office—offering rewards or threats of reprisal against those people who would not cooperate in trying to accomplish his overall aim of creating a postal corporation to replace the postal service.

POSTAL REFORM

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

Mr. SAYLOR. Mr. Speaker, it has been most interesting to listen to the colloquies that have occurred here on the floor in the last few minutes.

Some of my colleagues on the other side of the aisle apparently have short memories. I wonder if they ever heard of Lawrence F. O'Brien, the former Postmaster General, who widely proclaimed the need for postal reform and who has been serving as cochairman of the Citizens Committee for Postal Reform with headquarters here in Washington. Even his former executive assistant in the Post Office Department—Claude J. Desautels—is executive director of the group now pushing for the Corporation plan.

I have yet to see one word from Mr. O'Brien, the current Democratic National Chairman, denouncing what he proposed when he was Postmaster General and has been "plugging" ever since he left office.

Let us not put the blame at the steps of the White House today, and this administration, but start looking a little in your own backyard.

SENATORS MOVE TO REGAIN WARMAKING POWERS

(Mr. GUDE asked and was given permission to extend his remarks in the body of the RECORD and to include extraneous material.)

Mr. GUDE. Mr. Speaker, in an interview in the Christian Science Monitor on March 2, 1970, our former colleague, Mr. MATHIAS of Maryland, discussed his resolution to repeal four resolutions passed by previous Congresses to authorize the President to commit American troops to the defense of foreign states. Because of the great interest in this proposal in the Congress and the Nation, I commend Mr. MATHIAS' explanatory remarks to the attention of my colleagues.

The resolution would repeal the resolutions pertaining to Formosa, Lebanon, Cuba, and the Tonkin Gulf, in order to clear the books of stale authorizations and allow for a fresh look by Congress at our international defense commitments. I am a cosponsor of legislation to repeal the Gulf of Tonkin resolution effective December 31, 1970, because I agree with Mr. MATHIAS' observations on the dangers of open-ended delegations of authority to commit American troops to foreign wars and the abdication of responsibility by Congress for the waging of war and peace. In addition, I concur in his judgment that our military presence in Laos should not be intensified without consultation between the Congress and the Executive. He concludes by pointing out that Congress cannot guide domestic policy in America so long as decisions on foreign commitments are regarded as the exclusive preserve of the Executive. Our resources do not permit us to make decisions on either domestic priorities or foreign policies without considering the other.

The interview follows:

SENATORS MOVE TO REGAIN WARMAKING POWERS

(By Godfrey Sperling, Jr.)

WASHINGTON.—A significant move is gaining ground in the Senate that would limit the power of the executive in making military commitments abroad.

Leading in this effort is Maryland's new Republican Sen. Charles McC. Mathias Jr., whose Mathias resolution would, in his words, "recover" these powers of military commitments from the President and "restore them to Congress."

The Senate wants any further military escalation in the world, such as that which possibly lies ahead in Laos, first to be approved by Congress.

He would like to see terminal dates of a year or 18 months put on any future delegations of such power to a president—"so that we don't have what amounts to an open-ended delegation of power to the President which the Constitution vests in the Congress."

In a taped interview with The Christian Science Monitor the Senator:

Underscored danger signs of a U.S. military commitment in Laos. He warned that "when our troops are cheek and jowl with local troops who may be engaged in fighting, it is almost inconceivable that we won't be drawn into some of it."

Said that there is significant bipartisan leadership support for his amendment and that, with administration backing, the resolution could become law.

The interview follows:

Just how are you progressing, Senator, in your effort to limit the power of the executive in making military commitments abroad—where are you?

The resolution which I offered in the Senate now has been presented to the Senate Foreign Relations Committee. I was very much pleased and very much honored when Senator Mansfield offered to sit next to me at the witness table before the Senate Foreign Relations Committee.

I have had very interesting assurances from a number of members of the Senate who for one reason or another didn't want to cosponsor the resolution but are very much interested in it. Some of them would like to see a word changed here or a comma placed in a different place, or a stylistic change. But the main thrust of the resolution seems to appeal to a great many members of the Senate.

Briefly, the resolution says what?

The resolution has several aspects. One is to, as we have said, clear away the debris of the cold war.

It repeals the four cold-war resolutions which were passed by both the House and the Senate and by the then-President. These are:

The Formosa resolutions of 1955 which authorize the President to commit American forces to the defense of the China Strait area.

The Lebanon resolution of 1957, which authorizes the President to admit forces, and I quote, "in accordance with the Constitution" for the defense of any country in the Middle East and again I quote "which is threatened by a Communist-controlled country"—phrases that are obviously out of tune with the '70's.

The Cuba resolution of 1962 which deals with the export of communism from Cuba.

And the Tonkin Gulf resolution, which has, of course, been the most effective of all of these resolutions, inasmuch as Lyndon Johnson again and again in my presence used it as the basis for the orders he was giving to troops in Vietnam.

The resolution further deals with the limitation or the termination of the Korean war emergency which has existed since 1950 when it was proclaimed by President Truman and which immediately brought into being a wide range of presidential emergency powers, none of which have been allowed to lapse for the last 20 years and which are a catalog of the executive authority that certainly should be reviewed after a 20-year period of exercise by the president.

But you want more than review, Senator. Don't you really want these powers restored to Congress?

I want these powers recovered by the Congress and, if there is a current need to regrant these powers, to redelegate them to the President for the current world situation then I am perfectly willing to consider that we should give them back to the President. But when we do it again, I would make one very vast change from what was done in the past, and that is, I would put in a terminal date:

That we will grant to the President authority to do such and such for one year, or a period of 18 months, or whatever the appropriate time is—so that you don't have what amounts to an open-ended delegation of power to the President which the Constitution vests in the Congress.

Does the present administration support you in this? Isn't this in line with the President's Guam doctrine?

Well, I feel very strongly that the administration should support this measure, that it is an opportunity to clear the slate, that it is an opportunity for President Nixon to enunciate a Nixon doctrine in crystal-clear terms.

Yes, it is consistent with what the President said at Guam and again at Manila—

the fact that we are not going to have an Asian policy which ignores commitments but at the same time we're not going to have one which involves the commitment of troops.

It should then be in line really with the mood of the administration?

It's entirely in line with the mood of the administration, and it has a particularly significant value to the administration at this moment in history because you have Senator Mansfield, the majority leader of the Senate, who cosponsored it; you have Senator Fulbright, the chairman of the Senate Foreign Relations Committee, who has made favorable comments on it; you have a wide range of congressional support for it.

Thus, at this moment, a Republican administration can get the help of the Democratic leaders of Congress in an enunciation of the administration's policy. There hasn't been a moment in history like this, I don't believe, since Vandenberg and other Republicans joined together to support Truman in the adoption of the Marshall Plan, essentially setting the framework for foreign policy which existed from that time to this.

Now this is a watershed of history. I think the President would be very well advised to seize this opportunity to bring the whole government together . . . both parties, both branches, in a foreign-policy statement which I think could give the set to American foreign policy for the next decade, maybe far longer.

Looking at the Far East, and specifically at Laos, is there any possibility that there might be some incident there that might cause the American Government now to escalate our military commitment. Does the Tonkin Gulf provision apply there?

Well, this brings me to the other portions of the resolution. I believe that the Tonkin Gulf resolution might be utilized by an aggressive president as at least the color of law for committting troops in Laos or Thailand.

The language, as I recall it, refers to Southeast Asia, which is a big territory.

Now my resolution specifically gives congressional approval to the President's plan for the withdrawal of American troops from the area. And I think that if the Congress spoke in those terms, it would clearly be indicating a lack of assent to expanding the theater of operations in Southeast Asia.

The resolution further provides for congressional encouragement of a broader-based government in Saigon and for the President to invite other nations of the world to join in a multilateral plan of reconstruction in Southeast Asia and for the recruitment of an international peace-keeping force, preferably of Asian character, which would be there to help keep the peace after the departure of American troops, to prevent reprisals by North against South or South against North.

Now all of these bear on the stability of the whole Southeast Asian area once the shooting stops and the Americans leave. Again I think that it could help to stabilize the situation. It would make American intentions clear.

Is there any indication from anyone in the administration that there is support for your resolution?

Well, there are very interesting signs. The State Department, as you know, has sent down categorical letters of disapproval of every other resolution in this area. They have just simply said, "We are opposed." They have sent a letter to Senator Fulbright with respect to the Mathias-Mansfield resolution saying, "We're studying it: we are continuing to study it; we are going to be continuing to study it." So it is obviously not one of those they are dismissing out of hand as they have others.

You have also talked to Mr. Kissinger, haven't you?

I have talked to Henry Kissinger and talked to the State Department at great length on several occasions. They are extremely interested. They are extremely cautious . . . cautious, I think, from both a domestic and a foreign point of view.

I view this primarily as a domestic reordering of our affairs to bring the conduct of our foreign policy and our military policy back into the constitutional framework and thereby to lessen the chance of our accidental commitment abroad.

They fear that some foreign nation might read into this an isolationist trend, which I don't think should be read into it. That is one of the fears they have expressed.

Do you suppose the administration has some anxieties about the difficulties it might have in dealing with Laos and perhaps Thailand if this resolution were passed?

What it would mean is this: that the Constitution would have to be observed, and there would have to be some consultation with Congress. That's what it would mean, what it is intended to mean. And I think that's what the President has clearly indicated he is willing to do. This is the Nixon doctrine.

Do you see any present entanglement in Laos?

The reports I get, the information I get is that we have very large numbers of troops there. The fact that we have troops on the ground there—this is the very point of the whole thing: that when we have troops on the ground there, that when there are battles raging there and that when our troops are cheek by jowl with local troops who may be engaged in fighting, it is almost inconceivable that we won't be drawn into some of it or some phase of this. And once the first shot is fired who knows where the end of it will be?

Are you sure we aren't drawn into it already?

I think the only honest answer to that would be the question of degree.

Yes, I see. But at some point if the military commitment would really be escalated it would be quite possible now for the President to do this under the Tonkin Gulf resolution—isn't that right?

Yes, the Tonkin Gulf resolution, I think, gives a very broad grant of power to the President; and it is a grant of power which, of course, Lyndon Johnson had every intention and actually did exercise to the fullest extent of every word that was written in it.

Yes, but very specifically, if there would be any new commitment in Laos, you would like to have the President first go to the Congress for permission?

I think the American people deserve that as a very minimum. I think there should be consultation with the Congress as to whether the Congress and beyond the Congress, the American people, will support an extension of foreign policy in the military activity in a new theater of war.

Wouldn't your resolution actually handcuff the President in Vietnam? Wouldn't it also perhaps hurt him at the negotiating table? If Hanoi knew that all of a sudden the President could not escalate without going to Congress to get new permission, wouldn't this be a handicap to the President?

The administration has said frequently that its policy of withdrawal is irreversible. I believe it. I think it is irreversible. I think Hanoi thinks it is irreversible. I don't think that Congress saying it again is going to make it either more or less irreversible. I think it just is.

Wouldn't the more logical phase line and moment for the passage of a resolution such as you suggest . . . wouldn't that come at a time when we have withdrawn most of our troops from the enemy area?

On the contrary, I think one of the serious blocks to negotiations is the question on the part of Hanoi as to what our real intentions are. I think if we said the Congress and the President both agree on the gradual withdrawal of American troops; if we state it as national policy that we are going to have the intervention of an international peace-keeping force, if we are going to talk about the reconstruction of Asia under multilateral auspices—then all of these things would encourage rather than discourage the success of the negotiations in Paris.

What do you see in this next decade, Senator? Will it be one in which the national commitment will be based mainly on domestic problems and much less on military commitments abroad?

As we go through the next few months and years—and I think it is going to be clear that the first line of defense of America is in America—that we will recognize that the children we are educating today and the sick we are healing today and the jobs we are creating and training people for today are all the real strength, the real future, and the real hope of America. And so I think that in a very real sense we will be turning inward.

It's a curious thing about American history that we have had the greatest influence in the world when we have been performing well as a nation, not as the world policeman, not as a world evangelist, but as an example—showing what a free society, a dynamic society, and a pluralistic society can do.

And I think that in this sense we can look forward to a renaissance of enormous prestige and influence in the world by improving the conditions within our own borders which are so desperately out of kilter right now.

POSTAL PAY AND POSTAL REFORM

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

Mr. UDALL. Mr. Speaker, a lot has been said here about the postal strike, and I suppose if we are going to start assessing the blame for the situation in which we find ourselves there will be enough blame to go around. But there is one lesson out of all this that is clear to me: Whether the solution is a postal corporation, a postal authority, or the present Post Office Department, the old annual congressional pay-fight system of fixing pay just will not do. It will not do. It is not adequate. We will have crisis after crisis and injustice to all concerned until we get a better system.

The bill that the House reported last October established a salary commission on which the employee organizations were represented. This commission would have had the authority to meet annually and determine precisely what comparability adjustments are necessary, and to recommend an adjustment every January. Under that bill we would have had the first installment last January. The postal reform bill which the House committee reported on March 12 has a similar provision, which would permit the employees, at long last, not to come hat in hand to the Congress, and to be at the mercy of budget considerations and inflation, but to demand and negotiate comparability every year plus the absolute right to take their grievances to binding arbitration if they could not get their just deserts at the hands of the postal authority.

Let us learn one lesson out of all of this. Some better regular, orderly way must be found to give justice to the postal employees because they have some legitimate grievances.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I cannot understand the statements of the gentleman that the reform corporation would be a cure-all. The only thing I can see in the reform proposal is the opportunity for some people in this country to gain control of about $6 billion in cash which they will be able to filter around the Nation among lending institutions, and which will prove to be very profitable to the lending institutions at the high rates at which money is now loaned.

Mr. UDALL. There are many sincere people who feel that a postal authority would be a big mistake. I happen to think it is the kind of reform that will give both better postal service to our people and justice to postal employees. The gentleman is entitled to his opinion. But I think whatever we do, we must have a better system for resolving postal pay disputes and for giving the employees the kind of regular adjustments to which they are entitled.

POSTAL PAY AND POSTAL REFORM

(Mr. KLUCZYNSKI asked and was given permission to address the House for 1 minute.)

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

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

Mr. PUCINSKI. I thank my colleague. The gentleman from Arizona has put his finger squarely on this issue. The colloquy just had with the gentleman from Massachusetts clearly indicates how complex the problem of the postal corporation is. It is not going to be resolved in the next 48 or 72 hours. The committees, both in the House and in the Senate, have labored on this whole proposal for postal reform, but the fact of the issue is—and you cannot deny it—and the gentleman from Pennsylvania can make all the speeches he wants to about Larry O'Brien—the President has held the postal pay raise as a hostage for his postal reform bill.

Now, he did not do that in the case of military pay increases. He has not done it in any other case. We have pay raises coming before this Congress, and we treat them all separately. But in this particular instance, postal employees were not so treated. Postal employees in Chicago earn less than dishwashers and are being told, "You just sit tight and wait. You are not going to get the pay raise the House and the Senate have voted until the House and the Senate is willing to give the White House, lock, stock, and barrel, the kind of postal reform the White House wants."

I say to you that all over this country citizens are now becoming aware of what this is all about. Last week, when we met with people in Chicago, they had no idea that the House had already acted on a pay raise and that the Senate had acted on a pay raise, and that the only reason the President had not signed the pay raise into law is because he said, "Do not bother sending it up. I am going to veto it unless it includes postal reform."

You can talk about the separation of powers all you want but there must be cooperation between the executive and the legislative if we are to get legislation through. I believe President Nixon errs when he insists on treating postal pay increase and postal reform as one issue. I hope we can get the House and the Senate to move on the postal pay raise and send it to the President. I said earlier today, Congress must execute its responsibility by sending the bill to the President. If he wants to veto, that is his responsibility.

But the fact of the matter is, these postal workers would have had the pay raise in their envelopes long ago if the President had not threatened the veto.

POSTAL PAY RAISE

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

Mr. GROSS. Mr. Speaker, this is the third time I have heard the same statement made by the same gentleman on the floor of the House today. I do not know how many times the gentleman has been recognized on his own for a 1-minute speech, and at least twice today someone has gotten time for him under the 1-minute rule. The gentleman from Illinois can slice it as thick or as thin as he wants to and the fact remains that his side of the aisle had the votes in the last session of Congress and in this session of Congress, regardless of any threat of the President, to bring forth the bill—H.R. 13000—in some form.

If the gentleman wants to continue to play his tune of blaming the President, let us get the facts straight. The gentleman and his Democrat colleagues have had the votes for months to bring out the bill—H.R. 13000—irrespective of what President Nixon wanted.

Bring the bill out and let us see what he will do with it, but do not blame the President for no action on H.R. 13000. The gentleman knows and every Member of the House knows that a President—any President—cannot veto a bill until and unless both Houses of Congress pass it and send it to him.

TRIBUTE TO RABBI JOSEPH GITIN OF TEMPLE EMANU-EL, SAN JOSE, CALIF.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GUBSER) is recognized for 15 minutes.

Mr. GUBSER. Mr. Speaker, I have asked for this time so I may, with my colleague, the Honorable DON EDWARDS, pay tribute to a great spiritual and community leader in the county of Santa Clara, Calif., which we both represent. I refer to Rabbi Joseph Gitin of Temple Emanu-El in San Jose, Calif.

On April 5, Rabbi Gitin will be honored with a testimonial dinner in San Jose when his friends of the San Francisco Bay area will join in expressing their esteem for all the years of unselfish service he has rendered to mankind.

Rabbi Gitin's background and education superbly qualified him for his life of service to humanity. He received his bachelor's degree at the University of Cincinnati and later received a degree of bachelor of Hebrew literature at Hebrew Union College. In 1932 he was ordained a rabbi at the same college.

Then he occupied pulpits in Buffalo, N.Y.; Butte, Mont.; Berkeley, Calif.; Stockton, Calif.; and finally San Jose.

He has served as director of the B'nai B'rith Hillel Foundation at the Universities of North Carolina, Duke, and California. He is a member of the Central Conference of American Rabbis and a former lecturer at the College of the Pacific in Stockton. In 1960 he served as president of the Board of Rabbis of Northern California and later as president of the Western Association of Reform Rabbis. He holds the degree of doctor of divinity from the Jewish Institute of Religion, Hebrew Union College.

His fine professional and educational background has been utilized in the fullest sense in his service to our community.

At this time, I take pleasure in yielding to my colleague, Congressman EDWARDS, who will relate some of Rabbi Gitin's outstanding contributions and service to the area which we both represent.

Mr. EDWARDS of California. Mr. Speaker, I am delighted that my distinguished colleague from California (Mr. GUBSER) took this time today to bring the attention of the House of Rep-representatives to the life and career of Rabbi Joseph Gitin.

Some men take much from their community and give little in return. Other men give much and take little for themselves. The Rabbi Joseph Gitin, of San Jose's Temple Emanu-El is the latter sort. Rabbi Gitin will soon be celebrating the 20th anniversary of his rabbinate in one of the oldest synagogues on the west coast. This coming Sunday, April 6, members of his congregation, friends and civic leaders will give him a testimonial dinner in recognition of nearly one-third of a lifetime devoted, as a close associate of his recently said to be "24-hour-concern" for his community and its members, particularly those who suffer.

His concern has been shown and has made itself felt in many ways. He has been an untiring workhorse on behalf of many charities; he was a founding member of the board of trustees of Good Samaritan Hospital; he was chairman of trustees of Agnews State Hospital. His present involvement includes the City Entertainment Commission, the advisory committee to the police department, the advisory committee to San Jose City College, the National Conference of Christians and Jews, the Santa Clara County Advisory Committee on Children and Youth, the Jewish Community Relations Council, the County Medical Society's

Committee on Religion and Medicine, and the NAACP.

But an impressive list of memberships does not a community leader make, nor does it say much about the man. More important are such facts as these: That when social tensions were at a peak in San Jose, Rabbi Gitin went into the minority community to seek reconciliation; when jail facilities were inhumanly bad, he was the first to demand their replacement; when overzealous individuals sought to cram movie censorship down the throats of an unsuspecting public, he fought against it in the interest of freedom of choice; when it was unpopular to support open housing for minorities, he was outspokenly for it; before "ecumenical" became a household word, he brought ministers of other faiths to his pulpit—in short, he has courageously and consistently accepted the responsibility shared by all men to, in his own words, "transform the global neighborhood into a brotherhood of service." His devotion to that goal is reflected in his work and the works of his congregation, whose adults give to the organized efforts of less fortunate members of the community to improve their lot, and whose youth give of themselves through such programs as tutoring for disadvantaged.

A brave, warm, and witty man, who has put works above words in his rabbinate and has carried his ministry beyond the walls of the synagogue to encompass the whole of the community, Rabbi Gitin provides a model from which all of us may benefit. As he once said:

> We need a sense of balance; perspective on our problems and on life. We need a sense of humor to console us for what we are. We need faith in ourselves and our potentialities.

His favorite lines from the Talmud is: "Man's relationship to man is as important as man's relationship to God." A good man, Rabbi Gitin, a man worthy of our appreciation and gratitude.

Mr. GUBSER. I thank my colleague.

In conclusion, Mr. Speaker, let me state that we both hold the utmost respect for Rabbi Gitin and the great force which he has exerted in bettering human life through spreading the gospel of good will.

I wish all human beings could live life as Rabbi Gitin has lived it. If so, this would indeed be a better world.

THE STRANGE CASE OF THE ARMY'S TOW MISSILE, OR CAN CONGRESS PREVENT ANOTHER BILLION-DOLLAR BOO-BOO?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 1 hour.

Mr. STRATTON. Mr. Speaker, as members of the House Armed Services Committee with special interest in the Army's tank and antitank programs, the gentleman from California (Mr. GUBSER) and I have taken this time today to discuss the perplexing and baffling question of why the Army—at a time when all elements of the Defense Establishment are supposedly operating under conditions of the strictest austerity—insists on seeking a second $100 million in this year's budget—the second step down a road that could ultimately cost the taxpayers nearly $1 billion—for development of a new weapon, the TOW antitank missile, which is simply a duplication of one which is already in the Army's inventory in quantity, the Shillelagh. And what is even more baffling to us is that the Army is pursuing this costly redundancy in direct defiance of the specific instructions of Congress contained in the conference report on the 1970 defense authorization bill.

As long-time members of the committee the gentleman from California (Mr. GUBSER) and I have consistently supported an adequate and up-to-date defense. But at the same time we have always regarded it as an equally important part of our responsibility as committee members to seek out and vigorously oppose any unnecessary and wasteful defense spending. To both of us we find the defiance of the Army in the case of the TOW missile, and its insistence on spending another billion dollars for a missile it does not need in a time of budget austerity, so strange as to be almost inexplicable.

Just what is up anyway?

Here are the facts. Last year you will recall that I reported to the committee and to the House that our subcommittee's investigation into the Army's tank program had led us to conclude that the two missile systems, TOW and Shillelagh, were virtually identical in their performance, and as a result the House voted no funds for the new duplicating TOW missile. Unfortunately the House had to compromise in the conference, including $100 million of the $142 million requested for TOW. But in so doing the conference committee added language to the report directing the Army, before obligating these funds, to conduct a shoot-off between the TOW and Shillelagh missile in the infantry and the helicopter mode. And the report indicated that both committees would monitor closely the comparison of these two duplicating systems.

We may have reacted too late last year in bringing the facts of these two duplicating systems to the attention of this body and the one at the other end of the Capitol. But this year we are determined not to be late. And so we are placing the case once again before the Congress, and taking it to the American public. Not only the case we made last year, but the bizarre developments that have been taking place this year. We are betting that any informed person will see, if the Army is allowed to proceed as it wants to, we are in the process of committing another "billion dollar boo-boo."

This time the House has an excellent opportunity to exercise real leadership in the control of our defense spending. We have the opportunity, here and now, to cut off an unnecessary and wasteful billion dollar procurement program before it has escalated, overrun, and piled cost upon cost, rather than, as with other programs, having to wait until the money has been spent and the damage done, and then crying over milk already spilt.

The TOW missile—a tube-launched, optically-tracked, wire-guided missile for antitank purposes—started out several years ago to be a lightweight, economical infantry weapon carried by the soldier into battle. Over the years, however, it grew in size, grew in complexity, grew in weight, until virtually none of its important characteristics now remain. Compared to the Shillelagh, the TOW launcher and tube weighs virtually the same, the missile diameter is the same, the required range is the same. The Shillelagh missile itself weighs some ten pounds heavier, but it has a larger warhead and there's more bang.

The basic financial facts are even more impressive. The Shillelagh, after the learning curve, after mass production, after the field tests, and after having been accepted as standard "A" for production, costs—on a firm, fixed-price basis—less than a third of the cost of the TOW which is still in the development stage. And we already have tens of thousands of Shillelaghs on hand. So far we have only a few hundred TOW's. And the prospects of lower costs in TOW production is much in debate. Obviously we can save hundreds of millions of dollars by using the antitank Shillelagh on jeeps, tanks, and helicopters. On the other hand, if we continue down the road with a duplicate TOW production, we will end up paying for both systems. Our credibility as a Congress is in question; our attention to detail is in question; our job as watchdog of the defense purse strings is in question in this case.

Last year, our subcommittee investigated the Army tank program. We found plenty of things wrong. One of the things we found right was the Shillelagh missile. It is simple, reliable, and lethal. It has been in the Army inventory for 2 years. It works. I saw it fired last month in Germany, and I was tremendously impressed. So were the troops. It works well. It works well at low cost. Now, a number of people have asked me why our committee had not discovered the problems with the Army tank program until money had been spent, programs accelerated, and we were left with what amounted to an Army surplus store full of unusable equipment.

At that time I became determined to find the problems before they erupted, if I possibly could, to root out duplication and waste before they could weaken our national defense, or boondoggle dollars to no use. Just such a situation confronted us last year with TOW and now confronts us even more ominously today; we have the opportunity to modify, easily and with relatively little expense, an existing, proven antitank missile system that is already in our inventory and will meet and beat any Army requirements in Europe or elsewhere—at minimum cost. Here in the House we can look our critics in the eye and tell them we caught this one and did something about it. Let us forget we made a mistake and appropriated money last year for TOW production. If and when the TOW missiles get built, and if and when they ever get rated standard A, we'll use them. But let us not build any more.

By using the already developed TOW tripod with the Shillelagh, we can save on development costs, combining the best

of both systems with the already-in-mass-production Shillelagh. We can keep the production line open, maintaining the low cost of the Shillelagh, building on proven costs, not gambling on overruns that can't help but happen with TOW.

But this is not the way the Army is operating at all, this year, and this is what disturbs and perplexes me. In spite of the clear-cut direction of the Congress to continue to explore the possibility of using the cheaper, on-the-shelf Shillelagh for all the roles projected for the newly developed TOW, the Army has ignored these directions and has proceeded hell bent to get TOW into production at any cost. Here are some of the more curious new developments:

First. Last year the Army's chief argument for TOW was that it was basically an infantryman's weapon, hand-carried onto the battlefield, in contrast to Shillelagh, which was designed primarily for vehicles. But the facts as they have emerged this year are quite the contrary. At a recent TOW demonstration presented to committee members at the Redstone Arsensal in Huntsville, Ala., the Army showed that its major plans for use of the TOW now involve mounting it on jeeps, mules, and the M–113 armored personnel carrier. It is just too heavy—230 pounds to be exact—for infantrymen to manhandle for more than a very few yards. Actually, the TOW is not the Army's infantry antitank weapon at all. That is really the Dragon, which is light enough and disposable enough to be carried on the battlefield. as the TOW is decidedly not.

Second. Last year Congress directed the Army to test the relative merits of TOW and Shillelagh in the ground mode by means of a comparison shootoff. Money was specifically earmarked for this purpose. The Army had claimed earlier that Shillelagh is unacceptable in a ground configuration for two reasons: the blast from the rear makes it unsafe to be fired by troops sitting on the ground; and the missile dips slightly after firing, and thus cannot be fired from a position only a few feet off the ground.

These two points could be settled quickly and easily. If the Army's contentions are true, then there is no need for proceeding further with the ground configuration. But the Army has persistently and repeatedly dragged its feet in carrying out this simple, practical shootoff. They have professed to be studying the situation and have claimed no such shootoff could take place for several months—incidentally, well after the time the House committee is scheduled to report out the 1971 defense procurement bill. At the same time I have continued to press them for compliance with our congressional instructions. Last Thursday the chief of Army Research and Development appeared before our committee. His prepared statement went into great detail about the 6 to 8 months of tests, between TOW and Shillelagh, that the Army intended to carry out this year in compliance with the congressional mandate. But 5 minutes after the hearing began, I received a hand-delivered letter from the Secretary of the Army telling me they had decided not to carry out any tests after all. Their cost calculations, Mr. Resor told me, had convinced them an actual shootoff was unnecessary. And so, in defiance of Congress, they were not going to hold the shootoff, at all, and were proceeding with TOW just as though Congress did not exist.

Why, I wonder?

Why all the hesitation about a shootoff? Probably because the Army knows that any proper shootoff will destroy once and for all the myth that there is anything particularly special about the TOW which the Shillelagh, already in the inventory, cannot match, and do so more cheaply and simply.

Third. The Army's major reason for defying the congressional directive on a shootoff between TOW and Shillelagh was its cost analysis data, as I have just noted. This whole subject of cost projections on TOW, however, opens up an even more curious Alice-in-Wonderland aspect of this whole procurement program.

When the Army made its fiscal year 1970 request for TOW it projected a long-range massive procurement at a total cost of $1.2 billion, which made the total TOW buy just about double the cost of Shillelagh. As soon as the House Armed Services Committee challenged this program on cost grounds, the Army suddenly revised its figures downward, and claimed it now found it really needed only about two-thirds of the TOW missiles originally requested to meet the grave Soviet tank threat in Europe. And it was on the basis of these revised figures that the conference committee reached its final compromise.

This year, as TOW has again come under attack within the committee, a sudden further cost reappraisal has been undertaken, on the basis of which the Army now refuses to conduct any shootoff at all. I have so far been unsuccessful in getting the supporting data that led to this amazing new conclusion. All they will show me are the briefing slides, not the computations themselves. But in effect the Army has suddenly reduced its long-term requirement a second time, this time cutting the revised figure about in half. How come? If the threat was so serious a year ago that we needed so many to do the job, how is it that all we need today is only a third of that figure?

And over the weekend, as I was loudly protesting the Army's refusal to give me the necessary supporting data for their refusal to conduct the congressionally mandated shootoff, I learned the Hughes Co. has now suddenly promised to supply them all the TOW missiles the Army wants at a figure almost identical with the basic unit cost of Shillelagh. Far from convincing me, however, this latest development smacks more of trading in a Turkish covered bazaar than any careful husbanding of Government funds in a time of budget austerity. What is going on, anyway? Why is the Army so eager to avoid a close inspection of their cost figures? Why are they so eager to avoid a shootoff? Why are they so eager to get a second production line going, come hell or high water?

We believe these are all questions that the House as well as the American public will want the answers to. As members of the committee we intend to do all we can to find those answers. Surely this is not the year to waste another $100 million, certainly not another billion dollars, in unnecessary defense spending. We have too many unmet needs already. Our basic defense research is being cut back very drastically at the very time the Soviets are moving ahead in new development in a geometrical progression. Our antisubmarine forces are being cut dangerously just as the Soviet Polaris missile fleet is being deployed at sea. Our Navy, as Chairman RIVERS has frequently pointed out, is fast approaching a crisis of obsolescence that could shift the world power balance dangerously against us.

Surely this is not the time for phony figures, for last minute bargain counter procurement practices, or for wasting hundreds of millions of dollars for weapons that only duplicate others already on hand, and for the additional supply and maintenance pipelines that would be required to keep this separate system going. Here is one billion-dollar boo-boo this Congress should certainly not let happen.

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

Mr. STRATTON. I am glad to yield to my distinguished friend from California.

Mr. GUBSER. I thank the gentleman for yielding.

Mr. Speaker, I had the pleasure and the honor of serving with the gentleman from New York on the subcommittee which thoroughly explored this matter, and I can say that I have never served under a subcommittee chairman who did his job more thoroughly or more completely. That is why the facts which we bring before the House today are, in my honest opinion, uncontrovertible facts and things which the House should consider. I certainly wish to associate myself with the gentleman's remarks, and I shall ask unanimous consent to include a formal statement following his giving my views on the subject.

But before doing so I must perform a task which I perform with great regret. I have never been the type of person that stands here in this Chamber and makes public utterances after having just sniffed the winds of the latest bit of public opinion. I have not joined the forces that are now seeking to convince the American public that all you need to do to solve the problems of the ghetto and do away with poverty and all other social ills that beset this generation is simply to go to that bottomless well of money called the Defense budget. On the other hand, I cannot sit idly by and see the Army duplicate a weapons system which will not do a thing that a system which is cheaper and already in production can do just as well. I regret and I regret deeply that I have to say here and now that it is my opinion that the Army has sold this duplicating weapons system on false premises.

Let me list them:

Last year when this matter was deleted from the House bill by our committee and was later included by the Senate high officials of the Army convinced certain Members that this was to be a weapon which could be carried into

battle by the infantry soldier, and could, therefore, fulfill an urgent requirement that could not be met presently. They did not tell you that the SS–1, a French wire-guided missile, which can do practically what the TOW will do was in the NATO inventory and could fulfill the requirement for the time necessary to miniaturize and adapt Shillelagh to the ground mode.

What was even more shocking is that while they were selling it as something the infantryman would carry on his back they were making plans all the time to deploy the TOW missile system on M–113 personnel carriers and other vehicles. The Army has ordered the mounting brackets to place these TOW missiles on a missile launcher or a vehicle, and they have ordered these in the quantity of one for one. In other words, one mounting bracket to go on a jeep or personnel carrier for one missile.

If this was ever to be something the infantryman carries into battle, why did they order the mounting brackets in this quantity?

They did not tell us last year they are about ready to let a contract to procure still another missile, on the Dragon, which can be carried by the infantryman.

They told us that this missile, the TOW, can be fired not only to the range called for in the specifications, but can be fired to the so-called desired range specified by the Army. That range is classified, and I cannot tell you what it is. But it is rather interesting that when they make this claim they do not bother to tell you that the wires which pay out in this missile, and which are responsible for guiding it, have never been wound on a missile so that it could reach this so-called desired range—never once.

They have not told you that if you fire it against a stationary target it requires a length of wire as long as the straight line between two points. Nor did they say that if you fire it at a moving target, that wire must turn as you follow the moving vehicle, and you do not have a straight line between two points, and the wire will pay out far short of the desired range.

These are the things that were not told to the Members of Congress who finally influenced the decision that we were to go ahead and procure the TOW missile.

Then the Army promised us shootoff so that we could go to our taxpayers and say, "Yes, we have seen one missile fired against the other in the ground mode, and we know which will work the best, and which will be the cheapest." But then last Thursday Secretary Resor goes back on the Army's word and tells us that the taxpayers will not have the right to see a shootoff, and find out what is going to happen.

On last Thursday, the decision not to proceed with the shootoff, was justified because according to Secretary Resor the cost figures had been reviewed and there was not any doubt that TOW was the best deal.

Today TOW is costing somewhere between $5,000 and $6,000 per missile. The Shillelagh which will do the same job is in production and is costing less than $2,000 per missile. Yet, these figures of $5,000 to $6,000 were the basis of a judgment by Secretary Resor last Thursday that we should not even have a shootoff.

But listen to what happened on Saturday. We are informed the Hughes Co. which is the contractor for the TOW missile said to the Army that they would guarantee delivery of the TOW missile at a figure not to exceed $2,500 per missile.

So on Thursday Secretary Resor justified a decision based upon figures between $5,000 and $6,000 and we know positively that the Secretary of the Army did not know of this so-called unsolicited proposal which was to come from Hughes until Saturday.

How can a Secretary of Army justify something on a cost of $5,000 to $6,000 on Thursday, when on Saturday the contractor says, "I can deliver it for $2,500."

Only one of two explanations is possible. The Army is either getting gypped or we have got a buy-in situation. Let me tell you what a buy-in situation is.

A couple of years ago I participated in an investigation into the light observation helicopter. A contract was let at a fixed price, again to the same Hughes company. This fixed price was to deliver helicopters and airframes, for a fixed amount. Anyone who knew anything about the helicopter business knew that that figure meant that they would have to lose money.

But what happened? They got the contract established. They got themselves in business. Nobody else was in a position to compete. So when the follow-on contracts came along, how much does the price increase? Not 20 percent—not 50 percent—the price was increased by 250 percent.

Now this obviously was a buy-in, if I have ever seen one. I wonder today if the same company is not trying to buy in again and the Secretary of the Army is allowing this to go on.

Mr. Speaker, my patience has run out. I have sat as the ranking minority member of the Stratton subcommittee, and as a member of the Armed Services Committee through the entire debate over the Shillelagh and the TOW. Chairman STRATTON and I have studied the issue, investigated the entire Army tank program, debated the matter on the floor, wrestled with the issue in conference, and have shown the Army in logical, precise terms that it is about to confirm one of its biggest mistakes. Yet, now we hear that Secretary Resor is planning to go stubbornly ahead and refuses to even allow a "shoot off" between the two weapons.

Last year, our subcommittee uncovered—to use the Chairman's words—discrepancies, mismanagement and irregularities in the Army tank program described as a billion dollar boo-boo. This year, the Army is about to commit a boo-boo again, smaller in dollar value, but the more distressing because it can clearly be prevented. Several hundred millions of dollars is about to be poured down a rathole by the Army.

Mr. Speaker, I have never been one who sniffs the strong winds of public opinion which prevail today and advocates ill-advised degradation of our national defense. Quite to the contrary I have repeatedly pointed out that this is still a dangerous world. I have pointed out that the Communist world is continuing to accelerate its effort to achieve offensive military superiority while ours, relatively speaking, is going down. I believe that we are making mistakes today which may subject us to nuclear blackmail at some conference table during the 1970's.

With such an attitude, I cannot for the life of me understand why the Army insists upon a half-billion-dollar boo-boo which is certain to be pointed to as another example of the military-industrial complex working against the interest of the taxpayers. Why cannot the Army realize that the American public is tired of being given the double dip—and that is exactly what it is being given with this duplicating development of the TOW and the Shillelagh.

How can the Army expect those of us who believe in a strong national defense to go on fighting the tide when they pull stunts like this which lend credibility to the current arguments regarding the military-industrial complex.

Nearly 10 years ago, the Army contracted for the Shillelagh antitank missile. By the mid-1960's the missile was being fired with phenomenal accuracy and reliability and, to date, a substantial number have been produced and placed at the disposal of combat troops. Because the development has been complete, because the quantities are large, because the errors have been ironed out, the missile is sold for less than $2,000—and the contractor continues to sell them for that because he is on a fixed-price contract. In the meantime, in 1961 the Army began to develop another weapon: the TOW, a tube-launched, optically tracked, wire-guided missile. Yes, wire guided: two hairlike wires stretching out behind the missile as it is fired. The TOW was to be used by the infantrymen; was to be portable; was to be lightweight; simple and reliable. It was to be economical. Well, it's none of these. If you compare a TOW with a Shillelagh prepared for the infantry role, you find these facts: the weight of TOW launchers and Shillelagh launchers are virtually the same; although the TOW tube is longer and heavier. The required Army range is virtually identical. The electronics are similar, except the Shillelagh uses an infrared guidance system, and the TOW uses its wires. The diameter of the missiles is the same, although the slightly heavier Shillelagh delivers a larger punch.

The big difference is in cost. The Shillelagh is a proven, field-tested, lab-tested missile system, now rated standard A by the Army and deployed. It costs us less than $2,000 a copy. The TOW is unproved, still not accepted by the Army as standard A, is currently costing us approximately $6,000 a copy. It is true that costs tend to decrease during large production runs, but the TOW is starting out as 35 percent more expensive than the Shillelagh started out—in the same time frame. It is pretty difficult to start higher and end up lower, given the same number of missiles to be purchased.

I made some of these arguments last year when subcommittee chairman STRATTON and I advocated no funds for the TOW missile. And to prove our point, we urged a requirement that the Army demonstrate the Shillelagh in the infantry mode to satisfy those who wanted

additional proof of what we already knew: the Shillelagh would work as well or better in the infantry role than the TOW. The other body did not agree, and we compromised in conference. We compromised by giving TOW $100 million for a year's production. It was a mistake then and it is a mistake now. And I might point out, with respect to the Army evaluation, that only last Thursday did the brass tell us they might go ahead, after further evaluation, with a feasibility demonstration of Shillelagh.

Now we learn that the Army does not want to be further confused by the truth. Secretary Resor is hellbent to make this gigantic mistake and has determined not to have a shootoff. And what is most amazing is that on Friday he based this decision on current production costs of between $5,000 and $6,000 per TOW missile. He knew we would challenge his figures. Then on Saturday the contractor comes in with a supposedly unsolicited proposal of $2,500 per missile. As Alice said, "Things get curiouser and curiouser."

I have lost my patience in another way. Last year, we were told by some very articulate spokesmen for the Army that the TOW was truly an infantryman's weapon. An infantryman, we were told, would carry it into combat, set it up in 90 seconds, and fire it. Well, let me say that I have seen infantrymen trying to carry the TOW. When it is unpacked, one man carries the tube, one carries the guidance equipment, one carries the missile, and one carries the tripod. The tripod weighs 72 pounds—72 pounds. I challenge any articulate spokesman for the Army to carry that tripod on a 10-mile march, a 5-mile march, or even half a mile. It is possible the committee misunderstood. It is possible that Army spokesmen were misinformed. It is possible that a wrong impression was created and not corrected. Whatever happened, the Congress was sold the false impression that TOW would be carried into battle by foot soldiers. Well, my friends, once burned, twice shy. The first time, shame on you, the second time, shame on me. I, for one, believe that the committee should not be taken in again.

I have lost my patience in still another way. The articulate gentlemen of the Army have said that the need for TOW is now. Well, if the Army wants an antitank weapon now, it can use presently deployed ENTACS and M–105 systems, it can trundle out its Sheridans and fire Shillelaghs. Remember, TOW will also be fired from vehicles. It can use the SS–11 missile system deployed with German forces in Europe. I have seen that missile fire, and it fires well, I assure you. The Army has gotten along without the TOW for a number of years, and I fail to understand why the sudden urgency about TOW production. The Shillelagh launch system can be miniaturized and deployed within approximately 2 years at a cost of approximately $30 million. The miniaturization is well within the start of the art.

And, finally, I have lost my patience with the technical gentlemen of the Army who could not believe that the Shillelagh could work. Perhaps they believe a fish cannot swim. The Army itself had movies of the Shillelagh in test firings from open breech 9 years ago. Yet, incredibly, we were told last year that the Shillelagh missile might drop out of the launch tube, that it might dip into the ground and explode, that it might endanger its crew, that it might need costly modification. Now, this year we are informed that further review will be required before initiating an infantry mode feasibility demonstration program.

The Shillelagh can be used in all places TOW can be used: on helicopters, on tanks, and on the ground. The TOW, on the other hand, cannot be used on tanks. If it can be used on helicopters, I want to see how. Those wires dangling from the missile have already gotten tangled in treetops during tests.

And then there is the important matter of costs. With Shillelagh we know what our costs will be. The TOW, on the other hand, has already missed its early production cost targets and is currently costing more than $5,000 per missile. Now we have a last minute, supposedly unsolicited offer of $2,500 per TOW missile for an overnight price reduction of about 50 percent. Mr. Chairman, I cannot forget a similar offer and contract for light observation helicopters made by the same Hughes Aircraft Co. for a firm fixed price. Later, in follow-on buys, the price increased by 250 percent! That was a case of "buying in" and I wonder if this last-minute manipulation is not a new example of the same thing.

For these reasons, I have lost my patience. I hope this House loses its patience. I hope we bring to light the out-and-out duplication of the Shillelagh and TOW missile systems, admit our mistake in compromising to buy a year's worth of TOW's and get on with our business. This year, of all years, is not the time to permit the American public the luxury of the double-dip.

Mr. CHARLES H. WILSON. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. CHARLES H. WILSON. First, let me correct the gentleman, my colleague from California, to say that it was the Hughes Tool Co. that was involved in the helicopters. That is an entirely different company. They do have the same name "Hughes," but it is not the same company. I think the record should show that.

Now to both of my distinguished colleagues, let me say I disagree with you completely as to the conclusions that you have come to. I was not prepared today to present the case for the TOW.

I recognize that you gentlemen have held hearings. I think there was some prejudice in the hearings. Unfortunately, neither of you were at the Armed Services Committee meeting this morning when Secretary Resor and General Westmoreland were there and defended it completely. They will be at the meeting tomorrow and I think it is important both of you should be there if it is at all possible so that you can lay these charges at their feet and let them answer—and charge them exactly as you have done here today and let us see what their answer is.

I would like to hear that myself. I think you have made some very serious charges and I think it is a very unfortunate thing.

Mr. STRATTON. I appreciate the gentleman's statement, the gentleman from California I mean (Mr. CHARLES H. WILSON), but I think if the gentleman will inspect the record, he will see that every possible opportunity has already been given to the Army to justify this proposed procurement of theirs. The facts that the gentleman from California (Mr. GUBSER) was citing a moment ago are clear cut and on the record.

As far as I am concerned, I was presented with a letter from Mr. Resor on Thursday that stated that a new cost calculation had been made that made it possible for the Secretary of the Army to defy the clearly expressed direction and mandate of the Congress. I called Mr. Resor on the telephone. I asked him if he would present that calculation to me because I wanted to examine it. I had been offered a briefing, but a briefing is a very transient thing. You flash a few slides on the screen and you have a glib and articulate briefer. But there is no real opportunity to sit down and analyze the figures.

The Secretary said, "Oh, certainly, I will get those figures over to you."

I said, "I am leaving early on Friday. I would like to have them in the afternoon."

He said ,"I can't get them to you until the evening."

I said, "Get them there in the early evening and that will be fine."

When the Army messenger came to my home, all he had to deliver was a photostatic copy of slides that the Army was going to use in their briefing, without any supporting data whatsoever. Surely if the Secretary of the Army has data which he uses to make a determination so vital that he concludes he can safely ignore the clearly expressed will of Congress, that data should be readily available, and I do not accept any statement that they had to rework the data, that it was not available, or anything of that kind.

This kind of jockeying can go on just so long, and the gentleman from California and I had reached the conclusion it was about time the Congress of the United States and the Committee on Armed Services should no longer be trifled with. That is why we made the statement that we did. If the Secretary of the Army wants to come before the committee and present his calculations, all right. But I think we ought to know what has transpired in reaching his conclusions, and I think the Congress ought to know and the members of the committee ought to know. If he has any new information, let us bring it up here, not just in a briefing, but on the record.

I have a perfectly open mind, but when the Army tells us that they are developing a weapon to be carried on the back, and that weapon turns out to weigh 230 pounds and four or five men can struggle over no more than a few hundred yards with it, and it is actually

being attached to vehicles, as the gentleman from California (Mr. GUBSER) points out, then there is a crisis in credibility. If the members of the Armed Services Committee cannot be told the truth by the Army and are not going to be given the facts, then we do have a serious situation.

This is a crisis in credibility. A great many people have said the members of the Armed Services Committee just rubberstamp what the services want, that any member of the services can come up to our committee and ask for anything and get it. But that is not our job. Our job is to be critical, to exercise an independent judgment. The subcommittee which I had the privilege of heading last year, and on which the distinguished gentleman from California was a very valuable member, saved the American people over $100 million because of what we had found by careful probing regarding the Sheridan. We also effected a major change in the Navy Ship Systems Command because of what we found with regard to carelessness and shocking mismanagement that led to the sinking of the nuclear submarine *Guitarro* at Mare Island.

We shall continue to do our job, and I make no apology for that job to any Member.

POSTAL CHAOS

The SPEAKER pro tempore. Under previous order of the House, the gentleman from California (Mr. HOLIFIELD) is recognized for 30 minutes.

Mr. HOLIFIELD. Mr. Speaker, I very seldom take the floor under special order, but I am deeply concerned about the situation among our postal employees. While Los Angeles is not in my district, I point out that, unless something has happened in the last hour, the postal employees in Los Angeles are out. I understand most of them have gone back to work in San Francisco, but they are still out in Berkeley and in certain other places in the State.

We are faced today with utter chaos in the U.S. Post Office Department.

Over 200,000 workers have walked away from their jobs and mountains of mail pile up in our cities and centers of transportation.

Business mail, pension checks, social security checks, and unemployment checks are undelivered. We face a breakdown in written communications at every level.

How did this situation develop?

A story too long to tell lies behind the problem.

I served on the House Post Office and Post Roads Committee in 1943 and 1944, and I served on the successor committee for 4 years in the 1950's, the House Committee on Post Office and Civil Service. My first speech on the floor of the House in 1943 was based on advocacy of a fully automated annual adjustment of post office salaries through annual raises based on the cost of living. This was a novel suggestion at that time, although the principle is common today in labor-management contracts.

Needless to say, it was not accepted, due mainly to the post office union representatives at the Washington level who were fearful such a policy might decrease their usefulness to and control over the rank-and-file employees. At least, that is the only reason I can think of.

It was not until 1962, almost 20 years later, when Congress passed the Pay Comparability Act which asserted the U.S. Post Office and civil service employees should be paid comparable money to that paid employees in private industry for doing the same level of work. This was a step forward. Unfortunately Congress and the administration have failed to comply with the legislative mandate.

The civil service and postal employees have been denied increases in pay because of a lack of action on the Comparability Act, and they are now 21 months behind in pay raises between achieving comparability with private employees doing the same kind of work.

In the meantime inflation has reduced the value of their salaries 4.2 percent in 1968, and 6.3 percent in 1969, and inflation continues in 1970 at the current rate of 6.6 percent.

Under the circumstances do Members wonder why Government employees are disillusioned and embittered? Do Members wonder that they are voluntarily walking off the job against the orders of their union leaders and the requests of their leaders?

These 200,000 people are loyal Americans, not troublemakers. They know they can be fined $1,000 and denied reinstatement for 3 years. They have wives and children to feed and clothe and house. Only desperate men would take such chances. The carriers start at $6,176 a year and then 20 years later they increase to $8,422. Think of the hopelessness of their plight. Think of the quiet desperation and the poverty level at which they live in a time of 5-percent to 6-percent inflation annually in our Nation.

We hear some say that Congress should not act while 200,000 of the 750,000 employees are in an illegal strike. What about the 550,000 employees who have stayed on the job? These people deserve consideration too.

We hear some talk about Congress refusing to act under duress from the striking employees. What about the ultimatum of the President when he tells the Congress that he will veto a pay bill long overdue unless we pass the postal reform bill he wants? I say to the Members the reform of the Post Office Department is a separate issue and the President is not justified in his attempt to obtain his transformation of the Post Office into a separate corporate entity at the expense of the living standards of 750,000 loyal Government employees.

We passed right here in the House in October 1969 the bill—H.R. 13000—with a two-stage pay bill. The other body passed a similar bill on December 13, 1969. There were some differences in those bills, however. Now I say those bills should go to conference at once and a report should be prepared without delay.

I want to make it very clear that I make no charge of delay against the chairman of the committee, the gentleman from New York, (Mr. DULSKI) or the members of the House Committee on Post Office and Civil Service. In my opinion they have acted wisely and properly and promptly. I say again that H.R. 13000 should go to conference, and a conference report on the pay bill alone should be negotiated with the other body.

We would vote later on the Post Office reform bill. If the President wants to veto the bill, fine, that is his privilege. And it is his responsibility. Our responsibility is to fulfill our obligation under this 1962 Comparability Pay Act. We are 21 months behind on pay raises under the 1962 act. We have no control over the actions of a committee in the other body, but I hope sincerely they will go to conference.

This matter can be solved as far as congressional action is concerned. If the Congress discharges its final responsibility on pending legislation, we shall have done our part. If the President believes he should veto the bill, so be it. We can continue from there. I doubt very much, personally, if the President would veto a just bill for pay raises which are long overdue and are in complete harmony with congressional policy under the 1962 Comparability Act.

Mr. WILLIAM D. FORD. Mr. Speaker, will the gentleman yield?

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

Mr. WILLIAM D. FORD. As a member of the Committee on Post Office and Civil Service, I should like to compliment the gentleman on his very fine statement, which lays before the people of this country more clearly, I am sure, than the President did today the real issues involved here.

As a member of the committee, I can say we have been meeting as regularly as we could ever since this crisis became apparent, trying to lend whatever assistance we could to the administration, without pointing the finger or without any recriminations toward the President or toward the Postmaster General.

As a matter of fact, we met with the Postmaster General himself and sought from him his advice about what he anticipated the situation was going to be and what he had in the way of plans to meet it. We had an agreement we would not quote him in any way after that meeting. It was also agreed we were all at liberty to respond to the substance of what he had to say.

Speaking for myself, the substance of what he had to say was that they had no plans.

Mr. HOLIFIELD. Had no what?

Mr. WILLIAM D. FORD. They had no plans for dealing with this situation. Very frankly, as the spokesman for the administration, he gave me the impression that they were going to rely entirely on the fact that the Federal courts would issue injunctions to restrain employees from striking; that it is, in fact, against the Federal law for a person to withhold his services if he is a Federal employee, notwithstanding the fact that public employees at all levels of employment across this country have reacted to their frustrations in trying to keep up with the private sector by withholding their services contrary to State laws, local city charters, and local laws.

This is a fact of life we have to live with. The administration seems unwilling to recognize that this is 1970 and that the traditions which led to the passage of that law may not be relevant to the pressures employees find themselves responding to today.

When the President came on television this afternoon and announced to the American people that rather than opening up avenues of discussion with these people who—whether we in this body agree with everything they say or any part of what they say or not—believe themselves sincerely to be aggrieved, he is going instead to suggest that the work stoppage or strike, if one wishes to use that term, be terminated or interrupted by supplanting their employment or replacing their employment with military people; this is a dreadful mistake on the part of the President, for two reasons.

The first one is that it will undoubtedly exacerbate the situation and lead to a broadening of the strike and lead to mounting tempers and tensions, increasing the probability that we will not be able to get together across the bargaining table.

More importantly, he will be putting into the Post Office Department to handle very valuable and very precious mail, mail that affects the lives of millions of people, untrained people who should not be called upon to exercise this kind of responsibility.

I am not speaking in any way in derogation of the capability of our young men in the military, but they are not trained.

Mr. HOLIFIELD. As a matter of fact, is it not true, if the gentleman will respond to this, that there are more than 550 zip codes to be learned, for the United States, and that many of these letters have to be handled four or five or six times before they get to their final destination, and they are handled on the basis mostly of the zip code reference.

Mr. WILLIAM D. FORD. Yes. It is tragic there are so very few people right in this Congress who have any understanding at all of how complex the job of handling the mail in this country is.

How pitiful the wages are for these men who have to study these ZIP codes and study the method of throwing letters into the different slots that they have to throw them into for separation and for respective routing. They do not understand this unless they go into a post office and see a big post office in operation.

Mr. Speaker, we were saddened, and honestly I think it is my opinion—and others have expressed the same opinion—that one of the things that led the employees to believe this administration had abandoned them was a remark made by the Postmaster General to the press when he was in Tokyo just before the end of the year where, after examining and visiting some Japanese post offices—which no one on our committee is very impressed with, because we all know that we do a better job more efficiently and cheaper than any country in the world, including Japan—but the Postmaster General responded to a newspaperman who asked him what he thought about what he had seen that the average Japanese post office clerk can sort mail faster than the fastest machinery we have in the automated post offices that we have in the United States. Then he volunteered the further information that it is because the Japanese postal worker has not forgotten how to work. That was in an article that appeared in the Los Angeles Times. It did not stay in the Los Angeles Times but was reproduced all across the country. It came at a time when the employees were asking whether or not the people who were in charge of running the postal service understood the seriousness of the problems they were facing. It could have clearly been interpreted by them, as it was by me, to be an indication that the people at the top just do not understand the job they are supposed to be doing.

I would like to call the attention of the House to the fact that a group of us from the Detroit metropolitan area, Democrats and Republicans, sent President Nixon a telegram 4 days ago on the morning when this crisis began. It is addressed to the President at the White House, and I will quote the telegram:

MARCH 20, 1970.

Hon. RICHARD M. NIXON,
President of the United States,
The White House,
Washington, D.C.

The spreading postal stoppage appears on the verge of developing into a national disaster. In view of the fact there are now no lines of communication open between labor and management which could lead to a settlement, we urge you to use your power as Chief Executive of the United States to immediately take the following steps: (1) appoint a high-level mediation panel composed of citizens recognized as broadly representative of the interests of the public, postal management and the postal employees, and (2) call upon all postal employees to return to work immediately and restore postal service with your assurance that you will give full and prompt consideration to the findings of this mediation panel, and will initiate and support all reasonable action to secure immediate implementation of the recommendations of the panel appointed by you.

WILLIAM D. FORD, JAMES G. O'HARA, LUCIEN G. NEDZI, JOHN D. DINGELL, MARTHA GRIFFITHS, WILLIAM S. BROOMFIELD, JACK MCDONALD, CHARLES C. DIGGS, JR., JOHN CONYERS, JR., Members of Congress.

This telegram was signed by nine Members of the House, both Democrats and Republicans, from the Detroit metropolitan area. I am sorry and saddened to see that they have not even had the courtesy in the White House to acknowledge that they received our telegram. It is quite obvious from the statements that the President made this afternoon on television that if he did receive the telegram, he thought that we should not have written it rather than accepting the recommendations coming from Members of this body that we should be negotiating this difference across the table like adults instead of making recriminations of a lack of patriotism on the part of these employees.

Mr. Speaker, I want to close by saying that I take as a personal insult on behalf of the postal employees that I worked with since I have been a member of this committee, the suggestion by the President of the United States to that effect—and not at all a very subtle one at that—that a patriotic American would be back at work whether he had his grievances satisfied or not. To equate these employees' attempts to draw attention to their long-smoldering unhappiness with a long list of grievances that have been neglected by the previous administration and by this administration and to some extent by the Congress—to equate their actions with being unpatriotic it seems to me is beneath the dignity of the office that Mr. Nixon now holds.

Mr. HOLIFIELD. Mr. Speaker, I thank the gentleman for his contributions.

Mr. CHARLES H. WILSON, Mr. Speaker, will the gentleman yield?

Mr. HOLIFIELD. I yield to my colleague, the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON. Mr. Speaker, I thank the gentleman very much for yielding, and I want to commend the gentleman for the statement he has made. I think he has brought into proper focus what the real problem is here. The American people just do not understand the tragic conditions that face our letter carriers or postal clerks, and those who are below the sixth grade of our Federal pay system.

The unfortunate thing, too, is that they have no bargaining rights or bargaining powers. They are operating under an Executive order that does not give them the opportunity to sit down and really have something to negotiate when they are in disagreement with the progress of legislation that should be moving along its way in order to give them a better lot in connection with their brothers in private industry.

Also it is unfortunate that earlier today, when the 1-minute speeches were going on, some uninformed Members who were not aware of many of the things that have been happening, things that have been brought up before our committee, made some of the remarks that they did. We got into a rather partisan discussion at that time, and I think the RECORD should show that there were five of the Democrat Members who have been supporters of the President's proposal, the reform program, right from the very start, including myself.

Two weeks ago when the bill was passed in the committee, which included the pay raise that the gentleman from Arizona (Mr. UDALL) earlier made reference to, there were more Democrats on the committee who supported that bill and voted for its passage than there were Republican members. There were nine Democrats and eight Republicans who voted to pass the bill out by a 17-to-6 vote.

I think that many of the Democrat members have tried to act as responsibly as they could, and those who did not vote the way we, who supported the corporation proposal did, did it in a sincere manner. I think that the differences were well debated. There were three members

on the Republican side who did not follow the leadership of their President, and the Postmaster General, and who voted against the corporation proposal.

I think the House of Representatives has acted very responsibly. I think it is unfortunate that the postal employees of New York would not give us time to try to move the bill that we recently passed in the House through the Committee on Rules, and give us time to work on it the way it should have been in order to accomplish what they need.

Also I think it is unfortunate that the other body would not meet in conference with the members of our House committee in connection with the bill H.R. 13000, which we passed last October. They had their own version which they passed in December, but they were either unable or unwilling to meet with our conferees, and this was part of the delay.

Mr. HOLIFIELD. Does not the gentleman agree with me that they should at this time under the dire circumstances we are faced with nationally, with uniformed soldiers coming in to do the work of civilians in the post offices in New York? And that when we resort to this extreme measure does not the gentleman believe that the Members of the other body should now meet in conference and solve this problem that is a congressional obligation, and one that we can discharge?

But there is not much to be gained by recrimination. I heard someone say something about Larry O'Brien. I can remember him sending up the reform legislation, but I do not remember him sending up the reform legislation and saying unless you pass this you cannot pass pay legislation.

Mr. CHARLES H. WILSON. No. Absolutely not.

Mr. HOLIFIELD. And I do not remember any threatening of a veto.

Mr. CHARLES H. WILSON. Absolutely not.

Mr. HOLIFIELD. I do not remember him threatening a veto on the Post Office pay raise that we passed last year, unless we attached the reform bill to it. That is the thing that I object to and resent very bitterly.

This is duress. This is Presidential duress on the Congress. They talk about the duress of striking employees, staying away from work—duress on the Congress. A minority, I might say, of 200,000 out of 750,000 people, but 550,000 stayed on the job doing their work the best they can under trying circumstances. So why we should get so proud as to say that we cannot take action because of these 200,000 desperate people who have felt that they had to call attention to their plight, I cannot understand.

Mr. CHARLES H. WILSON. The gentleman is so right. The conferees should be in session right now so far as I am concerned—and if not tonight then they should be in session tomorrow.

Mr. HOLIFIELD. That is right.

Mr. CHARLES H. WILSON. I think the majority leader was correct when he urged Members to prepare to stay here during this crisis rather than to go on a recess. I think it would be unconscionable for the Congress to take a recess when there are a lot of things we should do and could be doing to help in this situation. We should be doing everything we possibly can.

Mr. HOLIFIELD. If there is anything we can do, we should stay here and get this work done because there are thousands of families which are being denied a pay raise which they need to take care of food and living costs of their families. I agree with the gentleman that we should do everything that we can at the congressional level. Then let the President discharge his responsibility. If he thinks he should veto the bill because it is not a good piece of legislation, which is remote from it and not connected directly with the pay raise of employees, then let him veto the bill and let him see how the Congress responds to it.

I am willing to vote on it. I have not made up my mind on this reform corporation bill, but I am ready to look at the bill with an open mind. I have not decided one way or the other.

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

Mr. HOLIFIELD. I yield to the gentleman.

Mr. BINGHAM. I commend the gentleman from California on his comments.

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

Mr. HOLIFIELD. I yield to the gentleman.

Mr. BLACKBURN. Mr. Speaker, I have enjoyed the colloquy that has been carried on but I do want to take very strong exception to the comments made by the gentleman from Michigan (Mr. WILLIAM D. FORD) in which he attempted to put the whole blame for this thing at the doorstep of the President. The gentleman from Michigan commented that he and several others sent a telegram to the President, and apparently he has some exalted idea that five or 10 Congressmen can get together and agree on a matter affecting the whole Nation's postal system.

The gentleman from Michigan is thoroughly aware that we do have committees of this Congress which must act and he is aware that the Congress, both branches—the House and Senate—have to act.

We have acted on a pay raise and because of the differences between the House and Senate and their inability to get together—and I do not attempt to pass judgment on this—but I do know this that any implication that the gentleman from Michigan was intimidated by the President into not voting for or against anything because of the threat of a veto just will not hold water because he voted for the HEW bill and additional appropriations in the face of a threat of a Presidential veto. I do not think he or any other Member of this House has been intimidated by any threat of a Presidential veto.

I think if there is any question about the responsibility of this House or its ability to act, the question is—and I refer to the House and to the Senate—why have we not acted? Let us not try to throw this thing down on 1600 Pennsylvania Avenue. Let us do our business and then let the President do his.

Mr. HOLIFIELD. I will say to the gentleman, in essence I agree that the Congress, both Houses, should do what they can do. But as to what effect a threat of the President to veto this bill unless the type of reform bill is added in committee to that, I do not know. I cannot pass judgment on that. But whatever it may be, now is the time I think to have a conference and let the Congress discharge fully its duties and then leave it up to the President.

I do not believe in the face of the need of 750,000 employees and their families—I do not believe the President—and he is a Republican President and I am a Democrat—but I do not believe he would veto this justifiable raise, which is in complete harmony with the policy of the Congress expressed in the 1962 act.

I would like to give him the opportunity to say that he does care for these 750,000 people and their families.

Mr. WILLIAM D. FORD. Mr. Speaker, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman.

Mr. WILLIAM D. FORD. Mr. Speaker, I would like to say that President Nixon could not intimidate me if he had a club. I was not even intimidated by the student prince uniforms that he put on his policemen down there.

So far as being exalted about anything, I want to say this. I had become accustomed, prior to this administration, to the fact that as an elected Representative of about 570,000 people in my district in the State of Michigan, that when I wrote to the President on an important matter that affected the daily livelihood, I at least got an acknowledgement from a member of the staff. That is all I said. There were nine of us who did not even know if the President received the telegram. They had not been kind enough to tell us even—to go jump in the lake.

But I would like to recall to the gentleman a little bit of history. It is not the House committee that has been intimidated. This piece of legislation has been tied up in the other body.

It is no secret that the administration and the lackeys in the Post Office Department have been doing everything from promising new buildings to cutting off buildings for those who have not been cooperative, to canceling projects, to appointing people to jobs and doing everything that you can imagine to put through this postal corporation.

In the process of doing this it has been no secret to us or to the employees that the pay bill that is over there in the Senate is being held hostage for movement of the postal corporation bill, and the President did not say, "I will veto any pay bill." What the President has been feeding back down here is the statement, "I will not sign a pay bill unless you give me with the pay bill the postal corporation in the form in which I want it."

I do not blame the President for doing all he wants to get his legislative program, but if he is going to deal under the table, as he did in connection with the HEW appropriation bill, where he told 30 million Americans on television that the worst program in education was

impact aid, and then they came back over here and promised my colleagues on this floor that had impact money in their districts that if they would help him to sustain his veto, he would guarantee that he would not cut any impact aid—I challenge the gentleman on the other side of the aisle to take a look at where the President used the discretion that the other body gave him to cut money from education programs, and you will find that he cut the rubella program, the measles program, he cut every health program, and he cut every education program except one, and the one program that Nixon did not cut one single nickel out of was impact aid.

I am not advocating that he cut impact aid. I am only saying that this is typical of how he tells the American people one thing when he deals under the table for something altogether different. That is the kind of dealing that has been going on in this Capitol that I say is not in keeping with the dignity of the office of Mr. Nixon that has been responsible, along with the unkept promises of previous administrations and the unkept promises of this Congress in the past that has accumulated into a list of grievances that are not going to be resolved, as Mr. WILSON said, in 48 hours. It will take time. But they are not going to be solved by sending troops or by using court injunctions. They will be solved only when the administration recognizes, not where we came from, but where we are now, and let the President use the power he has, as previous Presidents have had the courage to do when faced with similar emergencies in transportation, and appoint a high-level commission of people who will be respected for their position, respected by management, labor, and the public, and let them begin to mediate these differences so the mail can start to move. And then and only then will I back off and acknowledge he is right to go on television as he did today, and not offer a solution to the problem, but offer recriminations against individuals by suggesting that they are unpatriotic for withholding their services.

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

Mr. HOLIFIELD. If I have time, I yield to the gentleman from Georgia.

Mr. BLACKBURN. I must respond to the gentleman from Michigan by saying that he has perpetrated one of the biggest frauds I have seen perpetrated on this floor in many years when he attempts to represent that the President did not cut impacted aid though he had authority to cut it. The gentleman knows, as do all of us, that the impact aid program is a mandatory expenditure. Expenditures are required to be made under that program by formula. The President has no discretion in those matters, and because this body saw fit to increase the impacted area aid over and above what the President requested, he had to cut funds from other areas in which he did have discretion. He had no alternative. I resent the implication that he is wheeling and dealing, because he has spent the money that we, the Congress, required him to spend according to a mandate.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. WILLIAM D. FORD. Mr. Speaker, I ask unanimous consent that the gentleman from California be allowed to continue for 3 additional minutes.

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

There was no objection.

Mr. WILLIAM D. FORD. Mr. Speaker, with all due respect to the gentleman who just spoke, I do not think the gentleman kept track of that bill all the way through to its conclusion, because when the Health, Education, and Welfare appropriation went to the other body, they gave the President of the United States authority to cut up to 2 percent. They directed him to cut up to 2 percent of the total of that appropriation, except for the trust fund. When the administration applied its power to the cutting, it did, in fact, cut money under that authority from every single education program and every health program except for two items. The only education program that was not cut by one single penny after the President had been given authority by that body, and we voted over here to accept that authority and we gave it to him too, was the impact aid.

The only health program that was not cut was the hospital construction under the Hill-Burton formula.

Automatic spending or the formula had nothing to do with it. Congress specifically authorized the President to cut, but after he told the people of this country what he was going to do, he decided the politics of the situation was a little different from what he had gaged it to be when he gave that political speech, and when we gave him the authority to do it, he backed down and played backroom politics—and we cannot characterize it by any nicer name than that.

Mr. DON H. CLAUSEN. Mr. Speaker, it is indeed regrettable that the President was forced to take the action he did in ordering military units into the New York area to keep the mail moving.

I am convinced that many people are to blame for this emergency crisis we are now faced with. The postal workers do have, in my judgment, some very serious grievances that need resolving but I do not think they should refute the law as appears to be the case.

It is possible that this action will work to the ultimate detriment of the postal workers themselves because the American people strongly feel that "The mail must go through."

A special point must be made of the fact that there is precedent for this action. During the Christmas mail rush, military units have been called in to provide the necessary supplemental manpower required to fulfill the personnel needs during the Christmas season.

The President's action is in keeping with this precedent. Now, I hope the conference committee of the Congress will move now to finalize action on the postal salary comparability legislation in question.

The innocent victims of this impasse are the postal workers and their families. They are plagued with inflation and cost-of-living problems.

The Congress must press the conferees on H.R. 13000 to move on the measure that will resolve this pending crisis.

This is no time for partisan bickering. I want to see responsible postal improvements that will help the employees, the Government, and the people and I also want to see the postal employees get their pay raise.

Mr. BINGHAM. Mr. Speaker, I am dismayed that the President has seen fit to order troops into the post offices in New York to process and deliver the mail. I am afraid this will only make a bad situation worse.

Yesterday morning I sent President Nixon the following telegram, with a copy to the Postmaster General:

The faithful letter carriers and postal clerks who are on strike are expressing their desperation at the failure of the U.S. Government to move in response to their legitimate grievances. Postal workers are supposed to enjoy security but inflation without compensating pay increases has been destroying his security, and they are reacting in a way which is understandable, even though it is against the law. They have seen many other groups break the law and benefit by it.

These men are not revolutionaries. But they may be driven to desperate action if the National Guardsmen are ordered to become strike breakers and handle the mail.

You have urged that compulsory arbitration be established for national strikes of an emergency character. Whatever the merits of that proposal in other cases, I believe compulsory arbitration is the proper course to follow here, and I urge you so to propose to the Congress.

While the disgracefully low postal pay scales are now set by law, there is no reason why Congress cannot authorize that they be set in accordance with some other process, namely arbitration.

The arbitration idea fits in with your proposal that the Post Office should be run by a corporation, and not as other government agencies are. Also you should recognize that, if the employees are to accept the idea of such a different status, they should receive much higher pay than they do now.

By the process of arbitration the long-sought goal of comparability—that is, pay comparable to what private enterprise would pay for comparable work—would be achieved.

The legislation required to put this plan into effect could be drafted by the technical experts overnight on a crash basis, and the Congress could act on it immediately.

I see no other way to overcome the present deadlock which is reaching a point of severe polarization and stiffening of attitudes on both sides. If this situation is allowed to continue to deteriorate without bold and imaginative steps on the part of the U.S. Government, it may prove to be one of the great tragedies of our nation's history.

I sent a similar telegram to the disguished chairman of the Post Office and Civil Service Committee in each House.

Other Members of this body have recommended mediation by impartial experts, but this would still leave it to the Congress to enact legislation to put the recommendations of the mediators into effect.

The recommendations I have made for binding arbitration would, if adopted, solve the problem at one stroke.

Mr. LOWENSTEIN. I thank the disguished gentleman from California for taking the initiative so we could continue this very important discussion. I said earlier today that I believe this situation could be resolved rather quickly without inflicting further hardship on the general public. Some of us have sent telegrams or other messages to the President urging him to exert the kind of leadership that is so desperately needed now. If he does that, partisanship can be minimized. So can the inconvenience, the bitterness, the bad precedents, and the increasing suffering that must otherwise result.

I include in the RECORD at this point the text of some remarks I made in the House some time ago. I have no gift of prophecy, and these remarks were not particularly unique or prescient. They are, in fact, rather typical of many remarks made by many Members for a very long time. I include them in the RECORD again now precisely in order to remind the House of how many warnings we have had for how many years of what would happen if we failed to act fairly. And to remind us as well of what simple steps could have been taken to avoid this situation—steps whose merit and whose fairness are apparently virtually undeniable, since virtually no one tries to deny their merit and fairness. Can we not then take these steps now, before we earn further grief by failing to do what is just and is now so long overdue?

The following is the text of my statement of October 31, 1969:

STATEMENT BY MR. LOWENSTEIN

Mr. Speaker, it is almost 8 years since the Congress committed itself to the principle that Federal employees deserve salaries comparable with that earned by workers in private industry. Last week the House finally passed H.R. 13000, a small step toward fair pay for postal employees, but I rise today to remind the House that that action was only a start, if we are to fulfill our obligation to pay those that handle the mail what they deserve on the basis of their needs, skills, and efforts.

For postal employees are among those Americans treated most unfairly in these times of uneven progress toward social justice. In part, this is because these devoted public servants have lived up to their celebrated motto so faithfully that they tend to be taken for granted in the public mind. On they toil, faithfully and unobtrusively, while all around them wheels squeak noisily and get greased.

But what neither snow nor rain nor sleet nor hail have been able to do over the centuries, national neglect is now threatening to accomplish. At last the dedicated and almost-forgotten men and women of the postal service are growing desperate.

We trust them to ferry much of the national commerce, to respect and deliver our personal secrets, to sort and transport tons of literature of all kinds. But we will not pay them nearly what they could be paid for doing less and easier work in other callings. We expect them to do forever what no one else is asked to do except in short periods of national emergency: to accept appeals for loyalty to the country they love in lieu of fair treatment by that country. It is wrong to ask this of any Americans. More than that, it is demeaning to all Americans when any of their fellow citizens are put in this kind of situation. And it is certainly not in the national interest to allow the wage scale of those who work for the Federal Government to become a national disgrace.

Salaries in private industry continue to rise, but pay increases are denied to postal employees in the name of combating inflation. The result is that postal employees suffer twice over—prices rise, but not their salaries. How long can we go on telling people who we underpaid to begin with, and who additionally are being crushed by inflation, that they cannot be paid fairly because if they were paid fairly it would contribute to inflation?

Even after 21 years of service, the best a postal employee can hope for is almost $2,000 a year less than what the Bureau of Labor Statistics has found to be the minimum level for a moderate standard of living. It is no mystery in these circumstances why postal employees abandon their jobs twice as frequently as do other Government workers. What is mysterious is how the public can expect to get better mail service by paying poverty-level wages to those who must provide the service.

Is it not high time we realized that one service must be to improve the working conditions of those who do the serving? Many Members of this House have worked hard to ease the financial hardships of postal workers. Each time we get our own increased paychecks, we are reminded that their paychecks remain the same. One would think the President would be experiencing the same reminders.

Someone said earlier that those of us who have been pressing for the enactment of H.R. 13000 have made "nuisances" of ourselves. Let it be clear that if that is what we have been doing we will continue to make nuisances of ourselves until H.R. 13000 becomes law, and until other reforms are enacted that will bring justice to postal employees at last.

GENERAL LEAVE TO EXTEND

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order today.

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

There was no objection.

ADDITIONAL RESEARCH NEEDED ON BABY PIG KILLER—TGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 20 minutes.

Mr. FINDLEY. Mr. Speaker, I address you today representing a concern which is currently foremost in the minds of all farmers in the Nation who produce pork. While it most directly affects these farmers, it also threatens the interests of all citizens who enjoy pork products and those involved in processing and merchandising our red meat supply.

An insidious disease has recently been hitting hard the swine herds in the Nation's "pork belt" killing baby pigs by the thousands. The disease is transmissible gastroenteritis, commonly known as TGE. My district is right in the heart of the pork production area of the Midwest and for the past 2 years farmers have been losing thousands of dollars a day from the deaths of baby pigs during the winter months which are the peak of the TGE season.

In my view, and in the view of expert livestock production and disease specialists, TGE is by all odds the most serious problem facing the swine industry today. It has already reached epidemic proportions in some of our best hog producing areas and continues to rise in severity with no relief in sight.

TGE first became known about 1943 and has now spread to a point where the mere mention of it fills a farm family with fear that their entire income from their hog operation will be wiped out for most of the year. The disease is doubly painful for those hit because it has reached epidemic levels during the past 2 years when live hog prices have been at a relatively good level.

TGE strikes a death blow to baby pigs 4 to 10 days old, primarily, but it also hits adult breeding stock and market hogs being finished for slaughter. It does not often kill adult breeding stock but many hogs nearly finished and ready for slaughter are killed if they contract the disease.

TGE has been running rampant throughout the hog producing area of Illinois and other States where hogs are grown. No known cure exists even though several land grant universities have devoted considerable research efforts toward finding a cure. The USDA and several serum or biological manufacturing firms have also been doing research. The disease is caused, it is felt, by an intestinal virus. The difficulty of isolating the virus and controlling it can be attested to by the fact that nearly all the land grant schools which have conducted research into the cause and control of the disease have given up in frustration. The USDA reports that only a small two-man research project at the USDA Animal Research Laboratory at Ames, Iowa, another small project in California, and a continuation of the research efforts at the University of Illinois continue.

In an effort to trace the pattern of occurrence of the disease, the University of Illinois Pork Producers Association have been conducting a voluntary survey of the effects of TGE among the swine growers of the Midwestern States. A majority of the work, understandably, has been done in Illinois.

One outstanding feature of the disease this ongoing survey has uncovered is that the disease seldom strikes the same farm repeatedly with any predictable occurrence. It might wipe out an entire farrowing of hogs one season and may not hit the herd again for several years or it might be back again next year. Most often it can be expected to strike about three times in 5 years once it hits a farm swine herd.

Extremely heavy losses generally occur among the baby pigs when TGE does strike. Let me cite some examples from the voluntary survey mentioned earlier. It should be pointed out that followup checks on the survey indicate that about 10 percent of the farmers who have been

hit by the disease in a community report their experiences in the voluntary survey.

One of the counties in my district, Adams County, Ill., had reported death losses of baby pigs during the 1968–69 farrowing season totaling 2,285 on 38 farms. The losses to the farmers on these 38 farms, as estimated by University of Illinois economists, total $88,768. If, in fact, this does represent ten percent of the swine losses, an annual loss of more than three-fourths of a million dollars to the economy of a county is far too much to ignore any longer.

In another county in my district in which the reported TGE losses have been totaled, Pike County, 16 farms have reported deaths of 3,990 pigs diagnosed by veterinarians as TGE resulting in an economic loss of $131,670 to these farmers. Again, if this represents just 10 percent of the actual losses in the county, we are witnessing losses of more than one million dollars.

Actual cases of the disease hitting a herd of swine are enough to cause one to understand very easily why the farmers are frustrated over the disease as they face the future without any known cure or anything on the horizon which hopefully will bring about a cure.

Some typical losses of Illinois farmers to TGE: A Pike County farmer had 300 pigs born, 250 died because of TGE; another, out of 1,300 pigs born, 850 died; 850 out of 1,000 pigs killed by the disease. In neighboring Adams County, a farmer had 300 pigs born and lost 270 of them to TGE at the rate of 5 to 25 per day.

Another Adams County farmer lost all 280 baby pigs and in addition had 10 older pigs killed by the disease after feeding them to near market weights.

Outside my district in Illinois, in Woodford County, 300 of 350 baby pigs killed by TGE; Madison County, all 22 baby pigs killed; McLean County, 1,200 out of 1,500 baby pigs killed in 3 weeks. Just imagine the disheartening effect of day by day watching your entire income for a year claimed by death as you and your veterinarians stand helpless, unable to do anything but bury the dead.

To get a bit more recent, I list here the deaths in 10 pork-producing States between August 1969 and Februray 14 of this year which were reported to the University of Illinois through the voluntary survey in the table below. You can easily see that TGE is hitting all States surrounding Illinois and no doubt in much greater numbers than this survey is able to report. The reports shown in this table ended just as the peak of the TGE season was arriving, about the middle of February until the middle or late part of March.

Using the figure of $33 per baby pig lost, it is easy to determine the losses the affected farmers suffered in these States. The $33 per baby pig represents a direct economic loss of $8 per pig to cover the cost of keeping and feeding the sow during the year and $25 representing the opportunity loss of each baby pig which could be made at today's live finished hog prices if the pig was fed to maturity.

According to a USDA research staff member at the Beltsville facility:

The level of research funding for a cure for the disease is minuscule compared to the losses farmers are suffering from the disease.

Simply stated, much more needs to be done to locate a cure for TGE. Before much more can be done to hasten the day when a cure or control of this dread baby killer is found, more research funds must be appropriated.

Present TGE research efforts are woefully inadequate compared with the magnitude of farmer losses. I request that you consider boosting the level of funding for TGE research during the coming budget year. Currently just two full-time scientists are researching a cure for the disease from funds provided by the USDA. This is far too little effort to expect an early cure.

USDA Agricultural Research Division specialists have estimated that it will take nearly 40 scientific man-years of research to develop the necessary background to effectively control TGE. A man-year is defined as the full-time research efforts of one scientist.

If funding for TGE research continues at its present rate, no effective cure for TGE will be known for nearly 20 more years. That is far too long to expect the Nation's swine industry to accept the magnitude of losses they currently are experiencing.

A man-year of research costs about $80,000 for all that is needed to equip and pay a scientist to conduct basic research. Using the USDA estimate of time and personnel necessary, it will cost in today's dollars $2,560,000 to approach a cure for this insidious disease.

DIARRHEAL DISEASE IN SWINE (NEARLY ENTIRELY DUE TO TGE) REPORTED BETWEEN AUG. 1969 AND FEB. 14, 1970

State	Number of outbreaks	Pigs dead
Illinois	156	[1] 8,954
Iowa	12	594
Ohio	3	338
Michigan	1	200
Arkansas	1	111
Tennessee	1	110
Indiana	2	102
Minnesota	2	74
Missouri	1	26
Wisconsin	1	6
Total	180	10,515

[1] Losses on 113 farms; many farms had no pigs under 2-weeks old, but suffered weight losses in older swine.

A more practical goal for stepping up the needed research efforts would be $400,000 annually for the next 3 years. If this amount of research funds is appropriated, they could be allocated and assigned to the several land-grant universities which have conducted research to carry out certain specific projects which are needed to arrive at a control or cure for TGE.

One of these universities probably would be the University of Illinois, according to the USDA Agricultural Research Service, and the dean of the University of Illinois College of Veterinary Medicine, Dr. L. Meyer Jones, has outlined for me how he feels he and his staff could best research a cure for the disease if adequate research funds were made available.

According to Dean Jones, TGE was first described in the United States in 1943 and subsequently in many other parts of the world. Laboratory research led to isolation of the TGE virus. The virus was cultivated in tissue cells in the test tube and some of its biological characteristics were studied.

A vaccine was developed for hypodermic injection but its field use proved unsuccessful because it did not adequately protect against the disease. The reason the vaccine given hypodermically failed was that it did not protect the digestive tract against local invasion by the TGE virus ingested with feed and water. This may be an oversimplified explanation because of the highly complex interrelations of the diseased sow and the pigs that she carries. A solution to this problem requires much further research before we can expect to understand the phenomena on which depends the production of a successful vaccine or other methods of controlling TGE.

Research at the University of Illinois on TGE was started in 1965 when the swine producers obtained funds from the State legislature for veterinary experimentation on the disease. Many experiments on TGE have been performed to date in the following areas: TGE virus isolation and characterization; a study of the infective process and damage to the digestive tract of the baby pigs; development of diagnostic tests for TGE; and the experimental production of two vaccines for research purposes, viz., a tissue cell culture vaccine which did not give adequate protection in field trials, and an oral capsule vaccine, or live virus, which produced adequate immunity but was insufficiently safe from the disease-control viewpoint.

These and other problems need answers that must come from the basic science laboratory before we can expect to produce a biological product for controlling TGE on the farm. It is now apparent that the TGE virus differs from other kinds studied in the past and that a new kind of approach and new knowledge is needed before a control of TGE will be forthcoming.

Recent findings at the University of Illinois have revealed certain interrelated processes previously unknown between the sow and the fetus. Administration of vaccines to pregnant sows caused certain tissue responses in the sow and the newborn pigs. These responses in turn apparently interfered with the mechanics of protection transferred from the sow to her pigs. The proposed research is designed to study the basics of these interrelated responses and processes caued by exposure of the pregnant sow to the TGE virus. A full understanding of these factors is necessary for development of an effective control of TGE.

The College of Veterinary Medicine at the University of Illinois has continued its investigation on TGE and at present is one of only two laboratories in the United States with an active, although reduced research program. The university proposes that the Agricultural Research service, USDA, be allocated money to fund research on TGE over a 5-year period which hopefully

would lead to measures for this No. 1 disease now causing extensive losses throughout the swine-producing areas of the Nation.

The University of Illinois anticipates that it would share in any such appropriations because it has an active research program on TGE and because it is one of the leading swine-producing States of the Union. Therefore, this proposal lists a research program on TGE at the University of Illinois College of Veterinary Medicine consisting of three projects:

Project I. Investigators, Dr. Miodrag Ristic and associates.

Objectives: There are two objectives. First, to detect, isolate, and characterize protective anti-TGE virus antibodies in serum and milk of sows exposed to TGE virus and to determine the relationship between the time of exposure, the appearance, the concentration, and the persistence of this antibody; and second, to ascertain the roles of tolerance and/or sensitivity produced by exposure of pregnant swine to the TGE virus on the protection conferred by this animal to her newly born pigs.

Budget: $50,000 annually for 5 years.

Project II. Investigators, Dr. Wayne A. F. Tompkins and associates.

Further characterization of the virus with special reference to unusual properties and characteristics of this antigen.

Studies of cell responses in tissues of feti derived from sows exposed to TGE during pregnancy.

Budget: $30,000 annually for 5 years.

Project III. Investigators, Dr. Deam Ferris and associates.

A continuation of the TGE incidence studies in Illinois begun in 1968 by the College of Veterinary Medicine.

A study of the initial field outbreak of TGE that appears in Illinois in epidemic proportions. This kind of study is essential to explain the reappearance of TGE each year.

Budget: $15,000 annually for 5 years.

It should be obvious that swine producers are facing an extremely complicated and costly killer in their farrowing operations—a killer which we cannot permit to continue to drain the profits needlessly from farming.

The amount of funds USDA spokesmen in animal health research indicates are needed to combat the disease certainly seems reasonable and I encourage you to increase the TGE research budget for the coming year. The plan outlined by the University of Illinois and the background of its staff indicates the money would be well used by our land grant institutions and if funding is increased, we could expect confidence to grow among our farmers that a cure for this killer is on the way.

The $400,000 specified earlier is a modest investment to cure a disease that last year cost Illinois farmers alone $10 million.

Following are several farmer case histories of losses from TGE in Illinois during the past 2 years.

Listed below are swine losses due to TGE infestation of farm swine herds in the 20th District of Illinois as reported by farmers through a voluntary survey program conducted by the University of Illinois and the Illinois Pork Producers Association during the 1968 and 1969 farrowing seasons. Based on followup personal contacts, it is estimated that only about 10 percent of the farmers experiencing TGE losses report them through this program.

ADAMS COUNTY, ILL.

Losses due to TGE were reported by 38 farmers during the above period. These farmers reported they had 3,885 pigs born of which 2,285 were killed by TGE. While 1,357 baby pigs survived the disease, the loss of weight, feed conversion ratios, and setbacks in the feeding cycle resulting in later marketings, cannot be estimated from the information available. The 38 farms in Adams County suffered losses of $88,768 from the death of baby pigs killed by TGE.

Pork producer	Number baby pigs	Pigs sick, lived	Pigs died	Number of dams	Dams sick	Number other swine	Other swine sick	Other swine died [1]
1. Hofmeister	130	0	130	14	14			
2. Meyer				8	8	75	75	2
3. Abert						40	40	0
4. Moore						160	160	0
5. Blickhan	72	9	63	8	7			
6. Redman	200	0	200	20	20			
7. Chick						119	119	0
8. Meyer				27	10	214	80	0
9. Talcatt	140	0	140					
10. Smith	60	30	30	10	10			
11. Cramm	130	110	20	20	20	632	632	0
12. Wittler				55	8	470	400	34
13. Meyer				27	10	214	80	0
14. Albameryor				78	78	185	185	80
15. Cornwell	540	420	120	40	40			
16. Tallcott	220	80	140	21	21			
17. Wilcox				15	15	129	100	3
18. Dedert				44	37	318	266	5
19. Beckman				30	15	240	180	60
20. Sims Bros	310	0	275	40	40			
21. Buzzard	280	0	280	123	123	190	190	10
22. Dedert				44	3	250	[2] 250	([3])
23. Beeler						400	400	
24. Todd				26	26	110	110	0
25. Mixer				7	7	56	35	21
26. Moorman Manufacturing Co	359	44	206	34	3			
27. Crawford				11	11	90	70	20
28. Green	300	25	175	30	20			
29. Ippensen	250	50	200	23	23			
30. Orr Bros				20	20	200	200	0
31. Benz	75	0	75	70	35			
32. Mayfield				51		425	265	160
33. Pfamscchmidt				12	0	420	60	4
34. Richards				32	8			
35. Echtenkamp				20	20	100	0	100
36. House	374	324	51	38	38			
37. Hagau	410	265	145	51	51			
38. Beeler	25	0	25	8	8			
Total	3,885	1,357	2,285	1,057	749	5,037	3,897	489

[1] Largely pigs between 2 weeks and 1 month of age. [2] Approximate. [3] Few.

PIKE COUNTY, ILL.

Sixteen farms reported deaths of 3,990 baby pigs due to TGE during the 1968 and 1969 farrowing seasons: Using the formula outlined earlier, this results in a loss of $131,670 for the farmers which reported their losses. In addition, 4,767 additional swine were ill and were set back in their normal feeding cycle for which no loss figure can be compiled.

Pork producer	Number of baby pigs	Pigs sick, lived	Pigs died	Number of dams	Dams sick	Other swine sick	Other swine died
Cadwell	([1])		300				
DeHart	189	12	167	23	5		
Martin	400	25	375	48	40	225	11
McIntire	377	9	368	53	1		8
Heavner	279	227	52	46	49	210	
Bradshaw	360	50	250	40	39	([2])	([2])
Springer	1,306	1,200	850	400	160	1,200	
Birch	240	150	75	30	10	250	
Shepard	53	0	53	50	50	280	
Haskins	600	300-400	40	155	85	700	1
Morgan	1,000	100	800-900	90	60	800	1
Bauer	300	50	250	60	60	264	1
Richards	170	127	43	34	34		
Peck	350	200	150	45	45	63	
Draper	110	38	72	42	42	375	20
Paxton						200	3
Total	5,668	2,588	3,945	1,102	671	4,767	45

Footnotes at end of table.

BROWN COUNTY, ILL.

Pork producer	Number baby pigs	Pigs sick, lived	Pigs died	Number of dams	Dams sick	Other swine	Other swine sick	Other swine died
Klingele	140	0	140	19	19	44		
Keltz	250	70	180	32	32	45		
Busen	65	61	4	65	65	92	2	
Total	455	131	324	116	116	181	2	

CALHOUN COUNTY, ILL.

Brangenberg	250	25	225	27	27	90		
Wineland	900	300	600	180				
Total	1,150	325	825	207	27	90		

GREENE COUNTY, ILL.

Reno	135	135	0	63	1			
Nichols	260	30	230	11	11	45		
Baise	700	0	700		130			
Griswold	87	35	52	35	35			
Roth	400	100	300	50	50	327		
Dixon	145	10	135	17	17	375		
Roberts	125	125	0	45		235		
McCollister	180	100	80	28	20			
Muntz	300	70	230	75	3			
Pennel	165	20	145	35	0			
Pregler	100	85	15	90	90	24		
Kuhnline	220	18	202	25	25	151	80	
Farms (Dickson)	66	24	42	17	15	220		
Wagner	50	20	30	40	40	330	330	
Longmeyer	129	120	0	33	18	15		
Kirback				0	0	430	430	
Dixon	360	298	62	52	15	600		
Schnelton	230	190	40	28	28	560		
Schnelton & Tepen	42	8	34	12	12	590	497	
Godar	60	30	30			290	60	
Gerson	260	65	155	34	34	500	400	
Peters				31	0	248	78	
Andrews	60	4	56	10	9	170		
Swires				20	20			
Koster	250	240	10	37	37	27	4	
Koster	45	0	45			77	77	
Hartwins	40	7	33	15	15	112	112	
Walker	170	60	110	20	9			
Total	4,570	1,794	2,736	823	634	5,322	2,068	

HANCOCK COUNTY, ILL.

Gordon	270	1	269	25	18	800		
Linkman	210	192	18	30	30	696		
Hufendick	53	30	23	19	19	125		
Mulch	288	8	280	30	30	850		
Cockran	390	330	60	40	40	164		
Bergman	120	88	32	13	13	120		
Beeler	120	0	120	11	1	700		
Froman	175	5	170	93	93	117		
Total	1,626	654	972	261	244	3,672		

McDONOUGH COUNTY, ILL.

Pork producer	Number baby pigs	Pigs sick, lived	Pigs died	Number of dams	Dams sick	Other swine	Other swine sick	Other swine died
Thurman	112	82	30	14	14			
Sims	100	95	5	23	23			
Clayton	28	13	15	25	9	13		
Total	240	190	50	62	46	13		

MORGAN COUNTY, ILL.

Werries	350	250	100	200	41			
Clayton	80	60	20	10	4			
LaKamp	63	0	63		7			
Tauts	120	120	0	16	16	18	18	
Smith	300	100	200	100	100	375	375	
Anderson				45	21			
Hess	170	166	4	70	38	340		
(Not given)	60	10	50	70	50			
Massey	15	15	0	11	4			
Hymes	100	60	40	70		150		
Schome Bros	250	70	180	40	30	118		
Henderson	100	50	50	14	10			
Turner						230	200	
Flynn	28	9	19	62	50	154	95	
(Not given)				16	16			
Wohlers	32			7	7	129	79	
Wilson	6	2	4	1	1	228	228	
Hoots	110	19	91	20	18	63	63	
Mawson	0	0	0	13	0	250	230	
Werries	160	0	160	15	15	190	190	
Total	1,944	931	981	780	428	2,245	1,478	

SANGAMON COUNTY, ILL.

Frazee	90	19	71	20	20	232		
Carney	212	182	30	18	18	3	0	
Total	302	201	101	38	38	235	0	

SCHUYLER COUNTY, ILL.

Hampton	125	114	11	15	15	64	34	
Gruber	40	38	2	4	4	217		
Total	165	152	13	19	19	281	34	

SCOTT COUNTY, ILL.

Krems	100	100	0	12	6			
Clayton	60	30	30	6	3	184		
Clayton	124	6	118	13	6	248		
Total	284	136	148	31	15	432		
Grand total	20,290	8,459	12,380	4,496	2,987	17,512	12,246	534

[1] Figure not given. [2] Others, but not numbered.

Examples of individual Illinois farmer swine losses outside the 20th Congressional District due to TGE:

Monroe County, 40 pigs born, 36 died due to TGE.

Woodford County, 350 pigs born, 300 died.

Edwards County, 110 pigs born, 52 died.

Madison County, 22 pigs born, all 22 died.

Tazewell County, 250 pigs born, 150 died.

Crawford County, 1,600 pigs born, 250 died.

Livingston County, 138 pigs born, 110 died.

Stephenson County, 85 pigs born, 79 died.

McLean County, 642 pigs born, 600 died.

ILLINOIS TOTAL DEATHS REPORTED—TGE REPORTED IN BABY PIGS AND THEIR SOWS IN ILLINOIS, WINTER, 1968-69

Region	Number baby pigs	Pigs sick, survived	Pigs died	Number dams	Dams sick	Number farms reported
Northwest	17,011	10,275	5,901	2,214	1,936	61
Northeast	2,543	2,170	373	824	233	8
West	11,802	6,941	4,882	1,504	1,076	56
Central	2,763	1,626	1,048	334	230	12
East	5,348	3,796	1,549	1,113	776	14
West Southwest	13,954	5,315	8,423	2,442	1,568	54
East Southeast	110	94	16	14	14	1
Southeast	1,184	289	341	158	123	5
Total	54,315	30,506	22,533	8,603	5,946	211

TGE REPORTED IN SWINE OTHER THAN BABY PIGS AND THEIR SOWS, 1968-69

Region	Total swine	Number affected	Number of farms
Northwest	10,403	6,018	42
Northeast	373	373	3
West	7,914	7,496	24
Central	1,227	1,152	5
East	1,427	1,077	5
West Southwest	12,004	10,529	34
East Southeast	20	20	1
Southwest	1,928	1,898	3
Total	35,296	28,536	123

CONGRESS MUST ACT ON CRIPPLING WORK STOPPAGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RHODES) is recognized for 5 minutes.

(Mr. RHODES asked and was given permission to revise and extend his re-

marks, and to include extraneous matter.)

Mr. RHODES. Mr. Speaker, the Congress must address itself to the problem of crippling work stoppages.

Whether it be the postal system or railroads, the steel mills or hospitals, the airlines or garbage collection, the situation resulting from widespread work stoppages is potentially dangerous, if not catastrophic.

It is abundantly clear that our present institutional machinery for the settlement of these kinds of labor disputes is inadequate. Moreover, Congress is manifestly ill-equipped to legislate labor contracts for the railroads, just as it has done a poor job of establishing equitable pay scales for the thousands of individual postal workers across the country.

What is needed, in my judgment, is a separate and permanent procedure for the determination of disputes which the parties themselves, after exhausting all other procedures, are unable to resolve.

On February 18, I introduced legislation that would expand our machinery for dealing with such disputes. H.R. 15956 would establish a U.S. Court of Labor-Management Relations which would serve as a backstop in the collective-bargaining process and protect the public interest against the devastating consequences of a protracted work stoppage in industries affecting the general welfare, health, or safety.

On February 27, the President sent a message to the Congress recommending the enactment of emergency strike legislation but restricted its application to the transportation industry. Of course, the consequences that would accompany any nationwide transportation shutdown would be most serious. But I believe that meaningful legislation addressed to the problem of work stoppages should, if at all possible, be broader in scope.

Today, I am reintroducing this measure with the following distinguished cosponsors: Mr. MCCULLOCH, Mr. GOODLING, Mr. LUKENS, Mr. MIZE, Mr. ROBISON, and Mr. STEIGER of Arizona.

Mr. Speaker, it is imperative that the Congress act on this or other emergency strike legislation as quickly as possible. I welcome the support of my colleagues who wish to join me on the measure.

H.R. —

A bill to provide for the establishment of a United States Court of Labor-Management Relations which shall have jurisdiction over certain labor disputes in industries substantially affecting commerce.

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 "United States Court of Labor-Management Relations".

DECLARATION OF PURPOSE AND POLICY

SEC. 2. The Congress finds, and hereby declares it to be the policy of the United States—

(a) that sound and stable industrial peace and advancement of the general welfare, health, and safety of the Nation and of the best interests of employers and employees can most satisfactorily be secured by the settlement of issues and disputes between employers and employees through the processes of conference and collective bargaining between employers and the representatives of their employees;

(b) that the settlement of issues and disputes between employers and employees through collective bargaining should continue to be advanced by and through full and adequate governmental facilities for conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts to settle their differences by mutual agreement reached through conferences and collective bargaining, or by such methods as may be provided for in any applicable agreement for the settlement of such disputes; and

(c) that when such differences or disputes cannot be settled and resolved and when such differences or disputes result in a threatened or actual strike or lockout in an industry or industries substantially affecting commerce, or engaged in the production of goods for commerce, and when such threatened or actual strike or lockout, if permitted to occur or to continue, will adversely affect the general welfare, health, or safety of the Nation, then the same must be expeditiously enjoined and finally settled, on the basis of law, equity, and justice, in a duly established and impartial court, consisting of judges trained and experienced in law and in the fields of economics, industrial relations, and the peaceful settlement of disputes.

CREATION AND ORGANIZATION OF THE COURT

SEC. 3. (a) The President shall appoint, by and with the advice and consent of the Senate, a chief judge and four associate judges who shall constitute a court to be known as the United States Court of Labor-Management Relations (hereafter referred to in this Act as the "court"). Such judges shall be appointed solely on the grounds of fitness to perform the duties of the office and shall hold office for a term of twelve years (except that of the judges first appointed one judge as designated by the President shall hold office for a term of four years, one judge as designated by the President shall hold office for a term of eight years, and the chief judge as designated by the President shall hold office for a term of twelve years, from the date of the appointment of the first judge under this Act).

(b) The chief judge of the court shall receive the same compensation (including retirement) as is received by the chief judge of a United States district court and each of the associate judges of the court shall receive the same compensation (including retirement) as is received by judges of a United States district court.

(c) The principal seat of the court shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place.

(d) The court may appoint and fix the compensation of such officers and employees, and may incur such other expenses, as may be necessary to enable it to carry out its functions.

(e) The court with the concurrence of a majority of all the judges thereof may appoint one or more standing or special masters to which the court may refer actions pending before it under such terms and conditions as the court may fix by rule. The order of reference to the master may specify or limit his powers and may direct him to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order.

JURISDICTION OF THE COURT

SEC. 4. (a) The court shall have jurisdiction only over labor disputes in industries substantially affecting commerce that have resulted in, or threaten to result in, a strike, lockout, or other concerted work stoppage which adversely affects, or if permitted to occur or to continue, will adversely affect the general welfare, health, or safety of the Nation.

(b) The jurisdiction of the court may be invoked—

(1) upon application of the Attorney General of the United States, on behalf of the President, only after all other procedures for enjoining such strike, lockout, or other concerted work stoppage under the Labor-Management Relations Act of 1947, and the Railway Labor Act have been exhausted; or

(2) upon application of any party to such labor dispute, regardless of the availability of alternate procedures for settling such dispute.

POWERS AND DUTIES OF THE COURT

SEC. 5. (a) Whenever the jurisdiction of the court is invoked the court may, pending final resolution of such dispute, enjoin such strike, lockout, or other concerted work stoppage, or other continuance thereof, and make such other orders, including orders affecting rates of pay and working conditions, as may be necessary or appropriate.

(b) Whenever the court has issued an order, as provided by subsection (a), it shall be the duty of the parties to the labor dispute giving rise to such order, in addition to any other duties imposed upon them by law or by their collective bargaining agreements, to make every effort, under the supervision and direction of the court (which shall have continuing jurisdiction over the dispute and the parties thereto) to adjust and settle their differences.

(c) During the period commencing on the date of the order issued by the court under subsection (a), with respect to any labor dispute and ending not more than eighty days after such date, the court may require the parties to attend hearings and produce testimony and documentary evidence with respect to the causes and circumstances of the dispute, and to attend conferences or sessions of the court in order to consider and discuss the positions of the parties and possibilities or proposals for settlement; and the court may make such orders as are necessary or appropriate to require the parties, or any of them, to make every effort in good faith voluntarily to adjust and settle their differences.

(d) If, at the conclusion of the period referred to in subsection (c), the parties have not voluntarily adjusted and settled all of the disputes, issues, or differences which resulted in the granting of the injunction of the court, or if the parties fail or refuse voluntarily to agree to continue to attempt to adjust and settle such disputes, issues, or differences subject to the continued effectiveness of the injunction issued by the court and to the court's continuing supervision over such settlement attempts, the court shall thereupon, on its own motion, continue such injunction in full force and effect and set the matter down for immediate hearings and final determination by the court on the merits of the dispute or controversy. If the parties agree to continue, after the expiration of such period, to attempt to negotiate a

settlement, subject to the court's continuing supervision, and thereafter advise the court that a negotiated settlement is impossible, then the court shall, at the time it is so advised, continue the injunction in effect and set the case down for immediate hearing and determination by the court.

(e) Whenever the court sets a case down for final determination it shall afford the parties a reasonable opportunity to present all facts and arguments in support of their respective positions regarding the issues in the case. After hearing all such facts and arguments, the court shall make a final determination of all issues in the case and shall enter a final judgment which will settle all such issues. The court shall have the power to settle and establish in such judgments, among other things, rates of pay, hours and conditions of work, and any other matters proper and necessary to a determination of the dispute or controversy.

(f) Any final judgment, order, or decree of the court shall be the subject of a full written opinion in each case, containing a statement of the facts which the court finds and the legal principles and standards which the court uses as a basis for such judgment, order, or decree.

(g) In making a final determination of any case with respect to which there is in effect a valid collective bargaining agreement or other valid contract defining the rights, duties, and obligations of the parties to the case, the power of the court, with respect to any matter in dispute which is governed by any such agreement or contract, shall be limited to applying or interpreting such agreement or contract, and the application or interpretation of such agreement or contract by the court shall be final and binding on the parties. In any case wherein the court is required to fix rates of pay or other conditions of employment in order to resolve the disputes or controversies between the parties, the court shall have the power to fix only such rates or conditions as, on the basis of the evidence submitted, are fair and equitable to both employers and employees taking into consideration, among other things, the financial condition of the employer, the wages and other conditions of employment in comparable enterprises, and changes in labor productivity. In all cases, the court must consider, as a primary factor, the national and public interest involved in a fair and just settlement which will promote, to the greatest extent possible, fair, equitable, and workable industrial relations between the parties in the future.

(h) No decree of the court relating to rates of pay or conditions of employment shall be retroactive to a date prior to the date that such rates of pay or conditions of employment ceased to be governed by a valid collective-bargaining agreement or other valid contract between the parties; and, in any case, the question of retroactivity shall rest in the sound discretion of the court.

(i) Any judgment, order, or decree of the court shall be effective for such period as may be specified in such judgment, order, or decree or until such time as the court shall thereafter vacate or discharge the same, whichever first occurs. The court shall forthwith vacate any judgment, order, or decree entered by it whenever (1) it shall determine that any work stoppage which might occur as the result of the vacation of same will not adversely affect the general welfare, health, or safety of the Nation, (2) it shall determine that, by reason of a collective bargaining or other agreement, the parties have voluntarily settled the issues in dispute between them to such an extent that the vacation of any such judgment, order, or decree would not result in a work stoppage which would adversely affect the general welfare, health, or safety of the Nation, or (3) the Attorney General of the United States makes a motion for the vacation of such judgment, order, or decree, which motion is supported by a certification of all the parties to the dispute or controversy that the granting of the motion will not result in a work stoppage which will adversely affect the general welfare, health, or safety of the Nation.

(j) The decisions of the court shall be final, unless they are arbitrary and capricious or are violative of a right conferred by the Constitution of the United States, in which case the Supreme Court shall have exclusive jurisdiction upon petition for a writ of certiorari.

(k) The court and each judge thereof shall possess all the powers of a district court of the United States for preserving order, compelling the attendance of witnesses and the production of evidence, and the provisions of section 401 of title 18, United States Code (relating to authority to punish for contempt), and section 1651 of title 28 of such Code (relating to the issuance of writs) shall be applicable to the court. Process of the court may be served within the territorial jurisdiction of any court of the United States.

(l) The proceedings of the court shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the court may prescribe and, so far as practicable, in accordance with the rules of evidence applicable in the district courts of the United States under the rules of procedure for such district courts.

SUSPENSION OF ADMINISTRATIVE PROCEEDINGS

SEC. 6. Whenever a matter before any agency or board established by the United States is the subject of a proceeding in the court, the agency or board, if so ordered by the court, shall suspend all proceedings in such matter pending further action by the court. If proceedings in a matter are so suspended that they may be resumed by the agency or board only if (and to the extent that) an order of the court so provides.

DEFINITIONS

SEC. 7. When used in this Act—

(a) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between the District of Columbia or any possession of the United States and any State or other possession, or between any foreign country and any State, possession, or the District of Columbia, or within the District of Columbia or any possession or between points in the same State but through any other State or any possession or the District of Columbia or any foreign country.

(b) The term "industry substantially affecting commerce" means any industry or activity in commerce or any industry or activity in which a labor dispute would substantially burden or obstruct commerce or substantially tend to burden or obstruct commerce, or the free flow of commerce.

(c) The term "labor dispute" means any dispute, concerning terms, tenure, or conditions of employment between an employer and his employees or their duly designated representatives.

(d) The term "party" means (A) the employer, or (B) any labor organization the representatives of which are designated or selected for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purposes.

(e) The term "employer" includes any person acting as an agent of an employer, but shall not include the United States, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(f) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, and shall include any individual whose work has ceased because of any labor dispute, and who has not obtained any other regular and substantially equivalent employment.

TECHNICAL AMENDMENTS

SEC. 8. (a) Sections 206, 207, 208, 209, and 210 of the Labor-Management Relations Act of 1947 (relating to national emergencies occasioned by strikes or lockouts), are hereby repealed.

FEDERAL JUDICIAL CENTER

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Virginia (Mr. POFF) is recognized for 10 minutes.

Mr. POFF. Mr. Speaker, under the leadership of Mr. Justice Tom Clark, retired, the Federal Judicial Center has just issued its second midyear report addressed to the Judicial Conference of the United States.

I am much impressed with the work of the Center and I am anxious to share the important data in this report with my colleagues. Accordingly, I quote herewith the full content of the report:

SECOND MIDYEAR REPORT OF THE FEDERAL JUDICIAL CENTER TO THE JUDICIAL CONFERENCE OF THE UNITED STATES, MARCH 16, 1970

This abbreviated report covers the period October 1969 to March 1970. The Annual Report of the Center circulated to Conference members before its Fall session reports on Center activities for the year preceding.

I. THE BUDGET

The Fiscal 1970 budget, as finally approved, is $600,000, double the previous fiscal year. It is divided as follows: $246,000 for personnel; $18,000 for personnel benefits; $126,000 for education and training; $13,000 for communications and postage; $9,000 for printing; $179,000 for contractual research studies; $8,000 for supplies and equipment, and a $1,000 amount for any miscellaneous expenditures. The budget request for Fiscal 1971 is $975,000, an increase of $375,000 as follows: $110,000, personnel compensation and benefits; $50,000, education and training; and $215,000, contractual research, systems development, innovation, etc.

II. DISTRICT COURTS ADOPTING INDIVIDUAL CALENDAR

(1) *District of Columbia Individual Calendar Criminal Docket Project:* The entire criminal docket was divided between eight judges on October 1, 1969. With a total of 2,224 cases pending during the next three months period, the eight judges reduced the docket of 947 active cases by January 1, 1970, not including 320 fugitive and mentally committed defendants which were non-triable. This cut the criminal docket in two. On this basis this docket will be current by July 1, 1970. The judges attribute this record to the use of the individual calendar, the permanent assignment of two assistant U.S. Attorneys to each judge, the cooperation of counsel, omnibus pretrial hearing techniques, and hard work by both judges and counsel. The Center is now providing by contract with Computer Retrieval Systems, Inc. computerized reports to the judges and a permanent criminal calendar control for

the District. The judges are considering the extension of the individual calendar to the civil docket.

(2) *Eastern District of Pennsylvania Individual Calendar:* After conducting a Center project on individual calendaring in the last quarter of 1969 the District voted to change its entire docket to the individual system as of October 1st. Civil dispositions increased 65% in the next quarter over the comparable period in 1968. The 7,000 case backlog should be current by July 1, 1971. (By "current" is meant a backlog of about 250 cases per judge.) Criminal cases are reached in four to six weeks with an average of 32 criminal cases per judge pending—one-half of the national figure. (Criminal calendars are "current" when tnere are 30 to 35 cases pending before each judge.)

(3) *Southern District of New York Individual Calendar Project:* By action of Chief Judge Sugarman pursuant to a vote of the judges, on October 1st four judges volunteered to test out the use of the individual calendar. Each judge was assigned his pro rata of the 13,000 civil and 2,500 criminal cases on the docket, which ran about 600 civil and slightly over 100 criminal cases. All four judges report that their criminal dockets are now current. Civil calendars have been reduced about 50% by total number of cases and each of the four judges should be current by July 1, 1970.

(4) *Eastern District of New York Individual Calendar:* This district also changed to the individual calendar on October 1, 1969, and now shows civil dispositions running 25% higher than the comparable period of 1968. The criminal docket runs about ten less cases per judge than the national average. This should improve with the staffing of the U.S. Attorney's Office.

(5) *Northern District of California Individual Calendar:* This district likewise changed to the individual calendar on October 1st. Criminal dispositions increased during the last three months of 1969 over the comparable period of 1968 by 25%, while the civil case closings were 52% higher. However, filings increased appreciably. The criminal docket is now well below the national average and the civil docket should be current in 18 months.

(6) *District of Minnesota Individual Calendar:* This district has also switched to the individual calendar and reports that its dockets are current.

III. THE COURTS OF APPEALS PROGRAMS

(1) *Meeting of the Chief Judges:* The fourth meeting of the Chief Judges of the Courts of Appeals will be held at the Federal Judicial Center on March 18, 1970. The Chief Judges have found these meetings (held in conjunction with the Judicial Conference dates) to be helpful in discussing mutual problems. In addition, they have furnished a forum for an exchange of techniques, ideas and improved procedures. The subjects cover such matters as records on appeal, screening, motions, clerical functions, use of law clerks, summary dispositions, opinion writing, rules, circuit councils, etc.

(2) *Screening in the Fifth Circuit:* This project has been so successful that the Circuit is having difficulty in finding sufficient cases for April. The latest statistic shows that 40.9% of the cases are disposed of without argument. Civil cases lead this list, habeas corpus and Sec. 2255's are next and criminal appeals are third. Prior to screening, 1,300 cases required 48 weekly sittings while presently 1,775 filings are disposed of in 40 weeks of argument. In short this means that two weeks of sittings have been cut off of each judge's load (about 25%) and the use of judges outside the Fifth Circuit entirely eliminated. The Supreme Court has denied certiorari in three cases in which the screening practice was attacked.

(3) *Delay in the Filing of Transcripts:* The Circuits are especially interested in reducing the delay on transcripts. The Fourth Circuit has drawn some tentative rules requiring appeals to be perfected without full transcripts with the right to enlarge on motion of the parties or the court.

In addition, the Center has been developing the use of "readers" for stenotype reporters which will eliminate some of the delay. Finally, experiments in tape recording are being organized in some of the Districts.

(4) *The Tape Recording of Courts of Appeals Argument Sessions:* The use of tape recorders in Courts of Appeals courtrooms is being explored in some of the Circuits. Through this device the necessity for the keeping of minutes of these sessions by the Clerk and the time of law clerks devoted to attending the sessions might be eliminated.

IV. RESEARCH PROJECTS

(1) *Automobile Accident Study for Department of Transportation:* The Center has now completed its report, based on findings of the Mitre Corporation which contracted with the Center to conduct an empirical study of the problem. It will not be made public presently but when accepted by the Department of Transportation will be circulated to the Conference.

(2) *Weighted Caseload Index:* The District Judges time study which began in October 1969, was concluded March 1st. The contractor for the Center, the Graduate School of the Department of Agriculture, will computerize the judges' work sheets and, in conjunction with the Subcommittee on Statistics of the Judicial Conference, prepare an index for all categories of cases. This index will then be tested out for refinement purposes before its adoption. The extremely high percentage of participating District Judges is not only greatly appreciated but should make for an extremely accurate index, which in turn will not only be helpful to the judges but also in budgetary problems.

(3) *Post Conviction Remedies Report:* The first tentative draft has been submitted by William and Mary Law School to the Center and circulated to the State-Federal Relations Advisory Committee. Comments have been received from the committee members and forwarded to the Law School. Work continues and the final draft will be released in late March of 1970.

This report will be the most thorough and comprehensive inquiry into the operation of post conviction review procedures in the state courts. It should be of great value as background for continuing discussions between state and federal courts. It is hoped that such discussions, aided by the work of this study, will cut down on the filings of state habeas corpus petitions in federal courts.

(4) *Prison Legal Assistance Clinics at Law Schools:* The Center has expanded this project in federal prisons since the need for the service has been demonstrated and its operation shown to be of direct benefit to the courts. The wardens report that these activities are highly desirable, that inmate morale is improved, and administrative problems reduced. While the programs are just beginning we find that numerically the federal prisoner petitions are reduced, those that are filed are more substantial, and the moving papers are better prepared. The projects now include: Danbury Prison (Yale); Alderson Reformatory for Women (Washington & Lee); Terminal Island (UCLA); Lompoc (USC); McNeil Island (University of Washington); Leavenworth (University of Kansas); Atlanta Prison (Emory); and Springfield Medical Center (University of Missouri). The Center staff have kept in touch and coordinated with the Bureau of Prisons and with law schools and bar associations in order to provide the necessary service without duplication or overlapping. Research connected with these services will be aimed at quantifying the impact on court work loads, attitudinal changes of prisoners, and impact on prison administration.

(5) *Probation Case Aide Project:* The Center continues to support and work with this project being conducted by the University of Chicago and the Northern District of Illinois. The project is aimed at acquiring the necessary experience upon which to develop volunteer and non-professional caseworkers in the rehabilitation of criminal offenders. It offers great promise in the probation area.

(6) *Probation Supervision; San Francisco Project:* Working with the Probation Division of the Administrative Office, the Center is collecting data in five districts on offenders subjected to degrees of supervision. The objective of the project is to enlarge our knowledge about the relationship between varying degrees of supervision and successful probation experience. This knowledge will permit the more efficient use of the limited resources presently available to the supervision of offenders.

(7) *Presentence Investigation Procedures:* The first of several inquiries into presentence investigation and report practices is a Center report done by contract with the *Georgetown Law Journal* on investigations before conviction. The report deals with the manner in which such investigations are conducted, their utilization in the districts that follow the practice, and an analysis of the legal problems present. The report is in press at Georgetown. Additional distribution will be made when available by the Center to judges and probation officers.

(8) *Judge's Bench Book:* The Judge's Bench Book has now been distributed to all federal judges. As new District Judges are appointed the Book is sent them. The Bench Book Committee made up of Judges Dooling, Maxwell, and Will, will meet again on March 14, 1970, at the Center, to discuss the method to be followed in keeping the Book current. The overwhelming response from the federal judges gives reason to believe that the Bench Book is of great service to them. There have been numerous requests for the Book, other than from the federal judges, but it has been the policy of the Center to restrict distribution to the federal judiciary.

(9) *Complex and Multidistrict Litigation Manual:* Under the sponsorship of the Federal Judicial Center a Board of Editors appointed by the Director has prepared a manual to preserve the experience that has been gained in recent cases of multidistrict and complete litigation. The Board of Editors (Judges Clary, Boldt, Estes, Robson, Becker, Will, Zirpoli and Wyatt) has prepared a manual designed to provide guideposts to judges handling such litigation for the first time. The manual has been published by Mathew Bender as a part of Moore's Federal Practice and by Clark Boardman Company as a separate loose-leaf publication. The Editors constantly review and update the materials. The first supplement is now in preparation and should be printed in mid-summer.

A study of the problem of class actions is now being conducted by Professor Charles Wright of the University of Texas and his staff.

(10) *Research on the Manual for Magistrates:* The Institute of Criminal Law of Georgetown University is collaborating with the Center and the Administrative Office in the research necessary for the preparation of a manual for the new magistrates.

(11) *Geographical Reorganization of the Circuits:* A survey covering the geographical reorganization of the circuits is being or-

ganized with the Trial Practice Committee of the Judicial Conference. It should be ready for distribution at the Fall meeting of the Conference.

V. EDUCATION AND TRAINING

(1) *Magistrates:* The Center presented a program on the Magistrates Act at each of the 1969 circuit judicial conferences. In addition to the District Judges of those districts having pilot magistrate projects the panels at these meetings included the new magistrates themselves and the Directors of the Center, Administrative Office and of Education and Training.

(2) *Seminar for Magistrates:* The first Seminar for Magistrates will be held at Dolley Madison House on May 7–9, inclusive. The program has been designed to cover subjects of concern to the Magistrates in the discharge of their day-to-day responsibilities, including such topics as Search Warrants, Preliminary Hearings, Bail, Omnibus Hearings, Pretrial Conferences, etc. All of the Magistrates presently in office and four Clerks will attend.

(3) *Seminar for Newly Appointed District Court Judges:* Thirty District Judges, recently appointed or who had not previously attended such a seminar, met at the Center on January 23–31, 1970, for the Ninth District Judges Seminar. A copy of the schedule showing subjects, hours, and the names of "faculty-judges" participating is attached. Chief Judge Alfred P. Murrah, who has always been our seminar Chairman, declared the seminar the best yet. Questionnaires to all of the student-judges have now been returned and all agree that the seminar was highly successful. The faculty-judges report that this is the most responsive and eager class in their experience. The Center is grateful to Chief Judge Murrah and the other faculty-judges who participated. All were District Judges, save two from the Court of Appeals.

(4) *Circuit Judges' Seminars:* Two seminars for the Circuit Judges of two and one-half days each were held in February of 1970, with a total of 54 student-judges attending, most of whom were recently appointed. These were the first Circuit Judge seminars ever held. The schedule, which was identical for each, is attached. The faculty were all recruited from the Courts of Appeals save for two Circuit Clerks and two prominent educators, Bernard Witkin and James C. Quarles. While the questionnaires, which were mailed to the student judges, have not yet been returned, the Center has received enthusiastic letters from practically all of them. Our appreciation goes out to all of the faculty judges for their dedicated service.

(5) *State-Federal Relations Committee* [Chief Justices Taft, Knutson, Kenison and Ethridge; Pringle and Burke, Associate Justices]: Following through with the suggestions of members of this committee, the Director contacted all the Chief Justices of the states to inquire whether they felt meetings jointly attended by federal and state judges would be mutually beneficial. Their replies indicate that such meetings would be helpful. The main problem areas to both state and federal courts are engaged counsel, release of prisoners for trial in the other jurisdiction, review by the federal courts of state convictions, procedures involving prisoners convicted on both state and federal offenses, joint use of computerized juror lists, and data banks on habeas corpus filings in state and federal courts [Title 28 U.S.C. Sec. 2254]. Plans are currently being made for several seminars, some state-wide and others on a regional basis. At the suggestion of the Executive Committee of the Appellate Judges Conference, the Director has also initiated plans for a State-Federal appellate judges' seminar, tentatively scheduled for November at the Center, which would be attended by Supreme Court Justices of the States and Federal Courts of Appeals Judges.

(6) *Implementation of Minimum Standards for Criminal Justice:* In 1970 the Center will conduct programs at four Circuit Conferences, i.e., Fifth, Seventh, Eighth, and Ninth, on the ABA Minimum Standards for Criminal Justice. In addition, copies of the Standards, when requested, are sent to each judge with a recommendation that the same be cited in appropriate opinions.

(7) *Probation Officers' Training Program:* The Center in conjunction with the Administrative Office is studying the reorientation of probation officers' training programs. In conjunction with Ben Meeker, Chief Probation Office of the Northern District of Illinois, a format is being designed that will be oriented to the needs of the probationers and the probation officers as well. It will be tested out at the next seminars of the Service.

(8) *Sentencing Techniques:* Conferences have been held with Chairman Reed of the Parole Board and the Director of the Bureau of Prisons in an effort to devise a program that will keep the judges informed as to the action of these agencies with relation to prisoners sentenced by the judge. The Board is organizing a study to demonstrate new scientific dimensions in parole decision making. The cooperation of the Center and the Administrative Office has been requested and granted.

The object of the Center is not only to give sentencing techniques a higher priority but to review sentencing in the light of prison activity and parole decision making with a view to trial correlation. In cooperation with Chief Judge Hoffman, Chairman of the Judicial Conference Committee on the Administration of the Probation System, the Center proposes to organize a combination study and training program in presentence reports, the use of various alternatives in sentencing and their relationship to the parole and probation of the prisoner. The cooperation of the Prison Bureau and the Parole Board in such programs will furnish new light and enable the judges to perform the sentencing function with greater certainty and understanding.

VI. INNOVATION AND SYSTEMS DEVELOPMENT

(1) *North American Rockwell Report:* Since this report was circulated to the Chief Judges, the Center has received dozens of requests for copies of it. Since we did not have copies and a reprint job of the two volumes would have been very costly, a 50-page summary was prepared and has been mailed to every Circuit Court and District Court Judge. The major recommendation of the report was that a separate and distinct organizational structure be established for administration and management of all judicial support activities. This recommendation included establishing the position of a U.S. Courts Executive and the training and assignment of Court Executives to each Circuit and to each large District Court. The latter recommendation was very much in line with the Bill currently pending in Congress and the creation of the Institute for Court Management. The report emphasizes that an improved management system is necessary to achieve more uniformity and to enhance the performance of Clerks' Offices throughout the federal system. Many other areas of court organization and administration were reviewed and recommendations for improvement were made for each of these areas. The survey team concluded that a better information system and improved statistical measures were required in almost every area of court administration. However, it was emphasized that only through the use of computers will it be possible to meet many of the identified needs. Mr. Joseph Ebersole, who was in charge of the North American Rockwell survey team which prepared the report, has now taken a position at the Center as its Director of Innovation and Systems Development. In this position he will be responsible for planning and guiding the implementation of many of the recommendations contained in the report.

(2) *Work Measurement Study:* In November of 1969 the National Archives & Records Service (NARS) submitted to the Center its report on this project. The study was made to determine the feasibility of establishing a series of work standards for measuring and quantifying the clerical work performed by the Clerks of Court. The standards were proposed to be used as guides for staffing Clerks' Offices, and to be used as a basis for recommended improvements in current office methods and procedures. Sixteen District Courts were used as the basis for the study, jurisdictions felt to be representative of a cross section of the federal court system throughout the country. Composite flow charts of case-processing procedures in Clerks' Offices have been drafted and submitted with the report, which has now been distributed to the Chief Judges of all 16 districts. The major finding of the study was that "the essential similarity does not exist today among the U.S. Courts to the degree necessary for a workable work measurement system." However, it was stated that enough data was obtained to be able to clearly demonstrate that such a system is feasible and can be effectively applied in the management of the U.S. Courts. Since the basic steps in the processing of cases are essentially identical, the report recommended there be a centrally coordinated effort to develop and apply common court management practices and uniform clerical procedures. The first step in such an effort would be the development of a model Court Clerk's Office system which would be refined and proven by field operations in one court and would then be applied in other courts.

In pursuance of this objective, the Center is now funding the development of a model system in the District Court of the Northern District of California. On February 10, 1970, the Director, accompanied by the NARS team working on this project, at the invitation of Chief Judge Harris of the Northern District of California, met with all the District Judges in this jurisdiction to discuss implementing some of the recommendations contained in this report. The judges are enthusiastic and cooperative and work is moving along quickly to start a program which is expected to be completed by spring or early summer of 1970.

(3) *Louisiana Eastern Pilot Computer Project:* A master computer file of information on all pending civil cases has now been completed. At the present time we are engaged in the preparation of computer programs which will produce several experimental judicial management reports. These reports will be reviewed for management usability by the Judges and key members of the Clerk's Office. In addition, an analysis of civil system capabilities will be made to determine other specific applications in the civil case management area. The initial design of a master computer file for criminal case information was completed last month and a review of design applications is being made by Center personnel to determine the initial product which should be generated by this part of the total system. Mr. Geiger of the Center has spent considerable time in this court over the past nine months in developing the experimental approach to

this project. He is leaving the Center this month to accept a position with private industry and we are now negotiating with a computer systems expert who will fill his slot and continue the development work on the Louisiana Eastern project.

(4) *Southern District of New York Monitoring:* The Center has started a project in this court for the purpose of monitoring and evaluating the implementation of the individual assignment pilot project. In addition to preparing an evaluation report, the project will involve working with the Clerk's Office in order to determine and recommend changes which could result in improved operations. As a key element in the project approach, coordination will be maintained with the NARS project in California Northern and the computer project in Louisiana Eastern in order to determine the applicability of developments of these projects to the New York Southern Court. Mr. Harvey Solomon, who recently joined the Center, will be spearheading this project. Mr. Solomon was in practice for eight years before returning to Harvard for his Masters in Public Administration. After receiving this degree, he worked for a year and a half as a key member of the staff which performed the Management Study of the District of Columbia Courts.

(5) *Survey of Juror Management Systems:* In mid-February the Center discussed with the Public Systems Management Services Division of the Westinghouse Electric Corporation, the possibility of that company undertaking, at no cost to the Center, a preliminary study of juror management and utilization in selected District Courts. It is contemplated that the preliminary study will focus on four or five of the District Courts spending the most on juror services. The proposed survey will document the juror management techniques used in each court and as part of the analysis will develop detailed recommendations for a thorough study of the areas offering potential improvement and saving. A target date for completion of the survey is April 15, 1970.

(6) *District of Columbia Criminal Docket Management:* The Center has contracted with Computer Retrieval Systems, Inc. for the development and operation of a series of computer programs which will produce judicial management reports for the criminal part of the court. Several months ago, Computer Retrieval Systems on a non-cost basis developed some initial reports as an experiment. The judges on the criminal individual assignment calendar found them to be extremely useful. As a result of this successful experience some additional reports were requested which would provide increased assistance to the judges. The project will continue until at least June 30, 1970, at which time the computer programs developed as a part of the contract will be turned over to the court for operation. During the period of the contract, Computer Retrieval Systems, Inc. will prepare all the reports for the court. The judges are enthusiastic about the project and the Clerk's Office is designating personnel who will work full time with the contractor to gain experience that will enable them to continue the reporting system after the contract is completed.

VII. OFFICE OF THE PROFESSIONAL ASSISTANT

(1) *Publications: The Third Branch.* This bulletin continues to be published bimonthly and mailed to approximately 4,500 individuals including federal judges and their supporting personnel, law libraries, deans of law schools, the Chief Justices of the States, etc. The mounting requests for copies indicate that it is widely read in many areas of the law both at home and abroad.

The Federal Judicial Center Report is an official publication of the Center and will contain articles and reports related to the Center work which deserve permanent binding and preservation. It serves a different purpose than the bulletin, which is aimed more at keeping its readers abreast of current developments.

(2) This office is charged with the fiscal affairs of the Center, including the preparation of the budget figures, writing the justifications for the budget, and making available to the Director monthly reports on expenditures.

(3) The personnel of the Center come under the supervision of the Professional Assistant, whose responsibility includes not only the handling of special legal matters and assistance to the Director, the compilation of the *Center Report* and the *Third Branch,* but covers budgetary and general management operations. The fiscal details are under the Administrative Office.

VIII. SPECIAL ACTIVITIES

(1) *Customs Court Bill:* The Center, at the request of the Customs Court and the Treasury and Justice Departments, consulted and assisted in the drafting of the Act reorganizing the Customs Service and Court currently pending in Congress. S. 2624 has now passed the Senate and is awaiting House action. The Director recently testified on this Bill, at the request of the House Judiciary Committee.

(2) *National Court Assistance Act:* At the request of the Senate Judiciary Committee the Director testified on the merits of this Act on February 27, 1970.

(3) *National Commission on Reform of Federal Criminal Law:*

The Director is acting as Chairman of the Advisory Committee to this Commission. A preliminary report of the Commission is expected in the next few weeks. The Center is cooperating with the Commission in the matter.

CONCLUSION

This month will mark the second year of existence of the Center. Its activities, the cooperation of all of the judges and the fervor of all participants in its work expresses more clearly than any report the high esteem that the Center enjoys. It has made a lasting impact on the federal judiciary and is an exemplar in the field of judicial administration. With the continued support of the judges its place in the judicial firmament shall never be denied.

It has been a personal pleasure to serve as the Center's first Director. I give up the post with appreciation for having had the opportunity to serve in this important capacity and with grateful thanks to all who have so generously contributed to the Center's cause. There can be no higher calling. I wish for my successor all that I had hoped for myself.

Respectfully submitted.

TOM C. CLARK,
Director.

SEMINAR FOR NEWLY APPOINTED U.S. DISTRICT COURT JUDGES, WASHINGTON, D.C.

Hours	Friday Jan. 23	Saturday Jan. 24	Sunday Jan. 25	Monday Jan. 26	Tuesday Jan. 27	Wednesday Jan. 28	Thursday Jan. 29	Friday Jan. 30	Saturday Jan. 31
8:30 a.m.	Introduction: Murran, C. J.	Trial of a law suit, civil and criminal, jury and nonjury. Arraj, C. J.; Murray, J.; Real, J.	Free time.	Bail and commitment. Hunter, J.; Gasch, J.	Post conviction. Hunter, J.; Hopkins, J.	Administrative Office: Ernest Friesen.	Federal Judicial Center projects: Joseph Ebersole, Dr. John Holden, Mr. Ralph Stauber, Mr. Dale Stauder.	Community relations. Wright, J.; Devitt, C. J.	Discussion and conclusion.
9:00 a.m.	Welcome: The Chief Justice.								Closing remarks: the Chief Justice.
9:30 a.m.	Proceedings before trial.								
10:00 a.m.	Will, J.; Crary, J.; Rubin, J.								
10:30 a.m. to 10:45.	Coffee break.	Coffee break.		Coffee break.	Coffee break.	Coffee break.	Coffee break.	Coffee break.	Coffee break.
11:00 a.m.	Proceedings before trial.	Trial of a law suit.		Sentencing. Hoffman, C. J.	Magistrates. Stanley, C. J.	Federal Judicial Center: Mr. Justice Clark. Handling 3 Judge Court. Will, J.	Multidistrict Litigation: Becker, C. J.	Circuit Court-District Court relations. Feinberg, J.; Tyler, J.	Closing and adjournment: Mr. Justice Clark.
11:30 a.m.									
12:00 noon	Will, J.; Crary, J.; Rubin, J.								
12:30									
1:00 p.m. to 2:00 p.m.	Lunch.	Free time.		Lunch.	Lunch.	Lunch.	Lunch.	Lunch.	Adjournment.
2:00 p.m.	Study period.			Study period or elective: Patent-Copyright. Rich, J.; Lane, J.	Study period or elective: Antitrust. 2–3:30 p.m. Gesell, J. 3:30–4:30 p.m. Estes, C. J.	Handling difficult cases. Macmahon, J.; Wilson, C. J.; Robson, J.	Study period or elective: Admiralty. Dooling, J.	Study period.	
2:30 p.m.									
3:00 p.m.									
3:30 p.m.									
4:00 p.m.									
4:30 p.m.									
5:00 p.m.									
5:30 p.m.	Group discussion.			Group discussion.	Group discussion.	Group discussion.	Group discussion.		
6:00 p.m.									
6:30 p.m.									
7:00 p.m.									
7:30 p.m.	Reception for seminar participants and wives. Dolley Madison House. Informal.		7:00–9:00 p.m. Group discussion.	8:00–10:00 p.m. Reception for seminar participants and wives. State Department. Informal.				Banquet at Supreme Court. Black tie preferred.	

SEMINAR FOR NEWLY APPOINTED U.S. DISTRICT COURT JUDGES, WASHINGTON, D.C.—Continued

Hours	Thursday, Feb. 26	Friday, Feb. 27	Saturday, Feb. 28
9:00 a.m.	Introduction of participants: Mr. Justice Clark—Chief Judge Murrah Welcome: The Chief Justice	Opinion writing: Chief Judge Bailey Aldrich Dean James C. Quarles Bernard Witkin, Esq.	The function of the circuit council and its powers: Chief Judge Alfred P. Murrah Judge Griffin B. Bell
9:15 a.m.	Organizing the work of the Court of Appeals; Handling 3 judge cases: Judge Frederick G. Hamley Judge Albert V. Bryan		
9:30 a.m.			
10:00 a.m.			
10:30–10:45 a.m.	Coffee break	Coffee Break	11:00–11:15: Coffee Break
10:45 a.m.	Organizing the work of the Court of Appeals; Handling 3 judge cases.	Opinion writing: Continuation.	Discussion of special problems concerning individual judge; Summary and Conclusion: The Chief Justice.
11:00 a.m.			
11:30 a.m.			
12:00 noon			
12:30–1:30 p.m.	Lunch	Lunch	Adjournment
1:30 p.m.	Control of the Dockets: Judge Griffin Bell Chief Judge Harry Phillips	Administration of the Court: Chief Judge J. Edward Lumbard Daniel A. Fusaro, Clerk, CA–2 Thomas F. Quinn, Clerk, CA–3	
2:00 p.m.			
2:30 p.m.			
3:00 p.m.			
3:30–3:45 p.m.	Coffee break	Coffee break	
3:45 p.m.	The Record on Appeal: Judge Albert V. Bryan Judge Griffin B. Bell	Relationship between the Court of Appeals and District Court: Chief Judge Lumbard Judge Harold R. Tyler, Jr.	
4:00 p.m.			
4:30 p.m.			
5:00 p.m.			
5:30 p.m.			

IPI APPEALS TO PUPILS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BYRNE), is recognized for 15 minutes.

Mr. BYRNE of Pennsylvania. Mr. Speaker, it was with great interest and satisfaction that I read the other day an article in the New York Times describing the work done by Research for Better Schools in the field of truly educating our children.

Research for Better Schools, a private, nonprofit regional education laboratory authorized by the Congress in 1965, is located at 1700 Market Street, Philadelphia, within my district, making me doubly proud of the exciting work RBS is doing in the field of teaching.

RBS is a pioneer in individually prescribed instruction, a system whereby pupils learn at their own capability rate, regardless of "class" designation. It is designed not only for the exceedingly bright pupil, who is doing work well beyond his "grading," but also for the slower child, who might be utterly lost in the more conventional instructional system.

Admittedly, IPI is still in its developmental stage, although well beyond experimentation. I, for one, view IPI as the wave of the future in education. And when this becomes a reality, I will be able to say proudly that much of this success is due to the efforts of my constituent, Research for Better Schools, its board of directors, and its dynamic executive director, James W. Becker.

Knowing the interest of my colleagues in education, I ask unanimous consent to reprint this article from the March 16 edition of the New York Times so that they may share my enthusiasm.

The article follows:

PUPILS ENJOY SETTING OWN PACE

(By M. A. Farber)

QUAKERTOWN, PA., March 15.—Mrs. Jule Loftus, who has taught at Richland Elementary School in this middle-class Bucks County community for seven years, regards herself as a woman with few illusions about educational innovation.

She does not think that Individually Prescribed Instruction, a federally funded program designed to allow each pupil to proceed at his own pace in work tailored to his readiness and ability; is "a dream come true."

"I'd have to have a lot more facts before saying that," she remarked, although Richland has been using the program for three years.

"But I'll say this," Mrs. Loftus added, keeping a watchful eye on her students from a classroom doorway, "if I told my kids they weren't going to have I.P.I. math on a given day, I'd get groans and boos. Before this program, I'd get a lot of hurrahs."

A WAY OF TEACHING

I.P.I. is an instructional system—a way of teaching—rather than a new curriculum. It was devised at the University of Pittsburgh's Learning and Research Center six years ago. Since then, it has spread to 175 schools in 32 states, involving 47,000 students and 1,160 teachers. Few schools have used the program longer or more intensively than Richland Elementary.

Critics say that the program is costly—it requires more paper and other instructional materials—and that I.P.I. teachers are using a system for which they were not trained. But its adherents believe firmly that this program, and others that are following in its wake, could "rehumanize" schools if accorded sufficient time and money, as well as opportunity for teacher training.

I.P.I. sponsors have been asked to report on the program's progress claiming exceptional success at this stage, particularly in improving student achievement levels. But they hold that pupils in I.P.I. are, on the whole, enjoying schools more than are pupils whose classes are organized in the traditional lecture fashion. And this, they say, is what the program really set out to accomplish.

TESTED BY LABORATORY

The refinement and field testing of I.P.I. has been the responsibility of Research for Better Schools, in Philadelphia, one of 15 private, nonprofit regional education laboratories authorized by Congress in 1965.

Dr. James E. Allen Jr., United States Commissioner of Education, has described I.P.I. as "a jewel in the crown" of the regional laboratories.

At Richland School, Scott Kemmerer, a 7-year-old blond youngster, leaned over his desk in Room 111 and cautiously marked his reading work paper.

Moments later his performance was graded by his teacher, Mrs. Ruth Fest, who had been roaming from student to student. After receiving a "prescription" from Mrs. Fest for his next task, Scott was on his way to a "materials" center down the hall, to respond privately to a recorded lesson.

A CROSSWORD PUZZLE

"Hello, today we're going to do a crossword puzzle," Scott heard over earphones while a small brown disk began to revolve in front of him. He filled in the blanks of a puzzle form—he knew the "SM" in smile, the "SH" in shine and the "A" in bake but missed the "L" in slice—then handed the disk back to a teacher's aide.

Scott promptly and quietly returned to class, past hallway drawings of a friendly state trooper who advised him not to run in winter and to "think safety." The boy had his quiz graded and was soon tackling a related assignment. He seemed substantially engrossed.

A teacher in the program does little lecturing to groups of pupils. Much of her effort is given to evaluating the independent work of students, diagnosing each youth's special needs and assigning lessons—or "prescriptions"—to help the youth along from one objective to the next.

One third-grade student may be doing sixth-grade mathematics; a fifth-grade pupil may be reading at a third-grade level. Ideally, a teacher would know where each youth stands academically at any time.

According to the laboratory, surveys of 120 teachers show them to be "highly positive" about the program. Extensive interviews with youngsters, the laboratory says, demonstrate that "I.P.I. pupils like school better than non-I.P.I. pupils" and that the program contributes heavily to the youngsters' sense of "self-assurance" in dealing with difficult subjects.

The laboratory has found that on standard achievement tests, "I.P.I. pupils do as well as non-I.P.I. pupils," with I.P.I. pupils doing significantly better than others on such tests in two of six schools where the program has been most closely monitored

James W. Becker, the bouncy executive director of the Philadelphia laboratory, does not belabor the results of standard tests

measuring academic accomplishment. He views such tests as an "inadequate" instrument for I.P.I.

Moreover, Mr. Becker said, in terms of "humanization" the results are "just beginning to come in."

There is, he believes, "a desperate need for this program."

PROGRAM OF VETERANS OF WORLD WAR I OF THE U.S.A., INC.

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

Mr. HALEY. Mr. Speaker, at a recent meeting of the Committee on Veterans' Affairs it was our privilege to receive the national commander, Mr. Edgar G. Burkhardt of the Veterans of Foreign Wars. I was privileged to serve as acting chairman that day and to welcome Mr. Burkhardt to our committee. He presented an unusually fine statement, and one which all members of the committee who were privileged to hear it felt that it contained many worthwhile and positive suggestions to which the committee and the Congress can give their attention in the time remaining in this session. Under leave to extend my remarks, I include the full text of Commander Burkhardt's statement:

STATEMENT OF EDGAR G. BURKHARDT, NATIONAL COMMANDER, VETERANS OF WORLD WAR I OF THE U.S.A., INC., BEFORE THE VETERANS' AFFAIRS COMMITTEE, MARCH 11, 1970

Mr. Chairman and Members of this Committee: I would like to express my personal thanks to you and the appreciation of the Veterans of World War I, whose average age is 74 years, for this opportunity to present the views of our members pertaining to legislation on behalf of World War I veterans and their dependents. These resolutions were unanimously adopted at our 1969 National Convention in Milwaukee, Wisconsin, and as their National Commander, I was instructed to present them to this Committee.

Recently National Commanders of other Veterans' organizations have expressed their views and that of their members, as being disturbed and disappointed that funds have not been made available for efficient operation of our V.A. Hospitals. We join in their request that this condition be rectified without further delay.

We are the older veterans of our country who have served honorably in a war that seems to have been forgotten by many of our citizens due to the subsequent wars and conflicts. However, statistics prove that there were more casualties per combat day in World War I than in any previous or subsequent war involving our country. Our loyalty and patriotism can never be questioned because of the fact that many men and women who served in World War II and in Korea are our sons and daughters, and today many of our grandchildren are serving in Viet Nam. In our lifetime, we have lived through a period of trying times. We urged and supported the establishment of the Veterans Administration, of Veterans Hospitals and introduced and fought for the G.I. benefits for the Veteran and his dependents. We suffered through the depression at a tremendous cost in material things. We have contributed through our intelligence, our craftsmanship, and our hard work to make our country a more prosperous and better place in which to live than we found it when we were born. In summation, no American has ever been called upon to serve our country so much or so often as the World War I veterans and their wives, the Mothers of our children.

Now that we are fast approaching the final days of our life on this earth, the problems of merely existing in the face of the continuing, ever-increasing cost of living and the problem of old age, over which we have no control, have caught up with us. In all sincerity and in all fairness, we ask that you give serious consideration and approval to the enactment of our legislative proposals.

The two bills the Chairman, Mr. Teague, has introduced; H.R. 15571 on the establishment of the National Cemeteries under a separate division of the Veterans Administration, and H.R. 15572 deals with an increase to $400 in burial allowance, which would relieve the demands upon plots in the National Cemeteries. Chairman Teague is to be congratulated for his efforts in this respect.

The two bills introduced by Mr. Haley and Mr. Duncan relate to Nursing Care facilities and out-patient treatment. Increasing the number of nursing home beds under the direction of the Veterans Administration is most worthy and necessary. The bill providing for out-patient treatment for the non-service connected veteran on pension is similar to that which is presently available to the service-connected veteran on compensation. From an economic view, treatment that can be rendered in a Doctor's office would often relieve the demand for hospital beds.

The two bills introduced by Mr. Dorn and Mr. Adair relate to the increase in pensions due to the increase in Social Security passed by this Congress. There are valid reasons that Social Security and Public Annuities should not be counted to determine the eligibility for pensions. However, this is another subject and is covered by another bill.

We congratulate you Gentlemen on bringing a more equitable and realistic pension schedule through the passage of P.L. 90–275. We ask serious consideration of these bills by Mr. Dorn to increase the income limitations and the monthly pensions in the various sections of H.R. 15708 and H.R. 15709.

Mr. Chairman, I am sure the Members of the Committee are very familiar with the report of the United States Veterans' Advisory Commission. It was to this Committee that they first submitted their recommendations. For approximately 18 months, this Commission traveled throughout the United States, holding hearings for the purpose of determining future just legislation for the veteran and his dependents. Not the least doubt was expressed as to the qualifications of these members, for the Commission was made up of Past National Commanders of Veterans' Organizations, State Directors of Veterans' Affairs, Consultants from the Veterans Administration, and a well qualified Administrative staff. The Members of this Committee congratulated them for a job well done and the Administrator of the Veterans Administration praised them highly for their efforts. They were thanked and personally received citations from the President of the United States for their untiring efforts in this field, and that their final report would no doubt be a guideline for future veterans' legislation.

May I call your attention to Recommendation No. 17 of this report that read as follows:

"The Commission recommends that pension, as a benefit for War Veterans and their survivors, should be maintained as a Federal program providing financial aid above and beyond the levels of public assistance, and that, within reasonably improved limits, increases in other forms of income would not adversely affect veterans' pension benefits."

In addition, on the same page is the background for this recommendation.

After reading this, I feel you will agree that the veteran on pension, in circumstances similar to a person on public assistance, does not receive the financial aid nor the fringe benefits, such as free medication, out-patient treatment, hospitalization for himself and family, food stamps, rent subsidy and so forth, as those receiving public welfare.

On behalf of our 220,000 members and our 100,000 members of our Ladies Auxiliary, and indeed all veterans who served in World War I, I certainly hope you will give favorable consideration to our request in approving these bills. Every bill introduced by you Gentlemen has been favorably recommended as justified, in this Advisory Commission report.

S. 2658 introduced by Senator Yarborough and several similar bills in the House are mandates of our Convention. We firmly believe, as I am sure many of you do, that we older veterans should be eligible for benefits on an equal basis as veterans of previous wars.

S. 3359 introduced by Senator Yarborough provides that Social Security payments not be counted as income to determine pension eligibility. This view is supported by many Members of Congress and we hope that we will be given the opportunity when these bills are scheduled for hearings, to present our statement.

It is ironic that H.R. 372 is held in a Senate Committee and not released for passage, in view of several facts; namely, reliable Government sources estimate that passage of this bill would save one half million dollars, and with the efforts to hold down Federal spending, there is no logical reason for delaying H.R. 372.

H.R. 693 passed by the House, nearly unanimously, was passed by the Senate, but with amendments contrary to the bill passed by the House. We appeal to you Gentlemen to urge passage of H.R. 693 in the same form as the House passed this bill, at this time.

The bills by Senator Yarborough and other Members of Congress are also part of our program. We expect to ask for consideration of these bills at a later opportunity.

Again, I appreciate very much your time and patience in giving me an opportunity to present these bills.

A FATHER'S EULOGY TO HIS SON

(Mr. CORMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous material.)

Mr. CORMAN. Mr. Speaker, on February 27 in a Fullerton, Calif., church, Warren J. Ferguson—who incidentally is a U.S. district judge and a good friend of mine—delivered a simple eulogy over the flag-draped casket of his 18-year-old son, Jack, who had been killed in Vietnam by a sniper's bullet while on patrol duty.

The awfulness of war is always the brave men—most of them so very young—who never return to live out the full years of their lives. To the Nation, these men are rightfully heroes. To their families, their loss is the tragedy, the sadness, and often the bitterness that comes when there are no answers to such manner of death.

The honor that Judge Ferguson paid to his son with the words of his eulogy also honors himself and Mrs. Ferguson. Notwithstanding the loss of a beloved

son, whose life held so much promise and who died 10,000 miles from home in an alien land, Judge Ferguson spoke quietly of the boy, of his honesty, his compassion, and his goodness.

The Fergusons created a precious family life, filled with love and understanding for each other. This is what gave young Jack his special kind of courage to join the Marine Corps, although a minor physical ailment would have prevented his being drafted. And, it is this love and understanding that has given his family the strength to bear their loss.

Mr. Speaker, I would like to insert Judge Ferguson's eulogy to his son into the RECORD.

The eulogy follows:

EULOGY TO MY SON

I wish to share some memories with you in honor of my son.

When someone so dear and precious dies, the only words that come are, "Why—why Jack?" It is his mother, in her patient, quiet, understanding way who provides the thoughts that make his death bearable. She says, "We must thank God for giving us Jack for 18 years. Think how lonely life would have been if we had not had him at all."

He did not have time to set records in the Rose Bowl. Surely he would have. He did not have time to create a noble work of art. Certainly he could have.

But he lived long enough for those of us who knew him to realize what a fine, outstanding, courageous young man he was. His passion was honesty, and as long as people were honest he was patient. He couldn't stand dishonesty.

He adored his mother, and rightfully so. There wasn't a night before he went to bed when the two of them didn't talk. Both made each understand the other. He always brought his friends home, because, as he said, "I would like everyone to have a mother like mine".

It was with his sister Faye that he had his first experience with violence. They were at the Ambassador Hotel, where they witnessed the assassination of Robert Kennedy. It was a tragedy which bonded them close together.

Teresa provided the gleam in Jack's eye. His sister was his dream, and he carried snapshots of her which he proudly showed his friends. If he had lived just a few more month the Marine Corps probably would have adopted Teresa as their sweetheart.

His brother Pete kept him laughing. They made each other happy. Life was good for both of them when they were together.

I think Jack knew that Laura and I might some day lose him, so the very first day in the Marine Corps he found someone special for us, that we could take into our hearts, Gerry White. We are proud to call him our son. Gerry lost two brothers in Vietnam, and he didn't have to go. But he understood Jack's tenderness and compassion and wanted to be with him. Gerry brought Jack home.

There is no one more close in spirit with Jack than his cousin Lt. Bruce Keyes, United States Marine Corps, who feels the intense pain of grief.

Jack's greatest love was children. It is difficult to put into words the vivid memories we have of his love for them. It was an emotional experience every time he picked up a baby with those big, strong hands, holding it to his chest. We learned of his death last Saturday afternoon. That morning we received a roll of film from him. It was a happy morning, because we looked forward to having the film developed. Some pictures portray the brutality of war, but there are also beautiful pictures of Jack surrounded by Vietnamese children. He was making headway, because most of them were making the peace sign.

Shortly after Jack's death, one of his friends came by to visit with us. We asked him what he remembered most about Jack. He replied, "When he used to play with my four-year-old brother".

His religious faith was never worn on his sleeve. He was very quiet, and unless you read his letters and papers you would not realize his deep religious conviction. Laura told me of one of his papers in the 5th grade. The students were supposed to write what they wanted to be—what they would like—what they wanted to do. He wrote, "I want to be alone on a desert island with God." Then the little boy in him came out, and he wrote, "And God and I would have lots of good things to eat".

In Vietnam he spent his 56 days in the outposts, and he never had the opportunity to go to Mass. But his letters would tell us how beautiful the stars were. He wrote, "The stars I see are the same stars over you". The thing that brought him peace in that war was saying the Rosary under those stars.

Jack was hurt inside many times. But the thing that hurt him most—the thing that distressed him—was prejudice. He never felt sorry for himself, but he agonized over the misfortunes of others. Prejudice to him was something that didn't exist, and he could never understand why others forgot that all men are made in the image of God.

His personal courage was as great as his love, tenderness, compassion and religion. He didn't have to go in the Marine Corps. He didn't have to die. He had asthma and was hospitalized twice in the States. He could have easily gotten out, and no one would have called him a slacker. But that wasn't his way. He never let his own feelings and hurts interfere with what he should do best. He never asked for a dime; never asked for a favor; never asked for anything but to face life proudly with moral and physical courage.

It would be an easy thing for us to become bitter because of his death, but that is such a cowardly emotion. We are sad and hurt, and life will never be the same, but we are not bitter. If we were, we would not be honoring our son.

It may be said he was so wonderful because he did not live long enough to acquire anger, prejudice or hatred. I say to that, "Never, not Jack." But if it be true, I can say God must have loved him so much that he did not want him to be hurt like the rest of us.

Finally, I pray to God with all my heart that whatever I do hereafter my son will approve.

CONSTRUCTION INDUSTRY IS IN A DEPRESSION TODAY

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

Mr. PATMAN. Mr. Speaker, this week the Building and Construction Trade Department, AFL–CIO, is holding its National Legislative Conference in Washington.

Many of the members of this group will be on Capitol Hill to explain the growing problems in the construction industry.

The problems in the construction industry stem from one cause—high interest rates.

Earlier today I had the opportunity to address the delegates to this conference and I told them that homebuilding does not have a chance unless there is a rollback in high interest rates. President Nixon should and could demand an immediate rollback of interest rates to put the construction industry back on its feet.

Mr. Speaker, the construction industry is today in a full-scale depression despite the rosy statements being issued by administration spokesmen. It is time that the Congress and the administration regarded the problems of this industry as a crisis—a crisis which affects all Americans. We must bring down interest rates and live up to our promises to provide decent homes for all Americans.

Mr. Speaker, I place in the RECORD a copy of my remarks to the National Legislative Conference of the Building and Construction Trades Department:

REMARKS TO THE 15TH NATIONAL LEGISLATIVE CONFERENCE, BUILDING AND CONSTRUCTION TRADES DEPARTMENT, AFL–CIO

(By Hon. WRIGHT PATMAN)

Thank you very much for inviting me here this afternoon.

I am happy to see you in Washington. I hope your presence here will help cut through some of the double talk we are getting from the Administration experts about inflation, recession and high interest rates.

You people are on the receiving end of the high interest rate policies and I don't think any of you are going to be fooled by high-sounding Presidential messages designed to lull you while standing in the unemployment lines.

Republicans, since the days of Herbert Hoover, have been masters at putting a good face on recessions, depressions and rising unemployment. The Nixon Administration is no exception.

Almost daily some Administration spokesman cranks up the mimeograph machines for a new pronouncement to explain away rising prices, rising interest rates, declining housing starts and higher unemployment.

Just the other day, Mr. Herbert Stein, one of the inner circle of Mr. Nixon's Economic Advisors, announced that all of these economic troubles were simply a "test of the people's maturity."

The latest figures released by the Labor Department show that the construction industry has an unemployment rate of 7.9 per cent. In other words, one out of every twelve construction workers is out of a job. This is apparently what Mr. Stein means when he describes the Nixon policies as a "test of maturity."

The Nixon Administration needs fewer high-sounding phrases from its economists and more hard-nosed action to bring down interest rates before every segment of this economy is plunged into a recession, if not an outright depression.

It is a time for the Nixon Administration to stop hoodwinking the American people about the economic facts. Just yesterday the New York Times quoted the President as stating:

"This country is not in a recession at the present time . . . We are going to take action to avoid a recession at the same time we are taking action to cool the fires of inflation."

President Nixon's analysis of the economy is obviously highly selective. Echoing the words of his advisors, Mr. Nixon states, "We are not in a recession now."

He obviously isn't talking about the construction business, the homebuilding industry, or the thousands of state and local projects stopped dead in their tracks because of high interest rates. The construction trades are faced with eight per cent unemployment and the President says we are not now in a recession. Housing construction in 1969 was less than half of the minimum of the national housing goal of 2.6 million new units and the President says we are not now in a recession. Estimates for 1970 indicate that housing starts may drop below a million new units and that total construction activity may fall off 10 per cent from the 1969 figures. And the President says we are not now in a recession.

If these figures don't spell depression in the construction business then I would like to see President Nixon s definition of the word. If eight per cent unemployment in the construction trades isn't a recession then what does it take—10 per cent, 15 per cent, or 20 per cent unemployment before the Nixon Administration stops issuing rosy statements?

Many of this Administration's closest friends are from the big bank fraternity and Mr. Nixon may well be looking at their profit margins when he concludes "we are not in a recession now." It was not uncommon for these banks—the big ones—to record profit increases of 20, 30 and even up to 60 per cent during 1969. And when you have this kind of profit, it is pretty hard to think that anyone is in a recession.

But outside those bank boardrooms, there is rising unemployment, a continuing decline in the construction industry and a continuing rise in inflation.

At one moment, we hear an Administration spokesman declare that we have brought inflation under control. The next day's newspapers bring the news that prices are up. Just last week, amid assurances that inflation was under control, the Consumer Index reported that prices rose again in February—to 6.3 percent above the figures of a year ago.

At the same time, other Administration spokesmen are off assuring us that no recession is in sight and the newspapers report that unemployment has risen to the highest level in four years.

The Nixon Administration has accomplished what no economist thought possible—inflation and recession at the same time. And the American people—the workers—are caught in the squeeze.

The President's insistence on ignoring the economic facts won't solve the problem. The President really ought to look at the economic Report he sent to the Congress in January.

One of the principles he enunciated was: "Government must say what it means and mean what it says. Economic credibility is the basis for ongoing prosperity."

Rising unemployment and rising prices just don't match the Administration's assurances that there is no recession and no inflation. And these assurances don't match Mr. Nixon's call for economic credibility.

Our economic troubles can't be solved through any simple, easy formula. It will take some hard decisions on the part of the Administration and this will mean that the toes of some pretty big fellows will have to be stepped on. The big banks are going to have to be told that the profit making binge is over and that they will have to furnish loans at reasonable costs for home construction and other badly-needed projects.

The President will have to stand up and exert his authority over monetary affairs. He will have to insist that the Federal Reserve System follow a course of action that will bring about lower interest rates and al-suffering a recession or a depression such as locate credit in the areas of the economy now construction.

These are tough decisions that require a lot of political courage. I realize that but it must be done to protect the public interest and to prevent this recession from trailing off into a depression.

Instead, the Administration continues to send up messages and legislation designed only to tinker with the problem, not solve it. On March 17, the President sent the Congress a message on "construction inflation" and last Thursday, the Secretary of Housing and Urban Development sent forward a housing bill.

Many of the things contained in these messages and bills are fine, but for the most part they are just a tinkering here and a tinkering there with the economic problems that are holding back housing and other construction.

Our housing problems will never be solved until there is a definite and mandatory allocation of credit to this sector of the economy. The construction industry simply cannot compete with the big corporations, the stock speculators, the gamblers, and others for the limited supply of funds made available in a tight money market. The homebuyer—and thus the construction industry—is at an impossible disadvantage when he must compete with these fast-buck artists. And we ought not have public policies which force the homebuyer into such a situation.

For many years, I have advocated that the Federal Reserve System purchase housing paper directly from Government housing agencies and in the open market. Through the purchase of these mortgages at a reasonable interest rate—certainly not more than 6 per cent—billions of dollars worth of credit could and would be channelled where it is needed—into homebuilding and other necessary construction projects.

Virtually every developed country in the world allocates credit to such areas of their economy. But in this country, the big banks have such a stranglehold over economic policymaking that we have never been able to push through such a program.

Some of the bank apologists argue that such allocation of credit is against the free enterprise way of doing things. This is so much hogwash. Credit is being allocated today—it always has been. But the trouble is that it is being allocated all in one direction—to the big corporations, to the speculators, to the big operators. All I am asking is that a small percentage of this allocation of the people's credit go where it is needed and where the people want it to go—into housing and other necessary development. The speculators can get by with a slight reduction in their credit capability.

Allocation of credit is the big thing that must be done to save the construction industry. There are other moves that could also help along with the allocation of new credit into this sector.

For example, I have introduced H.R. 14639, which would create a National Development Bank which could make direct loans or guarantee loans for low and moderate income housing, public facilities, and similar projects. This would be modeled after the old Reconstruction Finance Corporation. The bank would be capitalized with $1 billion but would have loan making ability 20 times that amount—in other words, a $20 billion bank. This would be an important new source of credit—of big credit.

In an effort to help the housing industry back on its feet, I have also introduced legislation which would encourage the private pension funds to invest a larger share of their assets in housing mortgages guaranteed by the Federal Government. These private pension funds—which are all tax-exempt—now have more than $115 billion in assets and the figure is growing rapidly. Yet only about $3.7 billion of the total is invested in real estate or mortgage loans. If more of these funds could be channelled into mortgages, we would see an immediate and sharp jump in homebuilding.

These are programs that the American people will support if they get the true facts about our economy. Unfortunately, they are being fed a lot of half-baked ideas about present economic conditions, particularly as they affect the homebuilding and construction industries.

Many politicians who don't want to step on the toes of the big bankers are talking about everything except high interest rates on home construction. They love to talk about rising labor costs, the high cost of material, the inflation in land prices, and so forth.

But they avoid—when they can—the big item—high interest rates. It is high interest rates that have priced nearly half of the U.S. population out of the housing market and forced apartment rents up across the Nation.

People who claim that labor and material costs are the villains are just dodging the issue. The figures are there in black and white and no army of economists can refute them.

Today, a $20,000, 30-year mortgage will cost the homebuyer more than $38,000 in interest payments. In other words, a $20,000 house will actually cost $58,000 with nearly two-thirds of the cost being the cost of the loan . . . interest payments. The interest charges—the payments to the lenders—are nearly double all of the labor, lumber, glass and land combined.

So if anyone is really serious about bringing down the cost of construction, they have to talk about interest rates first.

Homebuilding doesn't have a chance unless interest rates are rolled back.

In the past few weeks, a handful of small independent banks in scattered parts of the Nation have announced a deduction in their prime lending rates. The big banks—the ones that really control interest rates—haven't followed the lead of these smaller banks. They are still sitting there enjoying the fattest profits in years. They don't want to budge until they are forced to move.

Therefore, the big banks in New York and Chicago and the other money centers are watching the Administration closely. They are watching the statements of President Nixon and his key economic advisors—people like Secretary of the Treasury David Kennedy.

These big banks would roll back the prime rate before nightfall should President Nixon walk out on the front porch of the White House and make a strong suggestion that the Administration wanted action in this direction. A little moral suasion would do the job and we could start a general rollback of interest rates and put the homebuilding industry back on its feet.

When these smaller banks announced their rollback a few weeks ago, President Nixon had a wonderful opportunity to act. He could have simply urged the money center banks to follow a trend already started. But he remained silent and the big banks got the message—they saw that they didn't have to

act. They saw that the President wasn't going to force their hand.

President Nixon missed this opportunity to help the American people get lower interest rates. But he still could do the job if he would speak up and demand a rollback. It should be done today. Under present economic conditions, the prime rate could easily be moved back from its present level of 8-1/2 per cent to at least seven per cent. And, in a short time, it should be moved back to the vicinity of six per cent.

The President should act and I hope that this union will do everything to encourage him to take this vital step.

Thank you.

AUTO EXCISE REVENUES SHOULD BE EARMARKED

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

Mr. FINDLEY. Mr. Speaker, the year 1956 was a critical turning point in U.S. transportation progress. The Federal Aid Highway Act of 1956, which was paired with the Highway Revenue Act of 1956, represented a significant change in national highway policy. Previously, funding for improvements or expansion in the highway system at the Federal level had occurred through the general fund, a system with well-known faults. It became obvious that Federal excise taxes had to be earmarked specifically for highway purposes in order to insure that the impending highway crisis could be adequately dealt with. The passage of the Federal Aid Highway Act and the establishment of the Federal highway trust fund marked the beginning of the most far reaching program of highway construction by the Federal Government in partnership with the State governments. The pay-as-you-go principle embodied in the highway trust fund has proved to be successful, underpinning the construction of 42,500 miles of Interstate highway systems and paying the costs of the ABC Federal aid highway program.

As we near completion of the interstate highway program we see that the goals of the Federal Aid Highway Act of 1956 have been realized to a considerable extent. Significant strides have been made in the construction and maintenance of our primary, secondary, and urban road systems.

Not only has the Federal highway trust fund been highy successful in aiding the construction of the Interstate System, it has also relieved the Federal general fund of the cost of the ABC highway programs. The State governments in partnership with the Federal Government have undertaken vast highway construction and improvement programs.

But much remains to be done. Because of developments unforeseen at the time of the passage of the Federal Aid Highway Act, primarily in the areas of rising costs and expanded and more complex construction standards, there is need not only to extend the life of the Federal highway trust fund, but also to insure that its revenues are augmented from at least one new source. With the possible demise of the Federal highway trust fund on September 30, 1972, the attention of the Congress must be focused upon the fact that highway transportation problems are mounting rapidly and a stable means of financing the solutions will have to be found.

The need for a continuing, stable source of highway funds is clear. Additions have been made to the originally planned interstate system; standards for the construction of interstate highways have been updated to cope with modern transportation needs; greater attention has been devoted to the careful location of highways in urban areas with attendant higher costs; highway construction cost themselves have increased greatly; and in addition inflation has taken its toll on the highway construction dollar.

The Federal highway trust fund has met the acid test of governmental success—it has worked and worked well. Although in some cases there are arguments against earmarking governmental revenues to specific purposes, the arguments for the existence and continuation of the highway trust fund are persuasive.

The highway trust fund facilitates long range, efficient planning because it avoids abrupt changes in financing. The highway trust fund lends stability to our highway programs by removing the question of highway financing from the arena of momentary partisan politics. The existence of the highway trust fund with dedicated revenues also demonstrates that the topic of highways is of such crucial importance that it is generally beyond the scope of partisan controversy.

I therefore propose that the Federal highway trust fund be extended from October 1, 1970 to October 1, 1976, that the revenues received from the Federal automobile excise tax, which currently go into the general fund, be specifically earmarked for the Federal highway trust fund as long as the automobile excise tax is in existence.

The automobile excise tax is a tax upon the motoring public. Long ago Congress declared its belief that taxes upon motorists should be used for the construction and maintenance of highways. Since 1956, Congress has increased the tax rates on gasoline, trucks, buses, and trailers, tires and tubes, and also imposed new taxes on heavyweight motor vehicles. These funds, together with tax revenues from highway-used lubricating oils, truck and bus parts and accessories, which were previously designated for the general fund, have been included by Congress in the highway trust fund.

In fiscal 1969, collections from the Federal automobile excise tax totaled almost $1.9 billion, approximately 29 percent of all Federal highway user taxes received. This figure shows the extent to which the Nation's motorists are not receiving their fair share of roads constructed for dollars paid in highway-user taxes. Of course, should Congress decide to terminate the automobile excise tax, this source of revenue to the trust fund would cease.

With the inclusion of the Federal automobile excise tax into the Federal highway trust fund so long as the tax exists, and the continuation of the trust fund for another 4 years, massive programs to update existing highways and construct new ones, such as those recently undertaken in the State of Illinois under the leadership of Gov. Richard B. Ogilvie, can be successfully completed with overcommitting general revenues of State governments.

The Federal Government clearly has a continuing role to play in the construction and maintenance of modern highways throughout the United States. Our national well-being and economic progress depend upon the existence of a modern transportation system.

Because of its demonstrated success, the Federal-aid highway program based upon the Federal highway trust fund should not only be continued with respect to Federal aid for ABC roads but also additional revenues should be supplied to complete the jobs which Congress and the States have begun.

H.R. 3

A bill to extend the Highway Trust Fund and the time for completion of the Interstate Highway System until 1976, and to include automobile excise taxes in the Highway Trust Fund

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

EXTENSION OF TIME FOR COMPLETION OF SYSTEM

SECTION 1. (a) The second paragraph of section 101(b) of title 23, United States Code, is amended by striking out "eighteen years' " and inserting in lieu thereof "twenty years' " and by striking out "June 30, 1974", and inserting in lieu thereof "June 30, 1976".

(b) The introductory phrase and the second and third sentences of section 104(b)(5) of title 23, United States Code, are amended by striking "1974" where it appears and inserting in lieu thereof "1976", and such section 104(b)(5) is further amended by striking out "final" in the antepenultimate sentence and by inserting before the last sentence the following: "The Secretary shall make a final revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1973. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1975, and June 30, 1976."

EXTENSION OF HIGHWAY TRUST FUND

SEC. 2. (a) Subsections (c)(1), (c)(3), (f)(1), (f)(3), (f)(4), and (f)(6) of section 209 of the Highway Revenue Act of 1956 are each amended by striking out "1972" wherever it appears and inserting in lieu thereof "1976".

(b) Subsections (c)(3), (e)(1), (f)(3), and (f)(4) of such sections are each amended by striking out "1973" wherever it appears and inserting in lieu thereof "1977".

INCLUSION OF AUTO EXCISE TAX IN HIGHWAY TRUST FUND

SEC. 3. Section 209(c)(1) of the Highway Revenue Act of 1956 (70 Stat. 397) is amended to add a new subparagraph to read:

"(I) 100 percent of the taxes received after June 30, 1971, under section 4061(a)(2) (tax on automobiles, etc.),"

DISPOSITION OF FEDERAL HIGHWAY-USER TAXES FISCAL YEAR, 1957–69

[Dollars in thousands]

	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	Total 1957–69
To highway trust fund:														
Motor fuel tax [1]	1,325,545	1,607,889	1,656,646	2,043,764	2,360,660	2,373,419	2,461,927	2,642,805	2,736,392	2,846,237	3,124,318	3,095,949	3,180,813	31,456,364
Truck and bus excise [2]	34,409	110,506	107,386	141,944	115,598	127,974	311,160	357,345	393,305	441,969	524,549	509,958	540,846	3,716,949
Tires, tubes and tread rubber [3]	93,455	274,494	276,231	315,607	274,512	367,453	408,293	413,246	429,453	496,614	543,276	512,250	609,818	5,014,702
Highway use tax [4]	25,499	33,227	33,852	37,712	46,768	79,844	97,318	105,761	99,279	101,983	111,534	98,495	129,320	1,000,592
Parts, accessories trucks and buses [5]										7,000	69,155	80,520	93,537	250,212
Lubricating oil [6]										23,000	68,030	81,713	82,842	255,585
Total trust fund receipts	1,478,908	2,026,116	2,074,115	2,539,027	2,797,538	2,948,690	3,278,698	3,519,157	3,658,429	3,916,803	4,440,862	4,378,885	4,637,176	41,694,404
Motor Fuel Tax as a percent of trust fund receipts	89.6	79.4	79.9	80.5	84.4	80.5	75.1	75.1	74.8	72.7	70.4	70.7	68.9	75.4
To general fund:														
Passenger car excise [7]	1,144,233	1,170,003	1,039,272	1,331,292	1,228,629	1,300,440	1,559,510	1,745,969	1,887,691	1,492,225	1,413,833	1,530,777	1,863,956	18,707,830
Truck and bus excise [8]	161,592	95,586	107,885	129,994	121,061	128,301								744,419
Parts and accessories [5]	157,291	166,720	166,234	189,476	188,819	198,077	224,507	228,762	252,874	196,546	7,000			1,976,306
Lubricating oil [6]	73,601	69,997	73,685	81,679	74,296	73,012	74,410	76,316	76,095	67,776				740,867
Total to general fund	1,536,717	1,502,306	1,387,076	1,732,441	1,612,805	1,699,830	1,858,427	2,051,047	2,216,660	1,756,547	1,420,833	1,530,777	1,863,956	22,169,422
Total, Federal highway user taxes	3,015,625	3,528,422	3,461,191	4,271,468	4,410,343	4,648,520	5,137,125	5,570,204	5,875,089	5,673,350	5,861,695	5,909,662	6,501,132	63,863,826
Percent of total Federal highway-user taxes to general fund	51.0	42.6	40.1	40.6	36.6	36.6	36.2	36.8	37.7	31.0	24.2	25.9	28.7	34.7

[1] Represents net proceeds from 3 cents tax from July 1, 1956 to Sept. 30, 1959 and 4 cents tax from Oct. 1, 1959 to June 30, 1969.

[2] Represents trust fund receipts of ½ of the 10 percent excise tax for 1958–62; full proceeds for 1963–69 fiscal years. During 1957, only 20 percent of the 10 percent excise tax was committed to the trust fund.

[3] Represents proceeds from 8 cents per pound on tires; 9 cents per pound on tubes; and 3 cents per pound on tread rubber from July 1, 1956 to June 30, 1961 and 10 cents per pound for tires and tubes and 5 cents per pound for tread rubber after July 1, 1961.

[4] $1.50 per 1,000 pounds on trucks and buses having a gross weight of more than 26,000 pounds from July 1, 1956 to June 30, 1961 and $3 per 1,000 pounds after July 1, 1961.

[5] Represents the proceeds of the 8 percent excise tax on parts and accessories. Effective Jan. 1, 1966 the tax on automobile parts and accessories was repealed; the tax on truck and bus parts and accessories remains in effect with revenue transferred to the trust fund from the general fund.

[6] Represents the proceeds of the 6 cents per gallon excise tax on lubricating oil; includes industrial and agricultural use estimated at 37 percent of total from July 1, 1956 to Dec. 31, 1965. Effective Jan. 1, 1966 this tax transferred to the trust fund from the general fund and applied only if used for highway purposes.

[7] Represents the proceeds from the 10 percent excise tax on passenger automobiles from July 1, 1956 to May 14, 1965; 7 percent from May 15, 1965 to Dec. 31, 1965; 6 percent from Jan. 1, 1966 to Mar. 15, 1966 and 7 percent after Mar. 16, 1966.

[8] Represents the difference of total collections and receipts transferred to the trust fund during 1958–62 period. Although the law provided that ½ of the 10 percent excise tax was to be transferred to the trust fund and the balance remain in the general fund, the totals differ slightly since transmittals from the Internal Revenue Service lagged reporting dates for end of fiscal years 1958–62 for both BPR and IRS.

Sources: U.S. Bureau of Public Roads, Quarterly Report on the Federal-Aid Highway Program; Internal Revenue Service, Internal Revenue Collections of Excise Taxes.

NEW HOPE FOR HOUSING

(Mr. ANDERSON of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, the official arrival of spring last week carries with it the promise of new life and new hope. The symbolic significance of the week was not lost on the administration, and several developments in the area of home construction also carried the promise of new life and new hope. Because the home construction industry has been so heavily hit by inflation, we still do not have cause for unbridled optimism and rejoicing, any more than last week's weather was cause for celebrating the rites of spring, despite its official arrival. But on both counts we are justified in echoing the poet Shelley who asked: "Can spring be far behind?"

On Tuesday of last week President Nixon sent to the Congress a message on "combating construction inflation and meeting future construction needs." The message outlines several new initiatives being taken by the administration to combat the effects of inflation and stimulate increased housing starts. The need for such initiatives is obvious: Inflation coupled with other restraints have made a mockery of the 1968 housing goal of 2.6 million units per year over the next decade. We are barely moving along at half that rate and thousands of American families are feeling the pinch. Mortgage money is costly and scarce and reasonably priced homes are hard to find. As President Nixon pointed out, "today, the average price of all new houses offered for sale is $27,000."

Over the past year, the administration took several actions to offset the impact of inflation on home construction including increasing the flow of funds into mortgages, improving the operation of the mortgage market and increasing special assistance funds. Last week the administration recommended further steps including a doubling in the production of subsidized housing over last year, reallocating $1.5 billion of special assistance funds to programs to increase housing starts, and authorizing the Federal National Mortgage Association to deal in conventional as well as FHA and VA mortgages.

A contributing factor in the inflationary pinch on housing construction has been the high cost of labor. As President Nixon has pointed out in his message, the shortage of skilled construction labor has been largely responsible for the inflationary wage settlements in the construction industry. While wage settlements in other industries last year reflected an average increase of 7 percent, those in the construction industry were nearly double that amount. In the President's words:

> Employment opportunities in construction will multiply in the years ahead. We must provide people with the skills needed to take advantage of those opportunities and bring supply more nearly in line with demand.

It is estimated that between now and 1978, almost 2 million news jobs will be created in the construction industry. The normal operation of the labor market will supply many of these, but it is evident that new training and apprentice programs will be required to meet this need. The President has instructed various government agencies to accelerate such efforts in both vocational education and various Department of Labor programs with emphasis on apprenticeship, veterans' training, supplementary training, Federal construction projects and equal employment opportunity. To underscore the importance which the administration places on this, the President has called on the Secretary of Labor to submit a plan within 60 days, "expanding present enrollment in Department of Labor programs providing training for construction skills by 50 percent, increasing this pace over the next 5 years."

In the area of Federal construction projects, the President has directed all Federal Government agencies to include a clause in construction contracts requiring the employment of apprentices and trainees on such projects, and further requiring that one-fourth of these be in their first year of training.

In the area of equal employment opportunity, President Nixon has stated unequivocally—

> There can be no social justice until there is economic justice, and equal employment opportunity is the key to economic justice in America.

We are all familiar with the administration's commitment to the Philadelphia Plan which is an attempt to increase the opportunities for minority groups in the highly skilled construction trades. In addition, the administration is pushing for full enforcement of Executive Order 11246 and title VII of the 1964 Civil Rights Act, both of which deal with discriminatory job hiring policies.

All the above recommendations and programs are being monitored by the President's Cabinet Committee on Construction which is responsible for maintaining an overview on such matters, improving upon current information systems, and making its findings and recommendations to the President.

President Nixon has correctly cautioned against trying to pin the blame for the housing crisis on any one group; it is the result of a system that urgently needs reform and modernization. In the President's words:

> We must take care, in making those reforms, to treat fundamentals rather than symptoms—essentially to bring the supply and demand of labor, money and materials into better balance. That is the only constructive way to stop the spiral of construction costs.

Last Thursday, the administration's housing bill was forwarded to the Hill by Housing and Urban Development Secretary George Romney. Among other things the administration is recommending homownership for the poor through the public housing program and the elimination of the 3-percent downpayment on FHA-backed mortgages.

Secretary Romney also announced that he was ordering local public housing authorities to reduce rents for families now paying more than 25 percent of their income for housing, effective immediately.

I want to commend the administration for these bold initiatives. It is my feeling that homeownership is fundamental to local community pride and can be a spur to cleaning up our ghettos. In Secretary Romney's words:

> There's no comparison between the way . . . people maintain these properties if they own the unit (rather than) rent the unit.

Finally, Mr. Speaker, I cannot resist the temptation to mention "Operation Breakthrough" in connection with this spring housing report, since spring is also a time for breakthrough. I believe it was Noel Coward who wrote, "I'll see you again, whenever spring breaks through again." Operation Breakthrough, as you know, is aimed at producing low-cost, high-quality housing on a volume by utilizing new technologies and materials. Last month the 22 finalists were announced in the Breakthrough competition, and they will soon begin their prototype housing construction at some 11 sites around the country. These prototypes will be subjected to extensive testing and evaluation and those which do well will receive the HUD seal of approval. It is my considered opinion that Operation Breakthrough offers the best hope for solving our national housing crisis and realizing our goal of 26 million new units by 1978.

At this point in the RECORD, Mr. Speaker, I wish to include certain extraneous material relating to the developments about which I have been speaking. These include a New York Times editorial praising the President's housing message, a Wall Street Journal article describing the administration's efforts to combat job bias in construction apprenticeship programs, a news release from Assistant Labor Secretary Arthur A. Fletcher on the same subject, and a Washington Post article on the administration's housing bill which was sent to Congress last Thursday. The items follow:

[From the New York Times, Mar. 18, 1970]

SPUR TO HOUSING

The actions taken by President Nixon yesterday to revive the sagging construction industry have three useful purposes: to ease the acute nationwide shortage of housing, to keep inflation control from exacting too high a price in unemployment and to speed the admission of Negroes and other minorities to skilled construction jobs.

What remains obscure, unfortunately, is how the program will contribute to checking the runaway rise in construction costs—a rise so steep it has made it all but impossible to build unsubsidized housing in this city at a monthly rent of less than $125 a room. The situation is not much more cheerful anywhere else. As the President noted, the resulting cost in crime, disease and community decay is intolerably high.

Some beneficial effect on the cost spiral undoubtedly will result from the steps the President has initiated to expand Federal support for mortgage loans. That effect will become even more pronounced if the Federal Reserve follows Mr. Nixon's far from subtle hint that the time has come for a general lowering of interest rates in the housing field.

But these gains may be more than offset by the incentive the Nixon moves to expand construction and work opportunities have given the overfat unions in the building trades to step up their wage demands. Restraint has always been a stranger to these unions. Last year they fed the inflationary fires by signing three-year agreement providing increases of 45 to 50 per cent for a half-million construction workers. Twice as many workers will be affected by negotiations starting next month, and there is every present indication that the unions will seek even larger pay boosts this time.

The outlook for greater union responsibility is somewhat brighter in the effort to break down the walls restricting Negro entry into top-rated construction crafts. The interaction of intensified outside pressure and voluntary union action has produced significant breakthroughs.

The Administration's "Philadelphia Plan" for compelling increased minority hiring on Federal construction projects has just won its first court test. The Human Resources Center at the University of Pennsylvania has come up with an alternate strategy for accomplishing the same basic ends through direct cooperation of unions, contractors and other groups. Harvard University pioneered last month by putting such a plan into operation on two new projects there. In Chicago and Pittsburgh the exclusionist unions and the black community are experimenting with negotiated plans to hasten employment. The more success such attempts achieve, the less need there will be for Philadelphia Plans and other forms of Government compulsion.

[From the Wall Street Journal, Mar. 17, 1970]

ADMINISTRATION TO PRESS ANTIBIAS EFFORTS IN CONSTRUCTION APPRENTICESHIP PROGRAMS

(By Richard J. Levine)

WASHINGTON.—The Nixon Administration will soon launch a new effort to promote equal employment opportunity in construction industry apprenticeship programs.

President Nixon is expected, probably this week, to direct the Labor Department to make a broad review of the effectiveness of Federal regulations designed to eliminate discrimination in apprenticeship programs.

The current regualtions were issued in 1963 by former Labor Secretary Willard Wirtz. They provide the Federal certification be withheld from apprenticeship programs that fail to select persons on the basis of "qualification alone." But, as currently written, the regulations don't require "affirmative action" programs for bringing in minority-group members.

About two-thirds of the nation's 360,000 apprentices currently are enrolled in programs registered either with the Labor Department or with state apprenticeship agencies.

Such registration, or certification, carries with it a number of advantages. Participation in a registered program can be the basis for an apprentice obtaining a draft deferment. If a program is registered, an employer is permitted to pay apprentices lower wages on Federal construction projects. And finally there is a prestige factor—apprentices in registered programs receive a completion certificate from the Labor Department's Bureau of Apprenticeship and Training.

MESSAGE IN WORKS

The review of the apprenticeship system is expected to be disclosed in a Presidential statement on construction labor. White House officials indicated such a message was in the works last week after two Presidential economic advisers outside the Government said they expected unemployment would continue to rise swiftly this year.

The President's statement, Government sources indicate, also may direct that two other steps be taken in the construction labor field. These are:

Expansion of Project Transition efforts to prepare more soon-to-be released servicemen for work in the construction industry. Project Transition, a Defense Department program launched during the Johnson Administration, readies GIs nearing completion of their tours for jobs in private industry through job-training, conseling and other assistance.

Establishment of a pilot project to use the rapidly growing system of employment service job banks for placing persons in construction work. The job banks provide a daily computer-prepared list of job openings in metropolitan areas.

But it is the review of the equal employment provisions of Federal apprenticeship regulations that is likely to stir the most interest and controversy.

Almost since taking office, the Nixon Administration has borne down on discriminatory practices in the construction industry. The establishment of the so-called Philadelphia Plan, which calls for contractors to make a "good faith effort" to meet minority-group hiring "goals" on Federally aided projects, angered both industry and building trades union officials. The AFL–CIO has re-

peatedly attacked the Administration for making the unions "whipping boys" and asserted that the Philadelphia Plan can't work.

Any attempt to tighten the regulations covering registered programs would almost certainly enrage union officials, who have vowed to resist attempts to force them to "water down" apprentice standards. Certified apprentice programs are run either jointly by unions and management or by employers alone.

However, with the wages in the construction industry increasing 15% a year and the prices of new construction rising sharply, Administration moves to increase the supply of labor in the building trade could prove politically popular.

Yesterday, the Labor Department reported that more than 8,000 apprentices from minority groups were admitted to certified programs in 1969. The 8,000 persons, Labor Secretary Shultz said, represented a record 11% of the 73,000 new apprentices admitted.

Mr. Shultz said the percentage of minority apprentices in all outgoing registered programs now is nearly 7.8%, up from 4.4% in 1966. Apprentice programs usually take about four years to complete.

About half the minority-group apprentices were Negro. Almost all the rest were Spanish-speaking American; about 1% were Indian and Oriental.

FLETCHER HAILS NIXON CONSTRUCTION STATEMENT AS "ONE OF STONGEST" EQUAL OPPORTUNITY CALLS EVER MADE BY A PRESIDENT

President Nixon's recent statement on meeting construction industry problems "is one of the strongest" pronouncements on equal job opportunity ever made by a U.S. President, Assistant Labor Secretary Arthur A. Fletcher declared today.

In a March 17 statement on combatting construction inflation and meeting future construction needs, President Nixon said, "There can be no social justice until there is economic justice, and equal employment opportunity is the key to economic justice in America."

Mr. Fletcher said that the President not only made a strong commitment to economic justice but ordered Federal agencies to take positive steps for insuring equal opportunity in Federally-funded construction work. Mr. Nixon directed:

All Federal agencies and departments to review their construction programs to make certain they are in accordance with the Executive Order (11246) requiring equal job opportunity in Federally-funded work and to provide assistance in Labor Department activities designed to bring about equal opportunity in the construction industry.

The Secretary of Labor to review and propose appropriate revisions of federal regulations governing equal employment opportunity in approved apprenticeship programs.

All agencies and departments to report to the Cabinet Committee on Construction by July 1 each year on their programs to insure that equal job opportunity exists in their direct and assisted construction projects.

Addressing a human relations workshop for teachers sponsored by the Phoenix (Ariz.) Union High School, Mr. Fletcher noted that the President estimated there will be 2 million new construction jobs by 1978.

"What this means," said Mr. Fletcher, "is that this Nation is presented with a golden opportunity to provide employment opportunities for its nonwhite labor supply by making a deliberate effort to see to it that an appreciable portion of those 2 million new jobs that will be in existence in the construction industry go to those who are members of the Nation's minority group labor supply."

Emphasizing that such an effort "could not and should not be interpreted as preferential treatment," the Assistant Secretary of Labor for Wage and Labor Standards said:

"What it would amount to is that a deliberate effort be made to share the wealth that will come into being in the construction industry with that portion of the Nation's labor supply that has been systematically denied an opportunity to share the wealth in this industry in the past."

[From the Washington Post, Mar. 20, 1970]

UNITED STATES PROPOSES HOME AID FOR POOR, NO-DOWN FHA

(By Robert J. Samuelson)

Praising the virtues of home ownership, the Nixon administration yesterday proposed using the public housing program to give poor families title to their own homes or apartments.

In a new housing message sent to Congress, the administration also urged elimination of the existing down payment—a minimum of 3 per cent—on homes financed with mortgages backed by the Federal Housing Administration. If the legislation passes, initial payments by FHA home buyers would be limited to "closing costs" of the purchase, which usually total less than $1,000.

At the same time, the Department of Housing and Urban Development announced that it is ordering local public housing authorities to reduce rents for any families that pay more than 25 per cent of their income for housing.

The reduction becomes effective this Tuesday. If local housing authorities need more time to calculate the changes for individual families, the cuts will be made retroactive, HUD said.

According to HUD statistics, as many as a quarter of the 800,000 families living in public housing may receive reductions.

In Washington, Edward Aronov, executive director of the National Capital Housing Authority, estimated that perhaps 3,000 of 10,000 families here might pay lower rents. Detailed projections, he said, would not be available until NCHA has had the opportunity to apply HUD's definition of "income" to all local tenants.

HUD Secretary George Romney announced the rent changes, ordered by the Housing Act of 1969, at a news conference called yesterday to disclose the administration's ideas for new housing legislation.

Under HUD's proposals, public housing families could take control of their existing housing projects or buy new homes with the aid of a large federal subsidy.

The government has traditionally helped support public housing by paying the cost of the mortgages used to build the projects. These outlays, the legislation proposes, could be used to back mortgages for families who wanted to buy their own homes.

For existing housing projects, families could receive government payments by forming tenant associations.

"NO COMPARISON"

"There's no comparison between the way . . . people maintain these properties if they own the unit (rather than rent the unit)" Romney said.

HUD officials have become increasingly despondent over the growing physical deterioration of many housing projects. If tenant associations decided to buy their own projects, they would assume the management functions now exercised by local housing authorities.

Tenant groups that select this alternative, however, would receive less government support than existing housing authorities would under the legislation. Another provision of the bill recommends that HUD begin providing annual "operating" subsidies to local housing authorities. Tenant associations—or individual homeowners—would not be eligible for this assistance.

The "operating" payments would be aimed at covering annual maintenance and utility costs. Rents, which traditionally supported these expenses, are providing insufficient for more and more authorities, including Washington's.

Though most of the new provisions in the legislation deal with subsidized housing, the bill proposes some important changes for middle-income families.

Not only is the down payment on FHA mortgages eliminated, but the permissible ratio of the mortgage loan to the total value of the home is increased.

The loan can be 100 per cent of the first $20,000 of value, 90 per cent of the value between $20,000 and $30,000 and 80 per cent for the value over $30,000. Present law sets the mortgage limit at 97 per cent for the first $15,000, 90 per cent between $15,000 and $25,000, and 80 per cent over $25,000.

Though the home buyer is allowed to borrow more, the change also implies that his monthly repayments of mortgage principal and interest will be larger.

There was little comment yesterday on the new Housing Act, but the revision in welfare rents evoked criticism from a variety of housing interests.

However, Sen. Edward Brooke (R-Mass.) who sponsored the amendment to last year's housing legislation which mandated the changes, criticized the administration for not going far enough.

Under HUD's announcement, the government will pay local housing authorities a subsidy equal to the money they lose by reducing rents to 25 per cent of a family's income. But, Brooke contended, the legislation required the government to make more generous payments to improve maintenance, add recreational facilities and provide guard protection.

The National Tenants Organization said HUD's action—by providing subsidies only when nominal rents exceed 25 per cent of a family's income—would actually tempt many local public housing authorities to raise their rates to receive more government money.

CRITICISM OF VETERANS' HOSPITALS

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

Mr. DUNCAN. Mr. Speaker, all too often these days we find a tendency in our society to accentuate the negative—we see this on our television sets, in our newspapers, in our streets, and in other aspects of our daily lives. It is a trap that is easy to fall into, and, short of that, we must beware of contributing in even small ways to chipping away the structures of our society that we have built and nutured over the years.

The Congress has built a system of Veterans' Administration hospitals that is the largest, and I believe the finest hospital system in the world. That system has come under fire in recent days from many sources. Some of the criticism is justified, I am sure. Some of it results from ignorance. And unfortunately some of it is inspired. I think my colleagues in the Congress and my friends among the millions of veterans in this country would do well to look carefully at the sources of criticism and give particular attention to the purposes that the inspired criticism seeks to further. Moreover, we must not lose sight of the dam-

age that even a friendly but heavy helping hand can cause in a situation as complex as measuring the quality of medical care being provided in our VA hospitals.

The committee of Congress, with all of their know-how in this area, must themselves proceed with caution in unleashing critical commentary on our VA hospital or in providing a sounding board for critics whose primary purpose is not that of helping veterans receive better medical care.

We have had instances where one of the critics of medical care, using a congressional committee as a sounding board, has referred to today's returning Vietnam veteran as an "intruder" into our society, in effect a potential time bomb, possibly destined one day in the future to react not to the rigors of war, its loneliness, its fear-ridden aspects, but react with violence or breakdown because of concluding that he sacrificed himself in a "filthy, ambiguous war." It should surprise no one that this critic of VA medicine and the Vietnam war has been active in SDS and less than a week before his appearance before a subcommittee of the other body delivered himself of a lecture on "American massacres in Vietnam." Other critics of VA medical care are sounding off and in attempting to gain support for their views maintain they are, at least for the present, "disregarding the war as a moral issue."

Other more responsible critics of the VA hospital system—and more knowledgeable, I might add—can, if they are not careful, nickel and dime the system to death. A suggestion has been made—and it is not new—that our VA hospitals should be limited to caring only for service-connected patients. I do not endorse the suggestion. But if we are going to measure the quality of medical care being delivered in VA hospitals solely on the basis of an arbitrary staff ratio, consider, if you will, the puffed-up staff ratios that would result if we did not admit our eligible non-service-connected veterans.

For some little time we have had more heat than light reflected on the situation in our VA hospitals. I have not been satisfied that we are doing everything possible to insure that our veterans receive medical care second to none. Critical problems exist today that require resolution. The policies which govern the delivery of VA medical care are substantially policies developed by the House Veterans' Affairs Committee on which I am privileged to serve, under the able chairmanship of our distinguished colleague OLIN TEAGUE.

I am sure these policies will be reviewed in forthcoming hearings because they are the heart of our system of delivering medical care to veterans. The House Veterans' Affairs Committee has itself reviewed and found what it considers deficiencies in the funding of our VA medical programs. I hope as we proceed we can look at policies and deficiencies and not confuse the two.

As to the deficiencies that exist or did exist, the record of the Veterans' Administration under Donald E. Johnson is clear. They have been or are being dealt with. And may I say that deficiencies are nothing new at the VA. Those that Don Johnson is coping with were present when he arrived. I was pleased that last Tuesday before the full House Veterans' Affairs Committee it was acknowledged by all of those who addressed themselves to the problem that those matters requiring our attention today, in order to provide quality medical care for all veterans, persisted as problems through the administrations of Presidents Kennedy and Johnson. As our hearings approach we would do well to look forward from a vantage point of understanding that war and inflation have, over the past 8 to 10 years, put the squeeze on VA medical programs and have as well put the squeeze on the millions of veterans receiving compensation, pension, or other fixed income.

The President is waging a war against inflation. He has positioned himself so as to win this war. And with the help of many Members of the Congress of both parties he is making up ground. As we approach hoped-for success we are all concerned with the reallocation of priorities and resources on the national level and within the Veterans' Administration.

But we must first get our economy under control. We must live within our means as a Nation and, of course, we must do so as individuals. There is no more insidious peril to the beneficiaries of the Veterans' Administration than inflation. The major part of the resources placed in the hands of the Veterans' Administration are dollars—dollars that are literally passed on directly to beneficiaries.

These are lifegiving dollars and we mean for them to have value. Most of the dollars that the VA does not issue to veterans in the form of payments are lifesaving dollars. And we mean for them to have value as well. I could think of no more hopeless endeavor, one that no responsible veteran leader would want any part of, than to struggle for and obtain more and more dollars that provide less and less lifegiving payments and lifesaving services.

There are many positives to report in the Veterans' Administration. An excellent report was made recently by Donald E. Johnson, Administrator of Veterans' Affairs. In his 8 short months Don Johnson has the VA moving. The record of progress during these 8 months may be found in Don Johnson's statement to the 47th Annual National Rehabilitation Conference of the American Legion in Washington, D.C., March 4, 1970. Mr. Speaker, I submit the Administrator's statement for the RECORD.

REMARKS BY THE HONORABLE DONALD E. JOHNSON

Chairman Lenker . . . distinguished members and guests of the American Legion's National Rehabilitation Commission . . . and my fellow-Legionnaires:

As always . . . it is a great personal pleasure for me to meet with you Legionnaires. However . . . this 47th annual National Rehabilitation Conference is especially meaningful to me.

Although I had the privilege of extending brief greetings to the Legion National Convention in Atlanta last August . . . this is my first opportunity . . . as Administrator of Veterans Affairs . . . to report to a National American Legion meeting.

I know that Dr. Jim Musser, Olney Owen . . . and their associates in the Veterans Administration's Department of Medicine and Surgery . . . and Veterans Benefits . . . have answered . . . as fully and frankly as possible . . . the many serious, thought-provoking questions which you submitted for this Conference.

I can add little to the detailed, technical information which they provide. Let me say here and now . . . however . . . that the door to my office is open . . . and it will always be open . . . so that any or all of you can come in to discuss those matters which you sincerely believe require my personal attention.

I come before you today . . . not as a Past National Commander of the American Legion . . . because . . . while I am proud of this title . . . and grateful for the many Legionnaires I am privileged to call friends . . . I realize full well that there is nothing so past as a Past National Commander.

Rather . . . I am here today as Administrator of Veterans Affairs . . . to give you some of the impressions I have formed after a little more than eight months in office . . . and to report on what is being done to achieve the mutual goal of the Veterans Administration and the American Legion.

This goal . . . of course . . . is service to those who served . . . and to their dependents and survivors . . . the delivery of a broad range of veteran benefits . . . when these benefits are needed . . . where they are needed . . . and in the amount needed.

One of my first and strongest impressions is that my concept of the service mission of the Veterans Administration is shared fully and enthusiastically by the VA's 170,000 able and dedicated employees.

With you Legionnaires . . . and with me . . . they believe that they have not only the responsibility . . . but the opportunity and the privilege . . . to provide:

Unsurpassed service to those who served . . . and to their dependents and survivors . . . and compassionate service . . . that goes far beyond the bounds of what they are required to do.

It is a matter of record that . . . until just a few years ago . . . the Veterans Administration operated on the premise that it existed to make available to veterans and their families the benefits provided by Congress . . . but it was up to them to learn about these benefits . . . establish their entitlement . . . and take the initiative in obtaining the benefits to which they were entitled.

There has been a revolutionary change in the veteran benefits philosophy of the Veterans Administration. As far as I am concerned . . . this change is not only welcome . . . but long overdue.

Now . . . the Veterans Administration operates on the premise that veterans and their families not only have a RIGHT to know about the benefits to which they are entitled . . . but MUST know about them if they are to take advantage of the benefits Administration's Out Reach program . . . and WANTS them to use.

The result of this change is the Veterans Administration's Out Reach program . . . a program with which you are very familiar . . . more than this . . . one to which the American Legion and our other national service organizations have made . . . and are continuing to make . . . such an indispensable contribution.

Because of your interest and involvement in Out Reach . . . I would like to review quickly today some of the activities and accomplishments of this vital and . . . I sincerely believe . . . most successful program.

Without question . . . the most dramatic chapter of the Out Reach story has been written on the battlefields of Vietnam.

For the first time in American military history . . . Veterans Administration representatives have been giving our combat troops overseas information and counseling on their veteran benefits.

In the past three years . . . more than 1 million 140 thousand G.I.'s have been briefed by Veterans Administration representatives in Vietnam. A total of 54 VA Contact officers . . . including nine now stationed there . . . have served average tours of six months in Vietnam. Two have given their lives in this important work.

I am sure you realize that all of these representatives have volunteered for Vietnam duty.

Less dramatic perhaps . . . but no less important . . . has been the Veterans Administration's program of counseling sick and disabled servicemen in stateside military hospitals . . . and those at separation points awaiting discharge.

Since this phase of the overall Out Reach effort began, . . . more than 1.7 million G.I.'s in these hospitals and separation points have been briefed on their veteran benefits. Many of them . . . especially hospitalized servicemen . . . have been given in-depth interviews at their bedsides . . . and assisted in applying for disability compensation, vocatonal rehabilitation training, and other benefits.

The Out Reach battle has been . . . and is being . . . fought on many fronts. One of the most strategic . . . and one to which the resources, experience and know-how of the American Legion have been committed so effectively . . . is our United States Veterans Assistance Center program.

Launched just two years ago . . . this Out Reach campaign has resulted in 600,000 Vietnam veterans being interviewed . . . assisted in applying for education and training . . . or helped in finding jobs.

Every veteran benefit is important. And every effort of the Veterans Administration . . . the American Legion . . . and our other service organizations . . . to assure maximum use of each benefit . . . is essential.

I think we can agree here today . . . however . . . that no single benefit will contribute more to the welfare of our Vietnam veterans . . . and to the welfare of America . . . than the Vietnam G.I. Bill education and training program.

It follows . . . of course . . . that the Out Reach efforts to contract our returning Vietnam veterans . . . and to convince them that they should use their education and training entitlement . . . are especially significant.

Let me emphasize that the Vietnam G.I. Bill cannot be considered completely successful until every eligible veteran has been contacted . . . and at least been made aware of . . . and fully assisted in applying for . . . his education and training entitlement.

This is especially true of the Vietnam veteran who did not complete high school before entering service . . . and who is considered to be educationally disadvantaged.

Nonetheless . . . I believe we can be encouraged by the increasing rate of participation of Vietnam veterans in the G.I. Bill education and training program.

Let me give you a quick "for instance."

We expect the peak enrollment in education and training this spring to top 810,000 . . . or about 35 percent more than the number of veterans and servicemen enrolled in training last spring.

Enrollment in college level training will hold at or near the 60 percent of total enrollment which has obtained from the outset of the Vietnam G.I. Bill . . . and which has been much higher than under the World War II and Korean programs.

I think we can safely say that because of these tremendous out reach efforts that our Vietnam era veterans are better informed about their benefits than have been the veterans of any of our earlier conflicts. To me this is the more satisfying, for certainly they have had to fight America's loneliest war as far as national solidarity is concerned.

Judging from my mail, however, I would say there are many Americans sincerely concerned because of recent publicity about the VA's capacity to provide medical care for these younger veterans.

I have seized every opportunity to give assurance that the VA does now, and will continue to provide care for these veterans just as we have for our older veterans. During the past fiscal year only some 44,000—or slightly over five-percent—of the total VA patients treated were Vietnam veterans, and it looks now as though their numbers will increase to only about 60,000 in this fiscal year. The numbers will grow, of course, just as has VA's ability to treat more and more veterans each year.

I don't need to tell this audience that there have been many news stories and newscasts in recent months about the VA medical program.

I do want to tell you, though, that I do not for one minute question either the propriety or the sincerity of the Congressional committees in bringing this matter to the attention of the public. Furthermore, I accept as well-intentioned the criticisms that have been voiced by the many critics in or out of government.

Nor do I discount in any degree the earnest belief by our VA hospital directors that they could effectively use more funds and staff, for I am sure this belief has prevailed for many years.

Without at this time entering into the controversy about VA medical care, I would like—in fairness to the army of dedicated employees now providing care in our 166 hospitals—to emphasize some of the "positives"; some of the progress that is being made in this vitally important field.

First, the matter of money.

The President on November 26, 1969, approved the F.Y. 1969, VA budget which included nearly 1-billion, 542-million dollars for medical care. This was the amount recommended by the outgoing Chief Executive and by Congress, and represented the most money ever appropriated for this purpose. And all of these monies have been made available to the agency.

Then, just about one month ago, the President submitted to Congress for F.Y. 1971 a budget that included 1-billion, 702-million dollars for VA medical care—another record sum.

To the 1-billion, 542-million dollars already appropriated for this fiscal year will be added another 91-million dollars to help cover salary increases.

On top of this, the VA received approval—just today—to ask Congress for still another 15-million dollars to become available this year in the quarter starting next April first.

Let me tell you some of the things this extra money will permit us to do.

Some 9.8-million dollars will be earmarked for our dental outpatient program. We will be able to complete 50,000 additional free examinations, and 45,000 more treatment cases, thus reducing the workload to a normal operating level considering the present, unprecedented demands.

Another 3-million dollars will go for specialized medical services. In a word, this means that instead of waiting until the next fiscal year . . . this money can be devoted to fully staffing specialized units, including pulmonary function—alcoholism treatment—day hospital treatment—and speech pathology units . . . as well as an extra blind clinic, an epilepsy center, and another spinal cord injury center . . . plus more than 600 coronary and intensive care beds.

Some 200-thousand dollars will help us beef up the staffs at our six existing spinal cord injury units by 71 full-time employees . . . 1-million dollars will go into the home dialysis program . . . and another 1-million will help meet increased demands for drugs and medicines.

We are today treating more sick and disabled veterans than ever before in the history of the Veterans Administration.

This fiscal year we expect to treat in our own hospitals an all-time high of more than 780,000 veteran patients. Next year this figure should go up to about 875,000.

To really evaluate this remarkable accomplishment we need to go back a few years. Back to 1958, for instance, when VA was able to treat only 608-thousand patients—172-thousand less than we will care for this year. Or even back to the mid-1960s when we were treating about 50,000 fewer patients.

It is worthy of note, I believe, to point out that in 1958—when we were treating 172-thousand *fewer* patients—VA was operating 121-thousand, 200 hospital beds, which is over 19-thousand *more* than are in operation today.

What I am pointing out is that how effectively beds are used is more important than sheer numbers of beds. The number of operating beds necessary to do the job has been declining steadily for many years. In F.Y. 1969 VA operated some 107-thousand beds; this year the number required has been a bit more than 100-thousand, and the *estimate* for Fiscal Year 1971 is 95-thousand-plus—and yet we have or will be treating more patients in each of these years.

I purposely stressed the word "estimate" in talking about the 1971 figure by way of clarification. Although VA estimated when the budget was prepared some months ago that we would need to operate some 5-thousand fewer beds in 1971, there is nothing sacred or binding about that estimate. If actual experience indicates more beds are needed—then I assure you we will place more beds in operation.

Although the estimate right now for hospital beds is down in the next fiscal year . . . we will have a 28-percent increase in nursing beds in VA hospitals . . . going from the present 4,000 beds to 5,155.

Another improvement I would mention concerns the staffing of our hospitals.

Just six months ago—at a time when he was reducing employment elsewhere in the government by about 50-thousand jobs—the President authorized a VA increase of 1,500 employees, with the vast majority of the increase ticketed for the medical program.

The new budget for the next fiscal year calls for another increase of 2,150 medical employees.

The ratio of hospital staffs to patients has increased steadily . . . from 146.2 employees per 100 general hospital patients last year to 150.2 this year, and this will go up to 156.8 next year.

Hopefully indicative of VA's ability to recruit physicians is the fact that as of the last reporting date there were 5,137 full-time doctors on the rolls, including 800 scarce-category psychiatrists. This is 373 more doctors than we had nine months earlier, including 26 more psychiatrists.

The outlook for hospital construction constitutes another "positive." Following on the heels of an appropriation of less than 8-million dollars in Fiscal Year 1969, and the government-wide moratorium on most construction projects this year . . . we have asked for 59-million dollars for construction in the next fiscal year. This will be the largest volume of construction placed under contract in 21 years.

The fact that VA is treating ever-more patients has, of course, had an impact on hospital waiting lists. The records reveal there were more than 25,000 on the waiting

list in 1958, and the number was nearly 17,000 in 1964. Today the list numbers only 2,700 nonservice-connected veterans in the continental United States.

Medical research funds have grown from an appropriation of 48-million dollars in F.Y. 1969 to 57.6 million dollars this year . . . and we are asking for 59.2-million dollars in the new budget.

I have not cited these few examples of progress with the intention of rebutting any of the VA critics, for I realize full well that there will always be differences among sincere and reasonable men in a field as difficult to measure as medicine.

Instead, I have spoken out in the belief that all of us need to remind ourselves—as well as the thousands of veterans who will be VA patients in the days ahead—that there is much that is good about the VA medical program.

I am well aware of the adage that the mind can absorb only as much as the seat can endure.

Despite that awareness, I am moved to tax your patience with one more observation.

Although I have been Administrator of Veterans Affairs for only a little more than eight months, I learned early on the job that a considerable amount of criticism—from a wide variety of sources covering a broad range of subjects—is part and parcel of the position I hold.

Mind you, I am not complaining. I appreciate that any operation as mammoth and complex as the Veterans Administration is bound to have lots of critics. And I think this is as it should be, for constructive criticism not only is welcome, but enables us to do a better job.

Although I like to think that I do a pretty good job of maintaining my "cool," I must confess to you that I was hurt by that portion of your National Commander's statement yesterday morning before the House Committee on Veterans Affairs in which he linked my name with some mysterious, long-range program to phase out the medical and hospital program of the Veterans Administration.

To you, Commander Patrick, and to all my other friends in the great American Legion let me make this point absolutely clear.

I speak for the President of the United States as well as Don Johnson when I tell you that there is *no* program—long-range, short-range or intermediate-range—to phase out, or in any manner diminish VA hospital and medical care.

It strikes me, as a matter of fact, that providing more funds, and treating more sick and disabled veterans than ever before in the history of our nation is an odd way to go about phasing out a program.

I yield to no man in this audience, including your present National Commander, in my determination to maintain—and to strengthen the great VA medical program—as a separate entity as it is now constituted.

Should there ever be at anytime in the future . . . any attempt . . . by anyone in or out of the government . . . to phase out, destroy, or in any way lessen the importance of the VA medical program . . . let me assure you of one thing.

The first person they will have to deal with is Don Johnson.

And those of you who remember the fight I led in 1965 against the VA hospital closings decreed by the former President might agree, I believe, that Don Johnson can battle pretty effectively when veteran programs are threatened.

I am the same Don Johnson. My title may have changed, but certainly not my regard for veterans, nor my concern for their welfare.

Again . . . I apologize for taking so much of your valuable time.

However . . . I want you to know how grateful I am for the opportunity you have given me to join once again a gathering of this body of great Americans.

There have been times in the past . . . as there will be in the future . . . when the American Legion and the Veterans Administration don't see eye to eye.

There has never been a time . . . however . . . and I know that there never will be . . . when we shall seriously question the other's honor and integrity and dedication to the welfare of America's veterans, their dependents and survivors

This is all any of us could ever ask.

This is all America's veterans will ever need.

Thank you.

POSTAL STRIKE

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

Mr. SCHADEBERG. Mr. Speaker, as the postal strike continues, one thing is abundantly clear: This is not the time for quibbling. This is not the time to go searching for the blame in order to place it squarely on the shoulders of the administration, on the unions, or on the striking workers. The important thing is to realize why we are in this mess which threatens our economy and to move swiftly to correct the problem areas.

Congress has the authority to regulate the postal system. It is our responsibility to see that things are done in this area as expeditiously and efficiently as possible. There is no question that we have created an inefficient postal department and have contributed to the tremendous deficit under which the postal department has been forced to operate for years.

The postal department, like all others, has been created to do a public service. Yet, we have expanded the areas of involvement to the point that the Department is incapable of doing its main job and purpose—delivering the mails. The result has been to create a tremendous deficit that has been pushed onto the shoulders of the postal workers.

Let us examine certain of these. First of all, the franking privileges which we as Members of Congress enjoy should not be charged to the administration of the postal department, but to the House and Senate administration appropriations. The mailing privileges of the various departments and agencies should not be charged to the postal department. They should be borne by the respective departments and agencies. Each should pay its own way. The postal department should not be required to administrate pornographic mailings. The Justice Department would be the more appropriate agency.

As a result of the Department being forced to bear the administrative costs, that do not relate to delivery of the mails, the postal department has a hard time in clearing the cost of the mails. I have heard mention that we cannot give higher wages at this time because of the inflationary effect, but it is abundantly clear that we can give better wages and better working conditions without being inflationary if Congress would only address itself to the actual purpose of the Department—the delivery of the mails.

No one would question that the Department of Defense must bear all of its own expenses. It is not so required because it deals in a service—the defense of our Nation. Why then insist that the service provided by the postal department be any different? We constantly try to reduce the excess costs of the Defense Department. We can do the same with the postal department.

In the same fashion that we do not require that the men serving in the military make up for the deficit spending in the Defense Department, why then must we require the 750,000 postal employees, the men and the women who move the mails, to carry the burdens of this inefficient program that is a result of Congress' failure to act.

I believe that it does no good at this time to question whether Congress should legislate under the threat of a strike. Those persons who have engaged in this strike can be dealt with by the law after the mails are moving once again. But we must not make them the whipping boys for Congress' failures.

I firmly believe that it is Congress' responsibility to act now on the postal workers' salary schedules. The matter can take under consideration the needed reform at a later time, without undue reform.

We have the constitutional authority to regulate the mails. We must act now.

BRINKMANSHIP AND THE LETTER CARRIERS' STRIKE

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

Mr. ADDABBO. Mr. Speaker, I am very disturbed over the policy of brinkmanship which the President has adopted in handling the mail carriers' strike.

The House of Representatives met its constitutional obligations last year and passed a postal pay bill but the President, by his threat of a veto and insistence on postal reform, has crippled Senate action on the measure. Congress has adopted a policy of "comparability" in postal pay measures and the President has failed to meet his responsibility to report to Congress on pay scales for postal employees comparable to private industry.

Title 5, United States Code, sections 5301 and 5302, passed in the 1962 postal pay bill, states:

It is the policy of Congress that federal pay fixing be based on the principles that (1) there be equal pay for substantially equal work and pay distinction be maintained in keeping with work and performance distinctions; and (2) Federal pay rates be comparable with private enterprise pay rates for the same level of work.

The President shall (1) direct an agency to prepare and submit to him annually a report which compares the rates of pay for federal employees with the same levels of work in private industry as determined by an annuel survey by the Bureau of Labor Statistics. Considering the views of employee organizations, he shall report annually to congress this comparison of federal and private industry rates and make such recommendations for revision of statute regarding pay schedules as he considers advisable.

I urge the President to address himself to the real issues involved in this crisis—to pledge his efforts to achieve comparable pay for postal workers and to admit that postal reform, while a high priority, is a separate subject. This is the only way the President can meet his constitutional obligation without aggravating an already dangerous situation.

Mr. Speaker, I call to the attention of my colleagues in the House an editorial which appeared in the March 21 edition of the Long Island Press. I include the text of the editorial in the RECORD at this point:

THE BITTER FRUIT OF INDIFFERENCE

No one—not even the strikers themselves—condones a walkout of the dimensions and disastrous implications of the postal strike, but as Francis S. Filbey, president of the AFL–CIO United Federation of Postal Clerks, said yesterday, "the public ought to know that this work stoppage is the bitter fruit of low wages and intolerable working conditions."

He might well have added governmental indifference and callousness.

The postmen have been pleading for a wage increase for a long, long time, but they have been squeezed in a power play between the President and Congress. Only Congress can grant the pay increase, but legislation has been stalled since last December because of President Nixon's insistence that it be tied to his postal reform proposal.

Why should reform be tied to what these men need to support their families? It is easy to condemn the strikers for putting pressure on everybody else to make their case. After all, this is against the law. But why is there no law to protect men in such a situation from being pawns in another battle?

Not only were they caught in this bind, but they had to struggle all this time on wages at the bottom of the governmental pay scale, and far below comparable work in the private sector. With inflation growing as fast as it is, these are the people who feel the pinch first and hardest.

COMMENTS ON BLS FEBRUARY COST OF LIVING REPORT

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

Mr. ALBERT. Mr. Speaker, the Bureau of Labor Statistics report that the cost of living surged further upward during February, the sharpest increases being for food, clothing, and shelter, is but one more communique picturing another disastrous route in President Nixon's "no win" war against inflation. Press Secretary Ronald Ziegler's Pollyanna pronouncement from the White House, "every indicator that we have is that inflation is coming under control," is little short of tragic mockery. The mother vainly trying to stretch her devaluated dollar to outfit her children for Easter will find little solace in Mr. Ziegler's consoling words. The American housewife on her weekly shopping trip to the supermarket will find his remarks bereft of comfort. If her husband has been laid off or finds himself on a reduced workweek, she may well question whether or not she and Mr. Ziegler dwell in the same world. The young couple, who after years of sacrifice have finally purchased a home only to find themselves saddled with unconscionable interest payments, will certainly find the Press Secretary's comments both irrelevant and in poor taste. In order to meet their inflated mortgage payments, this couple will now be required to deny their children the amenities and, yes, in some cases, the necessities of life. The money which might have been used for Mary's piano lessons or the orthodontic treatment Jackie so urgently needs, must now go to pay the high interest tribute which this administration has levied on the American family of modest means.

The economic policies being pursued by the Republican administration are demonstrably an unqualified failure. Of far greater consequences, however, are their demeaning results on the quality of American family life.

INFLATION

(Mr. McCORMACK (at the request of Mr. ALBERT) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCORMACK. Mr. Speaker, the cost of living rose once again in February, and the rate of increase was the sharpest in 20 years.

The administration, oblivious to the human effects of its inflationary policies, tried to delude the public with statements that inflation is being controlled.

Spokesmen at the White House said that inflation was defeated. The President, once again, said his policies are working.

The record speaks otherwise. In the period Mr. Nixon has held office, this Nation has seen a sharp increase in inflation, big jumps in unemployment, and a constant recessionary trend.

Talking about curing inflation will not cure the problem. The housewife knows that President Nixon's statement that inflation is under control is not correct when she finds posted price increases every time she visits the grocery store. The small businessman who has to pay excessive interest rates for money to stay in business will not believe it.

The millions who remember the series of comments of White House spokesmen, going back more than a year, that inflation was being controlled will also not believe it.

This Congress has provided the President with powers that need to be used in the fight against inflation. The President also must bring to bear the powers of the office he holds against the spiraling price increases of big concentrated industries, if there is to be effective Government action against rising prices.

Rhetoric will not reverse the inflationary spiral which is costing this Nation so dearly. President Nixon should use the authority which Congress gave him, and the powers of his office, to bring stability to our economy.

The large financial interests may not feel inflation's sharp bite, but the family of modest and middle income suffers daily from its effects. This Congress stands ready to work with the Executive in any sincere effort to combat the ever-increasing cost of living.

PEACE RESOLUTIONS OF THE GREATER MIAMI JEWISH FEDERATION

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

Mr. PEPPER. Mr. Speaker, it is with apprehension that I have been observing the worsening situation in the Middle East and with sadness that I have seen the administration inflict an unjust and almost "punishing" policy on our most staunch ally and friend, Israel.

As Americans concerned with peace and safety, the Greater Miami Jewish Federation, representing over 200,000 Jews in Dade County, has recently expressed its anxiety over the administration's policy changes in the Middle East in the text of five resolutions.

I wish at this time to present these resolutions with the accompanying letter, transmitted to me by Mr. Morton Silberman, chairman of the community relations committee of the Greater Miami Jewish Federation, and to affirm my own commitment to our historic role of assistance and friendship to Israel.

The material follows:

GREATER MIAMI JEWISH FEDERATION,
March 18, 1970.

HON. CLAUDE PEPPER,
House of Representatives,
Washington, D.C.

MY DEAR MR. PEPPER: We are hereby transmitting to you five resolutions passed at our Organizational Conference on the Middle East held in Miami on the 1st of March.

At the same time we wish to express our appreciation to you for the support you have given to the State and the people of Israel, and especially for your understanding of the fact that to help Israel is beneficial to the aims and purposes of our own United States.

Sincerely yours,

MORTON SILBERMAN,
Chairman, Community Relations Committee.

RESOLUTION No. 1

The delegates of the Dade County Jewish Organizations representing over 200,000 Jews in Dade County assembled in Miami, Florida on March 1, 1970, to express their deep anxiety over the direction of the Department of State and its policies in the Middle East.

We, as Americans, are profoundly concerned for our country's national interest and we share all mankind's yearning for peace.

Since the founding of the State of Israel, the people and government of the United States have affirmed their interest in America and have affirmed that it is in America's national interest to support the sovereignty and security of Israel.

We have read President Nixon's message to the National Emergency Conference on Peace in the Middle East this past January and note with satisfaction his statements of friendship, understanding and support for Israel. We also note that the President has stated that "the United States does not intend to negotiate the terms of peace." This follows his earlier statement that the Four Powers "cannot dictate a settlement in the Middle East."

We believe that the attempts of the Four Powers to draft the framework for a settle-

ment have in fact impeded the progress toward peace.

We believe that the specific proposals submitted in December by our State Department, which suggest pre-determined borders between Israel and Egypt, and with Jordan, and that Jordan share in the administration of Jerusalem, and that there be a repatriation of Arab refugees which would flood Israel with a fifth column bent upon its destruction—that all of these endanger the security of Israel and imperil the cause of a lasting peace in the Middle East.

We therefore resolve to call upon Secretary of State Rogers to withdraw these proposals so that Arab Israeli direct negotiations (which have been called for by President Nixon) be undertaken without any preconditions. We believe that the role of America is to bring the parties together in direct negotiations: to stand firm against Soviet pressure; and to provide Israel with sufficient economic and military strength to deter any further Arab aggression.

RESOLUTION No. 2

We, the delegates of the Dade County Jewish organizations, assembled in Miami, Florida, on March 1, 1970, noting the historic friendship between the peoples and governments of the United States of America and the State of Israel, and applauding their respective efforts to promote world peace and secure an end to a state of war in the Middle East, do hereby resolve that:

1. The United States continue to supply economic and military assistance to the State of Israel in sufficient time, quality and quantity to obtain and maintain a balance of arms in the Middle East between Israel and her belligerent Arab neighbors; and that

2. The United States make a concerted effort, independently and through the United Nations, to secure face-to-face negotiations between Israel and the Arab States with no pre-conditions by either side; and that

3. The United States continue its participation in the so-called Big Four talks on the Middle East only so long as it specifies that there be no imposed settlement upon either Israel or the Arab States.

RESOLUTION No. 3

The delegates of the Dade County Jewish organizations, assembled in Miami, Florida, March 1, 1970, concerned with achieving peace in the Middle East and deeply perturbed by anti-Israel actions of French President George Pompidou:

1. Applaud the stand of the French press and people in publicly and vigorously opposing the Middle East policy of President Pompidou, and recall the historic friendship between France and Israel; and

2. Urge that France cancel the sale of 110 jet fighter planes to Libya, which sale would further increase the arms imbalance in the Middle East in favor of the Arabs; and

3. Call upon France to allow delivery to Israel of the 50 Mirage planes purchased and paid for by Israel prior to June, 1967.

RESOLUTION No. 4

The delegates of the Dade County Jewish Organizations assembled in Miami, Florida, on March 1, 1970, after noting the acts of terrorism against innocent civilians, Israelis, Americans, and citizens of other countries by Arab guerrillas, and noting that these acts are being committed not only in Israel, but also in Switzerland, Greece, Germany and other places:

1. Condemn these acts and all acts of air piracy committed by any or all nations or by their nationalis with their connivance as uncivilized and barbaric, and call upon the free nations of the world to join in such condemnation; and

2. Call upon the free nations and upon all world airlines to continue passenger, freight, and mail flights to Israel; and

3. Call upon these nations and airlines to bar all flights to Egypt, Syria, Lebanon, Iraq, Saudi Arabia, Morocco, Algeria, and Libya, until the Arab States take positive and effective action to end any and all additional acts of terrorism and air piracy.

RESOLUTION No. 5

The delegates of the Dade County Jewish organizations, assembled in Miami, Florida, on March 1, 1970, acknowledging the fortitude, and the vigorous and speedy action of Switzerland in acting against Arab nationals within her borders:

1. Note that the Swiss Government thereby formally recognized the relationships between the belligerent Arab States and the Palestinian terrorists, without which the Arab guerrillas could not be maintained; and

2. Do herewith commend the action of the people and Government of Switzerland in promoting world peace and ending acts of indiscriminate murder against innocent civilians.

THE ADMINISTRATION'S REFUSAL TO RECOGNIZE ISRAEL'S NEEDS FOR SURVIVAL

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

Mr. PEPPER. Mr. Speaker, the administration's position in declining Israel's request for a commitment of additional fighter planes now is, I am very much afraid, going to encourage aggression against Israel and create a greater risk of war in the Middle East. In view of the declared determination of the Arab nations, aided by Russia, to destroy Israel, the only way there can be any hope of either the survival of Israel or peace in the Middle East is for the United States either physically to maintain the defensive force of Israel at a level in all critical weapons which will discourage aggression by the Arabs because it would be in vain; or for the United States to give positive and clear-cut notice to Russia that we will supply immediately, when needed, all the weapons Israel may need at all times to assure that she can successfully repel any aggression against her.

Our administration has done neither.

As long as we equivocate and dodge the issue of what we are going to do, we encourage the danger of Arab aggression which may well lead to the outbreak of a full-scale world war.

While the administration declines to send planes to Israel, the Russians are sending the most effective antiaircraft weapons to Egypt. And still we do not state a definite position as to what we are doing or going to do.

Only a little while ago, the situation was made worse in the Middle East by the position the United States took, giving the impression that we were trying to force a settlement upon the parties there, rather than putting all of our efforts into a program to try to get the contending parties face to face in negotiations.

I am afraid that this move is also going to cause a dangerous situation to deteriorate more. I hope the administration will promptly take a more clear-cut position in the interest of peace in the Middle East and in the world.

PEP PILL QUOTA—AN URGENT NEED

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

Mr. PEPPER. Mr. Speaker, at this time, I would like to remind my colleagues of three bills now pending before the Subcommittee on Public Health and Welfare of the Committee on Interstate and Foreign Commerce.

These bills deal with the overproduction of amphetamines, or pep pills, and were all introduced by members of the Select Committee on Crime as a result of information developed during a series of hearings held by the committee across the country.

H.R. 16123, introduced by myself, Congresswoman MARTHA GRIFFITHS, Mr. ROBERT NIX, and Mr. JEROME WALDIE, would establish a quota system for the production of amphetamines in this country. It would also tighten up production and distribution controls so that we may be certain that legally produced amphetamines are produced legally.

Congressman CHARLES WIGGINS' bill, H.R. 16118, is identical to our bill, but also contains a no-knock search warrant provision. Congressman ROBERT V. DENNEY'S bill is similar to Mr. WIGGINS', but deletes the quota provision.

Our committee is convinced we need this legislation now. We have conveyed our concern to the subcommittee, and so that you may share our testimony, I ask that our remarks be printed in the RECORD at this point:

STATEMENT OF THE HONORABLE CLAUDE PEPPER, CHAIRMAN, HOUSE SELECT COMMITTEE ON CRIME

Mr. Chairman and Members of the Subcommittee, I very much appreciate the opportunity that you gentlemen have afforded me this morning.

As you know, my Bill H.R. 16123 is before your Committee. I was pleased that Congresswoman Griffiths, Mr. Nix and Mr. Waldie also joined in that bill as co-spsonsors. Congressman Wiggins, also of our House Select Committee on Crime has introduced H.R. 16151 which is also before your Committee. Mr. Wiggins' bill is identical to ours except that it includes a "no-knock" provision dealing with search warrants. Congressman Denney of our Committee has introduced H.R. 16118 which, except for production quotas and the designation of the Attorney General rather than the Secretary of H.E.W. to determine which substances should be controlled, is identical to Mr. Wiggins' bill.

All of us join in support of H.R. 13743 which was introduced by your distinguished Chairman, Mr. Staggers. However, we feel that this bill which is similar to S. 3246 which passed the Senate last December, does not go far enough in attempting to combat this extremely difficult problem.

As you perhaps know, our Committee held hearings here in Washington, D.C. and in several cities throughout the country. Substantial portions of those hearings were devoted to the subject of narcotics and dangerous drugs. The House Select Committee on Crime, which I am privileged to serve as Chairman, also held hearings in Boston,

Omaha, San Francisco, Columbia, South Carolina and Miami during the past year. We have just concluded four days of hearings in Metropolitan Washington, D.C. In every city that we visited, it was conclusively shown that, with the exception of San Francisco the drug problem has grown by leaps and bounds within just the last two years. San Francisco has been faced with a large problem for the last five years.

It is my understanding that narcotics and marihuana are not before the Committee at this time. For that reason, my remarks will be limited to amphetamines, barbiturates, tranquilizers and hallucinogens which are the substances covered in H.R. 16123. Our bill is essentially the Senate passed bill with narcotics and marihuana deleted. Because of the time element involved and the bisected nature of our bill and others before you, no doubt you will wish to make a number of technical changes. Basically, however, we are advocating S. 3246 with the following modifications:

1. A method for establishing quotas is incorporated for amphetamines; this would be done by the Attorney General along the same line that he now does for narcotics;

2. All people manufacturing, distributing or dispensing dangerous substances are required to obtain a license rather than the registration which is provided for the Senate passed Bill; specific authorization is given for pre-license inspection, whereas the Senate Bill is somewhat fuzzy in this area;

3. A requirement for separate and segregated record keeping in all controlled dangerous substances;

4. Approved order forms would be required for all controlled dangerous substances instead of just Schedule I and Schedule II substances.

5. The Secretary of H.E.W., instead of Attorney General would determine which substances should be controlled; however, the Attorney General would be the person to issue licenses and renewals, as is provided for in the Senate passed Bill;

6. The Senate Bill on prescription drugs for amphetamines, barbiturates and tranquilizers allows a six-month prescription with five refills; our Bill would limit the prescription to three months and three refills;

7. An outright ban on the production of methamphetamines, except for scientific research—this incorporates the same concept which is contained in H.R. 15432 which has already been introduced by our Committee.

1. PRODUCTION QUOTAS FOR AMPHETAMINES

Evidence induced in hearings around the country convinced all of the Committee Members that abuse of this substance is a menace to the public health and safety. Though oral use of amphetamines may cause difficulties, including psychological dependence and paranoid psychosis, it is more likely that these effects will be maximized through intravenous injections. It would appear that those who are now using amphetamines for this purpose, prefer methamphetamines, (popularly known as speed) which is a part of the general class of amphetamines. A "speed freak" is someone who engages in high dose methamphetamine abuse on a regular basis. With each injection, the abuser experience a "rush" or a "flash". The result of those injections is euphoria and hyperactivity. This phase can be prolonged by repeated injections for several days. The only limitation on the length of the user's trip is when he, because of exhaustion, is forced to come down; this is called "crashing". It is at this point in time that the paranoid reaction is most likely to occur. Then depending upon the psychological makeup of the individual, he could attack others or jump out of a window.

Other harmful side effects are, of course, hepatitis, malnutrition and undermining of the individual's health because of irregular sleep and eating patterns. There are also numerous recorded cases of permanent brain damage and even death.

Unfortunately, there was evidence in every city that we visited that there are a substantial number of young people engaging in this type of activity. Of course, these are not the only substances that are being abused; heroin, cocaine, L.S.D., barbiturates, marihuana, etc., are available for anyone with money to purchase them.

One must ask himself how these substances are so readily available. Since our Committee, to some extent, narrowed its inquiry to amphetamine abuse, I will try to limit most of my comments to that class of substance. The production of amphetamines in the United States vastly exceeds the legitimate medical needs of this country. I know we have received testimony that there are over 8 billion pills manufactured annually. According to figures furnished us from Federal Bureau of Narcotics and Dangerous Drugs, production in the United States of amphetamines and methamphetamines for calendar year 1968 as follows:

Amphetamine:
Total bulk production: 34,397 kg.
Amount exported: 10 kg.
Amount available for domestic use: 34,387 kg (3,438,700,000).[1]
Desoxyephedrine (methamphetamine):
Total bulk production: 12,372 kg.
Amount exported: none.
Amount available for domestic use: 12,372 kg. (1,237,200,000).[1]

Because of the Committee's extreme concern, on November 18, 1969, we held one day of hearings here on Capitol Hill dealing exclusively with the subject of amphetamines. The evidence to support imposing production quotas on amphetamines is overwhelming and supported by reputable medical testimony.

A handbook on drug dependency published by the American Medical Association lists eight uses for which amphetamines are prescribed by physicians:

1. Control of symptoms of narcolepsy.
2. Control certain hyperkinetic behavioral disorders of children.
3. Relieve or prevent fatigue in individuals with deteriorated psychomotor performance.
4. Treat mild depression.
5. Antagonize the pharmacological actions of depressant drugs.
6. Control appetite.
7. Induce insomnia and counteract fatigue in persons occasionally required to perform mental or physical tasks of long duration.
8. Enhance the action of analegisic drugs.

But except for the first two uses—control of narcolepsy and hyperkinetic behavior—the handbook notes that the other uses are subject to "varying degrees of professional controversy."

While amphetamines have a legitimate role in the treatment of narcolepsy and hyperkineticism, these are both exceedingly rare diseases. Dr. Sidney Cohen, Director of the Division of Narcotic Addiction and Drug Abuse of the National Institute of Mental Health has told our Committee the number of amphetamine tablets needed to treat these diseases would be a few thousand a year, not the eight billion which are now produced annually.

What, then, are these billion of amphetamine tablets being used for?

Dr. Cohen told us that 99 percent of total legal amphetamine production goes for weight and fatigue control.

These are both highly questionable uses of amphetamines.

[1] Average dosage unit strength for amphetamines and desoxyephedrine 10 mg. F.B.N.D.D. also advises that over 80% of their seizures of illegal amphetamines were originally legally manufactured.

Studies have shown that dieters will lose an average 6.75 pounds more during a six to twenty week course of treatment using amphetamines than if they were given a placebo. This additional weight loss is hardly sufficient to justify the dangers connected with using amphetamines. Because amphetamines increase blood pressure and have a direct action on the heart, they can seriously aggravate pre-existing diseases.

The argument for using amphetamines for weight control is further weakened by the availability of Fenfluramine, an appetite depressant which is not a stimulant drug.

The use of amphetamines for fighting fatigue runs from the college student who takes a tablet so he can stay up all night to study for an exam to the truck who swallows large numbers of pills so he can make exceedingly long trips without sleeping. Athletes sometimes use amphetamines to excel in a contest.

But even under the most minimal type of amphetamine misuse, deaths have been reported. For those taking large doses of amphetamines regularly, addiction can occur, and there is the possibility that brain damage can result.

In 1962, the Food and Drug Administration determined that there were over 100,000 pounds of amphetamines and methamphetamines available in this country. That works out to 25 to 50 doses a year for every man, woman and child in America. Evidence previously previously given indicates that amphetamine production has increased in the eight years since that survey.

Gentlemen, the health of this nation and especially its young people are at stake. If Sweden and Japan can place strict controls on amphetamines, I submit we must do likewise.

No doubt some Committee could productively make specific inquiry into the quantities of barbiturates and tranquilizers produced in this country, also. It is my understanding that Dr. Egeberg, Assistant Secretary has already appeared before you and advised that 10 billion sedative dosage units will be produced this year. This figures out to be 50 doses for every man, woman and child in this country.

It is not enough, however, to control the legitimate production of amphetamines. The immediate precursors also have to be restricted. In San Francisco we heard testimony from one Richard G. Bennetto to the effect that with an initial investment of $200 and a monthly overhead of $1800, he had managed to make a net profit of over $30,000 a month on sales of methamphetamine, "speed" from his clandestine lab. Bennetto was no chemist but he was taught all he needed to know by a fellow inmate during a 40-day jail term. Once he was released, he encountered no diffculties in purchasing equipment and chemicals from legal sources. Pebble Palace is a store in Daly City, California where such materials could be purchased with relative ease. Gene Meyers, Proprietor of the Pebble Palace, explained to the Committee his chemical sales operations. At the suggestion of a large chemical wholesale company Van Waters and Rogers, Meyers began stocking small amount of chemicals along with the glassware and jewelry that he sold. Van Waters and Rogers referred customers to the Pebble Palace and when orders came in for phenyl-2-propanone and methylamine 40 percent, the basic ingredients for speed, Meyers would in turn order the chemical in bulk from Van Waters and Rogers. Meyers' customers would place their orders for supplies for their so-called photography labs, their perfume companies or shrubbery sprays by telephone or in person. The whole operation was casual; invoices were recorded under first names and few questions were asked.

Meyers claimed that he would supply the Bureau of Narcotics with information on

his customers but that he was not really concerned about the chemicals he was selling, nor was he aware that they were being used for illicit purposes until a customer was blown up in a clandestine lab. The explosion happened in March of 1969 at which time Meyers stopped selling phenyl-2-propanone. It was also in March that the B.N.D.D. agents asked Meyers to stop selling that line of chemicals and that phenyl-2-propanone became a controlled substance in California. The California reclassification of phenyl-2-propanone might slow down the the production of speed, but as long as the chemical can still be bought in the neighboring states, in much the same way that it was formerly purchased in California, the production will continue.

Certainly, if we ban the production of methamphetamine, stricter controls of precursors will be necessary to prevent illegal manufacturers from picking up the slack.

Realizing strict controls on amphetamines would cause considerable comment, we decided to contact others on the subject. The Committee solicited the opinions of the Deans of seventy-five medical schools and sixteen other groups such as the World Health Organization and the American Society of Bariatrics on the subject of the legitimate use of amphetamines.

Though few would welcome a total ban similar to that imposed in Sweden, the majority agreed that tighter controls were needed and that amphetamines were needed primarily for the treatment of such rare conditions as narcolepsy and hyperkinetic children. Only one source claimed that amphetamines were effective and should be used in the early stages of diet programs.

This information would seem to support our contention that 8 billion amphetamines are not needed to treat the rare cases of narcolepsy and hyperkinetic children. Few people supported their use as anti-depressants or stimulants.

For your information, I would like to submit at this time a tabulation of the responses and a cross-section of portions of the letters received:

AMPHETAMINES, DRUG ABUSE

Total letters sent	88
Medical Schools	75
Others	13
Number of responses to date	53
Number of responses promised	7
Responses:	
No research conducted at School or by group	26
Support total ban similar to program in Sweden	4
Needed for hyperkinetic children	11
Needed for treatment of narcolepsy	1
Needed for treatment of depressions	3
Needed for early stages of diet programs	1
Needed for treatment of Parkinsons Disease	3
Needed for research programs	2
Needed for improvement of performance when fatigued or bored	2
Support partial ban, tighter controls	3
Total ban would encourage illicit labs	9
Safe if used under doctor's supervision	9

UNIVERSITY, RESPONSE, AMPHETAMINES

Boston University: Hazard results from dosage and indiscriminate use. Should be used only under physician supervision.

UCLA School of Medicine: Amph. & Meth. used commonly in pharmacological research in animals and tissues to obtain info on normal physiological mechanisms.

Case Western Reserve (T. George Bidder, M.D.): If just amph. removed from scene, will solve nothing as will encourage experimentation with other drugs. Have to tackle whole drug problem not isolate drugs. Useful and effective when used properly under medical supervision. Little use for meth.

Dartmouth Medical (Dr. Richard Reth): Does have legitimate clinical use. Lack of patient follow-up accounts for some addiction and abuse. Suggests better control of distribution of legally manufactured drug. Also tighter control on prescribing and dispensing.

Duke University (Dr. Ellinwood): Amph. indispensable in treatment of hyperkinetic children, no alternative drug discovered yet. Good for treatment of Parkinson Disease. Good for short term treatment of obesity patients.

Emory University: Not want to see production and sale of amph. discontinued. Does have use in medical practice. If banned will be replaced by other drugs for abuse.

Georgetown University (Dr. Frank Standaert): Useful for control of certain disorders—narcolepsy, hyperkinetic children, depressions—when properly administered. Banning of amph. would not solve abuse problem. Commercially produced amph. are abused, but commercially produced products are not suitable for most dangerous form of abuse—intravenous injection. Such material is produced in clandestine labs. Ban would withhold it from those who need the drug for medical purposes and it would not curb illegal lab production.

University of Kansas: Little medical use for amphetamines. Patients do become tolerant to appetite suppressant effect after several weeks of continuous use. Also geriatric practice uses small doses for depressions. Feels that abuse potential outweighs medical value.

University of Kentucky (Dr. Harris Isbell): Only currently accepted uses of amph. that have any scientific proof are in the treatment of narcolepsy and hyperikinetic children. For treatment of depressions other drugs have been found. Of almost no value as anorexics of obesity. Intravenous abuse is the most dangerous. Illicit lab production accounting for an increasing amount of illegal trade—laws directed against manufacturers seem rather futile. Could do without amph. but making legal control tougher would likely stimulate illegal synthesis.

University of Nebraska: Amph. of value in certain experimental studies. Also, for depressions and neurasthenic neurosis, narcolepsy and hyperkinetic children. Not necessary for weight control.

University of Pittsburgh: Dr. Emil S. Trellis: Dr. Trellis works with those who hurt themselves with drugs in a psychiatric capacity. "Approx. 2 or 3 years ago, I was asked to testify in the defense of a woman who killed her husband. At the time she had been taking 90 mg. of amph. a day for several months as prescribed by a 'diet doctor'. Prior to her seeing this physician, she had two psychiatric hospitalizations during each of which she had been diagnosed as being psychotic. Approx. 2 weeks before the murder, she was reported by her family to be confused, agitated, and 'talking to herself' which suggested to me that she had been hallucinating. My testimony was a major factor. I was cross-examined for 45 minutes. My position was and is, that an amount of amph. could very well precipitate psychosis in a pre-psychotic individual. It took the jury approx. one hour to acquit her. The real issue seemed to me whether or not malpractice should have been considered."

University of Rochester: Report submitted by Drs. Bernard Weiss and Victor Laties. Amph. is effective and safe when used under strict controls to enhance performance and to improve performance degraded by fatigue or boredom. Tested on athletes, combat troops, pilots. No severe side effects when properly used. Physiologically and psychologically amph. is rather benign. Need more research into high dose levels to determine the reasons for the increasing abuse.

University of Tennessee, Dean Callison: Personal opinion in own experience that amph. are more harmful than useful. Hopes that U.S. follows example of Sweden.

University of Texas, Dallas: Dr. J. Crout: Abuse potential outweighs therapeutic benefits in adult medicine. But useful agent for disturbed children. Dr. K. Charalampous: Amph. could be dangerous when used to treat depressions. Limited usefulness for treatment of obesity. But amph. are good for treatment of disturbed children and narcolepsy. Should be controlled through production of limited quantities for rare appropriate usage.

Tufts University, Dean W. F. Maloney: Amph. should be dispensed only on prescription by a doctor. Outlawing of the drugs would lead to less rather than more control by creating an underground market. On this last point there is close to unanimous agreement, particularly among faculty members who work with drug abuse problems.

Tulane University, Dr. Robert Heath: Amph. useful for treatment of disturbed children. Should not be used for treatment of obesity.

University of Utah, Dr. K. Castelton: Amph. of some value in treatment of narcolepsy, hyperkinetic children, parkinsons disease, epilepsy and as anorectics. Also, has shown to produce actual improvement in human performance under conditions of fatigue and boredom.

University of Virginia, Dr. John A. Owen, Jr.: Has had bad experiences with clinical use of amph. as anorexigenic agents. Believes that few "thoughtful internists" would object if the U.S. followed the example of Sweden.

University of Wisconsin, Dr. P. L. Eichman: As a neurologist has used amph. for treatment of narcolepsy and brain damaged children. Sees problem as control of manufacturers and distributors rather than abuse through prescriptions.

University of Washington, Dr. J. M. Dille: Amph. are of medical and therapeutic value when properly used. Dr. Dille works in Open Door Clinic in Seattle for hippy community with drug problems. Sees abuse of amphetamines as most difficult problem at this time. But complete abolition of amph. would not be solution. Amph. are too easy to synthesize in clandestine labs. Possible solution would be to place amph. under restrictions similar to those enforced for narcotics. Present control of amph. not sufficient.

University of Vermont, Dean E. C. Andrews: Opinion of those involved in research that there is probably little justification for continued manufacture of amph. and class of compounds. Use should be limited to few well qualified investigators for experiments to evaluate therapeutic effect in specific conditions. Should follow example of Sweden.

Johns Hopkins University, Dr. Solomon Snyder: Amph. useful in treatment of disturbed children and Parkinsons disease. Also very useful agent for brain research. Therefore should remain available for these purposes.

University of Michigan, Dr. Maurice Seevers: Dr. Seevers presented a paper at the symposium in Stockholm in November, 1968 which established the basis on which the Swedish government decided to ban amph. Has been acquainted with the rapid development of abuse in Sweden. Also serves as a consultant to Minister of Health and Welfare for Japanese government in drug abuse program. After epidemic of amph. abuse after World War II, which reached its peak in 1955 with estimated 1 or 2 million users Japanese government took strong punitive measures and practically abolished their use except for a few medical specialists. Class of central stimulants, including cocaine and amph. are most dangerous drugs of abuse. Because of

marked increase in violent crimes associated with the 2 major epidemics of abuse of amph., and the fact that amph. abuse and central stimulants is on the increase in metropolitan areas, and doubtful therapeutic advantages, Dr. Seevers believes that more rigid controls will *have* to be imposed on these drugs in the U.S.

University of Minnesota: Dr. Burtrum C. Schiele: used for treatment of narcolepsy, hyper. children, mild depressions. Vastly overused in treatment of obesity. Many more drugs are manufactured than are needed for legitimate purposes. If amph. were outlawed could use other central nervous system stimulants instead but would also be used for abuse. Though badly abused, would not want to see amph. become totally unavailable.

Dr. F. S. Abuzzahab, Sr.: Used in treatment of hyperkinetic children though there are other more effective and safer drugs that could be used in transquilizer field, e.g. haloperidol (Haldol). Limited value in obesity treatment. Supports legal control similar to the Swedish program where is available to those who need the drug.

2. LICENSING AND PRELICENSE INSPECTION

H.R. 16123 wouold require a license rather than registration for manufacturers, distributors and dispensers of controlled dangerous substances. It seems to me that stricter controls could best be effective under the terms of a license rather than simple registration.

We also felt that specific statutory authority should be given to the Attorney General to inspect prior manufacturing records of production and sale. Section 302(e) limits authority to inspect facilities, but no mention is made of records. Similar treatment should be accorded distributors. These provisions are contained in Section 303 (a1) and (b1) of H.R. 16123.

At the direction of our Committee, members of our staff have met with several people from private industry to discuss the Federal—state division of responsibility for licensing. Although not provided for in any of the bill submitted by Members of our Committee, you might wish to consider the following divisions of responsibility:

Federal

1. Licensing of interstate drug handlers by Federal government:
(a) Manufacturers.
(a) Repackers.
(c) Wholesalers.
(d) Other interstate handlers.
2. Responsibility for pre-inspection and auditing of records.
3. Referral of suspect leads to appropriate state agency.
4. Followup of state leads in interstate commerce.
5. Publication of all interstate and intrastate licensed controlled drug handlers each year.
6. Development of federal/state agreement in each state with single agency. Agreement based on following factors:
(a) Existence of state laws parallel to Federal laws.
(b) Agreement by state to conduct specified licensing inspections and audits.
(c) Federal government funding of state agency in ratio with number of licensed handlers reported by state.
(d) Federal assistance in training of state agency personnel.
7. Development and distribution of guidelines for parties licensed by Federal and State agency.

State

The state agency responsible would perform the following functions:

1. Licensing and preinspection of the following:
(a) Physicians.
(b) Pharmacies.
(c) Other intrastate handlers.
2. Conduct audits of records of all intrastate licensees.
3. Referral to Federal agency of all leads involving intrastate traffic.
4. Provide Federal agency with up-to-date list of all state-licensed handlers.

3. SEPARATE AND SEGREGATED RECORDS FOR ALL CONTROLLED DANGEROUS SUBSTANCES

As previously mentioned, we subpoenaed invoices from many drug manufacturers and distributors doing business on the West Coast in conjunction with our San Francisco hearings. After going through boxes and boxes of invoices, the need for segregated records concerning dangerous drugs became apparent.

It is a time-consuming task to pick out amphetamines and barbiturates from invoices which contain dozens of other items, such as Vitamin B12 and aspirin. I would venture to estimate that thousands of hours are lost yearly by F.B.N.D.D. agents painstakingly going through invoices, item by item, attempting to track down a particular drug shipment.

If controlled drugs and their immediate precursors were kept in a separate book, it would be a simple matter to locate and document the sale of these substances. Although Section 307(a) requires complete and accurate records, no provision is made for segregation. Under that Section in H.R. 16123, segregation would be required.

4. ORDER FORMS FOR ALL CONTROLLED DANGEROUS SUBSTANCES

In S. 3246, order forms under Section 308 of that Bill are required only for controlling dangerous substances contained in Schedules I and II. It would be my suggestion that order forms be required for all controlled dangerous substances. Although we very much realize, the increased bookkeeping that would be necessitated by such a requirement, the ease with which these drugs and their precusors can be obtained, dictates such a step.

For instance, in San Francisco my Committee heard testimony from James F. Hogan, Special Agent, Bureau of Narcotics and Dangerous Drugs, Ernest Sandler, President, Interstate, Drug Exchange, Plainview, New York, a mail order drug wholesaler, and Joseph Ashkin, President, Darby Drug, Inwood, Long Island, New York, also a mail order drug wholesaler.

Mr. Hogan, acting upon information given to him attempted to order controlled drugs from Interstate Drug Exchange four times. In three cases he passed himself off as a Doctor of Osteopathy or a Medical Doctor. In the fourth case he simply ordered the drugs under the name Mr. Hogan. He was denied only one shipment, that one calling for 25,000 units of amphetamine tablets.

From Darby Drug, Mr. Hogan, using similar tactics, ordered two shipments, one small which he received with no objection. The second shipment called for 25,000 units. The company sent him a letter requesting verification of his medical practice. He did not reply. Two days later the 25,000 pills were delivered in the mail.

It is true that in both firms' cases, when the large orders were received, the client's legitimacy was investigated. When the companies suspected that something was out of line they did cooperate with the BNDD. It is also true that a strong liaision exists between the companies and the BNDD and that the errors reported were human errors rather than criminal acts. But that doesn't stop the pills from being delivered.

Mr. Hogan testified that in his opinion, despite company-instituted controls, a smart dealer could acquire a large number of pills and divert them into the illicit market by placing small orders that would not attract attention.

Mr. Ashkin stated that his company spent $150,000 on computer equipment to help eliminate improper sale of drugs. The intention is honorable, but clearly it has not been effective.

Order forms would also prevent the bizarre situation exposed by our Committee investigations on the West Coast last Fall. A drug manufacturer in Chicago had been shipping millions of amphetamines over the last few years to a drug store in Tiajuana, Mexico. We had subpoenaed records of the American companies doing business in the area. We were able to show that there was, in fact, no drug store and that the address was fictitious. In fact, if one were to take the given street address literally, it would have been the eleventh hole of the Tijuana Country Club Golf Course. Acting on a tip from our investigators, the FBNDD was able to seize 1.2 million pep pills in transit to the fictitious drug store.

Now you and I know where those pills were destined. They would have been smuggled across the border into the United States. Or perhaps they would not even bother, since they could send a so-called agent to pick up the order from the customs broker in San Ysdiro.

The law must be changed to prevent situations such as I have just described. The order form provisions and the export-import controls contained in H.R. 16123 are designed to bring about that desirable end.

5. HEW RATHER THAN THE DEPARTMENT OF JUSTICE SHOULD DESIGNATE THE SUBSTANCES TO BE CONTROLLED

As the Committee knows, Title II of S. 3246 gives the authority, after consultation with the Secretary of Health, Education, and Welfare and the Scientific Advisory Committee to designate which substances will be controlled and on what schedule they should appear. H.R. 16123 would vest this authority in the Secretary of H.E.W.

When the House Select Committee on Crime considered this matter, at Executive Session, a majority of our members came to the conclusion that this function more logically would lie with the Department of Health, Education, and Welfare. The decision is essentially a scientific and medical one with incidental law enforcement aspects. I firmly believe that since the decision we are talking about involves the public health of this country, it should be made by that Department of Government which is charged with that overall responsibility.

Although it is not contained in my bill, I think your Committee should consider the amendment to Section 602 of the Senate passed bill offered by Senator Hughes of the floor at the time that bill was considered. That amendment was as follows:

Amendment No. 451

On page 64, beginning with line 8 delete all through line 20 and insert in lieu thereof the following:

"SEC. 602. (a) The Attorney General is authorized and directed to carry out educational and research programs directly related to enforcement of the control provisions set forth an this Act. Such programs may include—

"(1) educational and training programs on dangerous substance law enforcement for local, state and Federal personnel;

"(2) studies or special projects designed to compare the deterrent effects of various enforcement strategies on drug use and abuse;

"(3) studies or special projects designed to access and detect accurately the presence of controlled dangerous substances in the human body, including the development of rapid field identification methods which would enable agents to detect micro-quantities of such substances;

"(4) studies or special projects designed to evaluate the nature and sources of the supply of illegal drugs throughout the country;

"(5) studies or special projects to develop more effective methods of manufacture or distribution to prevent diversion of controlled dangerous substances into illegal channels."

On page 64, line 22, immediately before "educational" insert "such".

Again, and in this point I am joined by a number of my colleagues on our Committee, public education and medical research more logically lie with H.E.W. Certainly, however, the Attorney General should have the authority and responsibility, to undertake research and public education with respect to the problems involved in enforcement of the law in this area.

6. PRESCRIPTION

Schedule III of Senate passed drug bill covers amphetamines and barbiturates. Under Section 309(b) prescriptions for those substances "may not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times after the date of the prescription unless renewed by the practitioner." H.R. 16123 would limit such prescriptions to three months and only permit three refills.

One of the facts uncovered by our Committee investigators was the practice of many addicts and some dealers, to go to a number of doctors and obtain the same prescription. This limitation would cut down on the quantity available through the use of this practice. It would also cut down on the number of unwitting addicts. These substances can create psychological dependency and in some cases physical addiction. It seems to me that an individual patient should not be allowed to go longer than three months without review of his condition by a physician when drugs that can produce these results are involved.

Your Committee might consider the approach taken to this problem by the State of California. They have set up a procedure whereby all prescriptions concerning these drugs must be transmitted to a central location and put on a computer. Parameters for normal usage by patients and usual quantities of selling by dispensers are programed into the computer. Print-outs are obtained on a systematic basis which will then show individuals who are obtaining these drugs in excess of legitimate medical need and pharmacies who are dispensing suspiciously large quantities of these drugs. This information is then transmitted to the appropriate law enforcement agency for their investigation.

7. BAN ON METHAMPHETAMINES?

To demonstrate the overriding concern of our Committee about speed, on December 23, 1969, we introduced H.R. 15432. As you know, methamphetamines are a class of amphetamines and have the same legitimate medical applications as amphetamines.

Unfortunately, this substance is preferred on the street over other amphetamines. Since there are other substances which can meet the legitimate medical needs, we felt legal sale should be stopped. The Bill does not stop all manufacture of methamphetamines and its ingredients. Since it does allow medical and scientific research. Such research would have to be authorized by a permit obtained from the Secretary of Health, Education, and Welfare.

Investigation on the West Coast revealed that a critical enforcement problem existed as far as illicit laboratories are concerned. No violation of existing law could be proved unless the operator had the finished product in his possession. H.R. 15432 makes it illegal to possess the necessary ingredients that go into speed.

As a result of our San Francisco hearings, Burroughs Wellcome Company of Tuckahoe, New York, notified us that two days after those hearings, the Directors of that Company voted to discontinue manufacturing methadrine. Similarly, Bates Laboratories of Chicago, the company which figured in the 11th hole of the Tijuana Country Club situation, has informed us that his company has also stopped production.

However, further research by our staff, indicates that we only attack a small portion of the problem if we put a total ban on methamphetamines. For instance there is very little difference between D-amphetamines and methamphetamines. Not only do the two drugs have a very similar chemical structure, but the initial effects and relative potency is about the same. Clinical reports indicate that the difference is slight and it would appear that methamphetamine addicts would switch to amphetamines with no coaxing, if the former drug was not available.

For the above reasons, I have modified my personal position to advocate that methamphetamine production be assigned a quota just the same as all other amphetamines. This would also be consistent with the treatment of these substances recommended by the World Health Organization Expert Committee on Drug Dependence. Manufacturers of that substance would have to go before the Secretary of Health, Education, and Welfare to justify the efficacy of the drug and the amount needed to be produced to cover the legitimate medical need. However, if the Interstate and Foreign Commerce Committee is not agreeable to setting production quotas for all amphetamines, then I would be willing to again consider a ban on methamphetamines. This approach would at least be a partial solution to the problem.

SUMMARY

Mr. Chairman and Members of the Subcommittee, I wish to again thank you for allowing me to appear before you this morning.

As further backup for my testimony I would like to offer into the record at this point the transcript of testimony received at our hearings held in Washington, D.C. on November 18th, 1969, entitled, "Crime in America—Why 8 Billion Amphetamines?"

Because of time, I have only highlighted some of the testimony that was taken by our Committee in San Francisco last fall. Almost the entire record of those proceedings deals with the subject matter of your hearings. Since they are voluminous, I do not request that they be included in the record, but I have brought along sufficient copies for each Member of the Subcommittee. It would be my hope that each of you will have an opportunity to go through them.

In conclusion, I know that I am joined by all the members of my Committee in making the request that early action be taken on the proposals which are now before you. It is, of course, realized that drugs are necessary and make a substantial contribution to the public health of this country. Therefore, I recognize that your actions can not be precipitous. However, the problem faced is immediate and critical. For that reason, you can be assured of our support when legislation dealing with this subject is reported to the floor.

STATEMENT OF THE HONORABLE JEROME R. WALDIE, MEMBER, HOUSE SELECT COMMITTEE ON CRIME

Mr. Chairman, Members of the Subcommittee, I appreciate this opportunity to testify on behalf of H.R. 16123, which I have sponsored in conjunction with my colleagues on the Select Committee on Crime: Chairman Pepper, Congresswoman Griffiths, and Congessman Nix.

Our legislation is basically the same as S. 3246 with the deletion of narcotics and marihuana and the addition of what we consider several important modifications.

The most important difference in our bill is the establishment of quotas for the production of amphetamines. These quotas would be established by the Attorney General, much the same way that he presently establishes quotas for the legitimate production of narcotics; however, I would not be offended if this function were discharged by the Secretary of H.E.W. A second major addition in our bill is that all persons concerned with manufacturing, distributing, or dispensing all dangerous substances would be required to obtain a license to do business rather than merely register, as provided by the Senate bill. Our bill also provides for pre-license inspection of anyone desiring to engage in these fields.

Separate and segregated records would be required for all controlled dangerous substances so that those concerned with monitoring these substances would not have to wade through voluminous and irrelevant files.

An approved order form would be required for all controlled dangerous substances instead of just those on Schedule I and Schedule II of the Senate bill.

We propose that the Secretary of Health, Education, and Welfare be the one to determine which substances should be controlled, rather than the Attorney General.

Our bill also limits a prescription for amphetamines, barbiturates and tranquilizers to three months and three refills. The Senate passed bill allows a six-month prescription with five refills.

Mr. Chairman, I cannot over-emphasize the importance of controlling dangerous substances in our society. In the hearings our Committee has held throughout this country, we have learned that the direst predictions of drug abuse are all-too-often true. Our young are increasingly turning to drugs as an escape from a society which they neither understand nor empathize with. Our hearings have shown that drug abuse is reaching lower and lower into the schools, with drugs readily available now even in junior high and elementary schools.

Mr. Chairman, since your Committee is now concerned with non-narcotic dangerous substances, I will limit my remarks largely to the abuse of amphetamines. Abuse of this substance has reached truly epidemic proportions. They are readily available, usually inexpensive, painless to ingest, and potentially deadly. What is perhaps the most frightening aspect of amphetamine abuse is that most amphetamines encountered on the illegal drug market were legally produced by ethical drug manufacturers. Testimony before the Select Committee on Crime indicates that some 8 billion legally produced amphetamines reach the market every year. I ask why, Mr. Chairman? Why? I am convinced, and the medical testimony supports my conviction, that amphetamines have a limited legitimate use in medicine today. I have no objection for their use in treatment of narcolepsy and hyperkinetic behavior, but these two diseases are so rare that several doctors with long and large practices have told us that they have never encountered either. Where, then, are the rest of these pills going? A frightening percentage of these 8 billion amphetamines finds its way onto the ilegal drug market. An equally as frightening percentage are used by law abiding, ordinary, American citizens who want to lose weight. The use of amphetamines in weight control, however, is a highly questionable medical practice and even when advisable, amphetamine treatment is useful for only a short period of time. But there are countless men and women who have fallen prey to the infamous "fat doctors" who convince them that taking a daily dosage of amphetamines is all that is required to lose weight. These persons are doubly fooled. First, because most weight loss they will experience will come at the beginning of their treatment, and secondly, because they run the very real risk

of becoming habituated to the drug they are taking. The use of amphetamines in diet control is the subject of considerable controversy within the medical profession, but the profession itself has yet to take measures that would restrict its use. The imposition of amphetamine production quotas would go a long way toward insuring that amphetamines are available for legitimate medical needs only.

Another abuse connected with the widespread prescription of amphetamines is that many young people are obtaining amphetamines on prescriptions that were originally written for their parents. An enterprising youngster can easily ask a druggist to refill a prescription for "his mother" after his mother has, in fact, stopped using the drug. This is why we have proposed that refills be limited to three, rather than the five contained in the Senate Bill. For a patient who needs more than three refills, a physician can easily write another prescription. The ease with which people can legally obtain amphetamines for illegal use must be stopped. The use of the quotas and the licensing provision contained in our bill would also help stop the kind of fantastic situation our Committee uncovered in our hearings in San Francisco. The Chairman has already told this Committee of the case of barrels of legitimately produced amphetamines headed for the 11th hole of the Tiajuana Country Club golf course. This one dramatic incident should make it clear to all concerned that the present system of controlling amphetamines simply does not work. That an ethical drug manufacturer can send millions of pills across the Mexican border to a non-existent address, and do this for years before someone uncovers the truth, is the kind of situation that we can simply no longer tolerate in this country. If the ethical drug manufacturer involved in this case can unwittingly become involved in the illicit amphetamine trade, consider how simple it must be for those whose avowed purpose is the illegal sale of amphetamines.

I would like to now briefly explain why we have designated the Secretary of Health, Education, and Welfare as the agent to determine which substances should be controlled instead of permitting the Attorney General to do so. It seems to me that the decision is overwhelmingly and completely a medical decision, and the Attorney General—any Attorney General—no matter what his qualifications may be, does not normally pretend to an expertise in medicine. The Attorney General is a law enforcement officer and our bill rightly provides him with that function. But H.E.W., with the medical and scientific facilities available to it, is the only agency which has the necessary knowledge to rationally and scientifically determine which substances are dangerous and which are not. By permitting H.E.W. to make this determination, I feel we give more credibility to our law, make it seem more legitimate in the eyes of young people. The youth of this country is sophisticated enough to know that the Attorney General is not a doctor. Just because the Attorney General says a substance is dangerous is not an overwhelming argument to many people to consider the substance dangerous. But H.E.W., I feel, does have the necessary respect so that its decision can carry some weight. H.E.W. can also carry out the necessary educational measures that are needed to convince people that these drugs are harmful. Again, in education, H.E.W. has the credibility that the Attorney General's office does not. In the end, just as this country could not legislate effectively prohibition, it will not be able to legislate abstinence from drugs. We must admit that drug abuse is a symptom of our time rather than a cause of much of the ills of our society. When people do not feel it necessary to use drugs, there will be little or no drug abuse. So our drug laws must be both firm and understanding. They must make it difficult to obtain harmful substances, but they must be realistic in determining what is harmful and penalties to be attached to violation of these laws.

Mr. Chairman, I urge your Subcommittee to carefully examine our legislation and give it the early consideration the problem so obviously requires. The time to act was long ago; the least we can do now is try to catch up.

Thank you very much.

STATEMENT OF HON. ROBERT N. C. NIX

Mr. Chairman and Members of the Subcommittee, I welcome this opportunity to vigorously urge your full support of H.R. 16123, which I have co-sponsored with my colleagues of the Select Committee on Crime.

The problem of drug abuse in America is far older than the current public consciousness of the problem. In the ghettos of New York and my own city of Philadelphia, drugs have long been a major means of escape from squalid surroundings. But just as those squalid surroundings went unnoticed for generations, so too did the problem of the drug abuse in the ghetto. Now that drug abuse has become a nation-wide experience, affecting all classes of Americans, the public and Congress is paying long overdue attention to a seriously neglected situation. Now, we find that our laws are inadequate to deal with the situation, as, indeed, they have always been. Let us now use the intense public interest in the problem of drug abuse to remedy this old and neglected situation.

I consider the bill which I have joined in sponsoring a major departure from both past legislation and the Senate-passed drug bill. Our bill goes one step further than the Senate bill in its establishment of production quotas for amphetamines.

A once important pharmacological discovery, amphetamines have now become a cancer in our society. They are legal drugs overwhelmingly used in illegal and questionably legal usage. They are the cheap and easy to obtain pep pills of the streets which find their way into the possession of many youngsters as well as adults. They are so easy to obtain, in fact, that to think that there is any effective control over their use today is almost absurd. The testimony our Committee has heard concerning the diversion of legally produced amphetamines into illegal channels is enough to make one wonder whether the present system even begins to cope with the problem. I, for one, think it does not.

We must, as our bill attempts, once again make amphetamines a drug used in the treatment of illness and nothing else. We must produce enough amphetamines to satisfy this legitimate medical need and we must not allow any production that would be surplus to this need.

To further strengthen this control of legitimately produced amphetamines, our bill tightens up procedures for their production. Rather than merely registering as provided in the Senate bill, our bill requires those engaged in amphetamine production and trade to receive a license.

Such licenses would be granted after an inspection of the facilities which would help determine whether there are adequate safeguards over production and distribution to insure that pills do not fall into the wrong hands. We would also permit a prescription for controlled substances to be refilled only three times within three months rather than the five times within six months as provided for in the Senate bill. The abuse of drugs obtained through legal prescriptions is so widespread as to require the adoption of this measure. I submit that it would create no hardship for those who legitimately need these substances, for their physician could simply write another prescription. But there are simply too many cases of people getting refills on prescriptions that were not written for them.

We also designate the Secretary of Health, Education, and Welfare as the agent to determine which substances should be controlled and the Attorney General as the agent to determine the quotas for amphetamine production. The entire problem of drug abuse is logically and naturally a medical problem, and we feel that the maximum involvement of H.E.W. in any attempted solution is required. H.E.W. has the facilities and the manpower for determining the nature and seriousness of these substances as well as for inaugurating the kind of educational programs that will be necessary to eradicate their use.

May I urge you, Mr. Chairman, and Members of your Subcommittee, to give our bill your most serious consideration. I am sure that you share my concern, and the concern of my Committee colleagues, that we must act and we must act quickly. The abuse of drugs is a much older problem than is generally recognized, and now that there is some momentum for change, I cannot urge too strongly that we act while this moment exists.

Thank you very much, Mr. Chairman.

STATEMENT OF HON. MARTHA W. GRIFFITHS

Mr. Chairman and Members of the Subcommittee, I take great pleasure in supporting H.R. 16123, which I have co-sponored with three other Members of the Select Committee on Crime.

I need not stress the urgency of the enactment of a comprehensive controlled dangerous substances measure. The urgency is evident every day in stories in our newspapers, in the eyes of our children on the streets and in the hearts of every parent who worries about his youngster.

I am sure that Members of the Subcommittee are familiar with the provisions of our Bill and the ways in which it differs from the Senate passed Controlled Dangerous Substances Act, S. 3246.

I, like my colleagues who are testifying on behalf of our Bill, will limit my remarks to the portions of our Bill dealing with amphetamines and licensing and prescription practices. The illegal use and abuse of amphetamines today is potentially as serious a problem as hard narcotic abuse. The fact that amphetamines are legitimate drugs only worsens the problem. Since doctors prescribe amphetamines for a variety of reasons, not all of them compelling, many potential drug abusers can rationalize their first experiences with these dangerous substances. If a doctor can prescribe amphetamines for fatigue, why shouldn't young people try to experience the same high as their elders? The casual use of a few illegally obtained amphetamine tablets can be the first step on the road to a life of serious and dangerous drug abuse. There is only one solution to this aspect of the problem: amphetamines must be made substantially more difficult to obtain, and then only for legitimate and necessary medical needs.

The ease with which amphetamines may be obtained, and their low cost, constitute all too great a temptation in this thrill-seeking-through-drugs period. Making amphetamines more difficult to obtain will not, of course, end the problem of their abuse. Many amphetamines are illegally produced for illegal consumption channels. The eventual and most meaningful solution to the problem of drug abuse in America will not be through legislation. Instead, it will be through a massive program of public health

education that convinces all Americans that the abuse of drugs is no solution, even temporarily, to the real or imagined problems they feel. The abuse of drugs is a medical and psychological problem, not a legal one. This country has had ample evidence in the past to testify to the fact that outlawing a substance does not curtail its use unless the public accepts the reasons for making the substance illegal. I would like, Mr. Chairman, to emphasize that our Bill designates the Secretary of the Department of Health, Education and Welfare as the agent to determine which substances are dangerous and to issue permits for their use in research projects. This provision, I feel, is a vitally important part of our Bill. The Congress of the United States appropriates millions and millions of dollars to H.E.W. annually. The least we ought to do is get a return on our investment by seeking and accepting their judgment as doctors and scientists as to which substances are dangerous and which are not. The Attorney General is not a doctor and while he is familiar with the problems of enforcing the law, he ought not to be the one to determine what substances fall under the law he is enforcing.

Our Bill does permit the Attorney General to set the production quotas for substances found dangerous by H.E.W., but I would even prefer to see H.E.W. set the quotas themselves. Who is in a better position to determine the adequate medical supply of amphetamines necessary than the medical staffs of the Department of Health, Education, and Welfare? What particular expertise in calculating the amount of amphetamines necessary yearly does the Attorney General have? Again, I insist, this entire question is a medical one, not a legal one. The Attorney General ought and should enforce the law and the quotas that are established under it, but he should not be in the position of enforcing a quota which was not set by competent medical authorities. Furthermore, permitting the Attorney General to both set the quota and enforce it puts him in the positon of both legislator and law enforcement officer. We have always guarded against this practice, for it often leads to abuse, improper judgment and a lack of perspective. Simply because the problem of drug abuse is foremost in the minds of most Americans today is no reason to bend a law that will have to last considerably longer than the current interest in drugs.

Ours is a Bill, Mr. Chairman, which I feel must be passed. We must take action on the problem of drug abuse. We must do so quickly. Eight billion amphetamines a year is both medically and socially dangerous. I urge you to examine the testimony the Select Committee on Crime has received concerning amphetamine abuse, and I am sure that if you do, you will share the sense of urgency felt by all the Members of our Committee. Perhaps the only thing more criminal than the illegal use of illegal amphetamines is the illegal use of legally produced, profitable drugs.

Thank you very much, Mr. Chairman.

STATEMENT OF ROBERT V. DENNEY

Mr. Chairman and members of the subcommittee: Last week I introduced a bill providing for strict controls on the manufacturing and dispensing of dangerous drugs.

My bill, H.R. 16118, is designed to provide new means for the control of amphetamines, barbiturates and hallucinogenic drugs and their immediate precursors.

In large measure my bill is similar to the Controlled Dangerous Substance Act of 1969 which passed the Senate in late December of last year. As a member of the House Select Committee on Crime, I have come to the reluctant conclusion that the controls proposed in that bill are not adequate. Our committee has held hearings in Boston, Omaha, San Francisco, Columbia, S.C., and Miami during the past year. We have just concluded four days of hearings in metropolitan Washington, D.C. A large portion of those hearings were devoted to the subject of dangerous drugs. The evidence is abundantly clear that substantial portions of legally manufactured drugs are being diverted into illicit markets.

For instance, in our hearings in San Francisco in late October, 1969, we were able to show that millions of pep pills were being sold by an American manufacturer to an alleged drug store in Tijuana. It was brought out in the hearings that the manufacturer had never made any attempt to check up on his purchaser. It was further shown that the drug store did not exist, that the address given was in fact the 11th hole of the Tijuana Country Club. Under existing law, these sales were apparently legal, even though it is obvious they were to be smuggled back into the U.S.

Also, as a part of those hearings, at the direction of the committee, we nad an agent of the Federal Bureau of Narcotics and Dangerous Drugs order amphetamines and barbiturates from drug mail order houses around the country. In almost every instance, this agent was able to have his order filled merely by calling himself a doctor and citing some fictitious medical degree after his name.

The tragedy of "blown minds", wrecked lives and paranoid behavior, has created a condition that this country can no longer tolerate. My bill would essentially adopt the controlled dangerous substance act with the following changes:

(1) Require licensing of manufacturers, distributors and dispensers of dangerous drugs rather than registration as is provided in the Senate bill;

(2) Specific authorization for pre-license inspection;

(3) An outright ban on methamphetamine, i.e., speed—this incorporates the same concept which is contained in HR 15432 which has already been introduced by the committee;

(4) Require separate and segregated record keeping for all controlled dangerous substances;

(5) The Senate bill allows a 6-month prescription with five refills for amphetamines, barbiturates and tranquilizers. My bill would limit the prescription to three months and three refills.

Substantial evidence was induced in our hearings indicating that there is a vast overproduction of amphetamines, barbiturates and tranquilizers which far exceeds the legitimate medical needs of this country. It was shown during 1968 that there were 40 amphetamine dosage units manufactured for every man, woman and child in this country. This past year the figure has gone up to 50. Some of my colleagues on the committee, in reaction to this fact have suggested that quotas be established for the amount of amphetamines that can be legally manufactured. I believe such action to be precipitous at this time. We should proceed with the stricter controls that are included in my bill to see whether or not they will do the job.

I would like to feel that the drug companies will voluntarily exercise restraint. However, should the situation persist, then I feel we would be forced to take another look at the situation.

POSTAL PAY

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

Mr. DULSKI. Mr. Speaker, at the request of my colleagues, and for the information of all Members of the House, I am presenting the following summary of the situation with respect to salary legislation for postal and other Federal employees.

SALARY LEGISLATION

Public hearings on salary legislation were conducted by our Compensation Subcommittee early in the first session of the 91st Congress, and the committee reported H.R. 13000 to the House on September 9, 1969.

The House of Representatives on October 14, 1969, passed H.R. 13000, the general Federal Employees' Salary Act.

The Senate passed H.R. 13000 on December 12, 1969, but completely rewrote the text.

THE HOUSE BILL

Key benefits in the House bill were:

For postal employees: A 5.4-percent raise, effective October 1, 1969, for employees in the first 11 pay levels;

A one-step increase July 1, 1970, for employees in pay levels 12 and above;

Acceleration of advancement of employees in their respective pay levels, so that each will reach the top salary step after 8 years of service, instead of the 21 years now required; and

For postal and all other Federal employees: Estbalishment of a permanent "Federal Employees' Salary Commission" to make recommendations to Congress in each February, beginning in 1970, for "comparability" salary adjustments—adjustments which would become effective upon approval by both Houses of Congress within 60 days of a concurrent resolution of approval.

During the floor debate in the House the distinguished minority leader read a statement by the President of the United States implying that the House version of H.R. 13000 would be vetoed if passed by both Houses and submitted to him.

THE SENATE BILL

The Senate struck out all of the House provisions and, in lieu thereof, provided—

For postal and all other Federal employees: Across-the-board percentage increases, effective in January of 1970, of 4 percent in the first nine grades—or levels—3 percent in grades 10 to 12, 2 percent in grades 13 and 14, and 1 percent in grade 15, with no increases above grade 15, and authorized the President to grant "comparability" adjustments in July of 1970 of not less than 3 percent.

The Senate's comparability adjustment would be reduced by whatever was paid under earlier increases except that no employee would receive less than 3 percent in July.

I have made repeated requests of the chairman of the Senate Conferees to meet promptly in conference on H.R. 13000, without result. The latest request was made this afternoon. The House Conferees stand ready to meet at any time of the day or night.

POSTAL PAY—POSTAL CORPORATION MIX

Six days after the Senate passed H.R. 13000 last December, there was presented in our committee a hybrid "compromise" measure, consisting of a mod-

ified postal corporation and part of the postal employees' pay raises already included in H.R. 13000.

This measure would have given each postal employee in pay level 11 or below a two-step increase effective in January 1970, and reduced the time required for a postal employee to reach the top pay rate for his level from 21 to 8 years. These are roughly equivalent to two items included in H.R. 13000, but exclude any comparability salary increase in 1970 or any other time. Nothing was provided for other Federal employees.

That measure was rejected later by those who originally presented it before the committee.

However, it was reactiviated some 2 weeks ago and rammed through our committee as a substitute for H.R. 4, the postal reform bill which the committee had been marking up quite effectively.

There was only one major change—the pay benefits for postal employees were largely confined to employees in the first six pay levels. Again, this substitute excluded any comparability pay raise for postal or other Federal employees in 1970 or at any other time.

The position of the administration, as outlined in the President's fiscal 1971 budget message, is that any comparability pay raise for Federal employees, including postal workers, should be postponed 6 months until next January.

This is notwithstanding the policy of Congress, laid down first in 1962 and reiterated three times since, that postal and other Federal employees are entitled to comparability pay adjustments each July to bring them in line with comparable civilian pay scales as of the previous July.

Postal and other Federal workers are now 21 months behind comparable civilian wage rates and the administration-recommended delay would put them 30 months behind. Little wonder then that the employees are complaining.

COMPULSORY UNIONIZATION ISSUE

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

Mr. BLACKBURN. Mr. Speaker, the postal strike which is now gripping many cities in this Nation has brought to national attention the problem of compulsory unionism. I believe that now is the time for Congress to again investigate this issue since it will be a main point of controversy in the postal reform legislation which will be coming before this body within the near future.

Recently one of our foremost national syndicated columnists, David Lawrence, wrote an article concerning problems which arise as a result of compulsory unionism. For the information of my colleagues, I hereby insert this column into the RECORD:

[From the Washington Star, Mar. 11, 1970]

THE COMPULSORY UNIONIZATION ISSUE

(By David Lawrence)

The latest survey shows that nearly 83 percent of the union contracts made with companies nowadays provide some requirement either for membership in the union or dues paying on the part of the employee.

The Bureau of National Affairs, Inc., which has just completed a comprehensive study, says that the most prevalent form of union security is the "union shop," which requires all employees to join the union after 30 days on the job and to maintain membership as a condition of employment.

Eighty-six percent of the contracts cited in the survey call for the deduction of union dues from pay envelopes; in 9 percent of the contracts, employees who do not become members are required to pay service fees equal to the amount of union dues.

Hiring provisions—for example, requiring only that preference be given to workers living in the area or to those with prior experience in the industry—are found in 17 percent of the contracts. But agreements expressly stipulating that union members be hired are almost nonexistent, as these are illegal in companies subject to the Taft-Hartley Act.

In construction and other skilled trade unions, the labor union office supplies the worker when an employer begins a building project in a new area or expands his working force. As a practical matter, a building contractor who operates under a union contract usually asks the union office to send out carpenters, plumbers and other skilled craftsmen for jobs that open up.

This is where union leaders run into conflict with the government's efforts to impose racial quotas on hiring of new employees. Labor leaders complain that the government is trying to force them to take into their unions—and into construction jobs—unqualified Negroes.

Labor unions for the most part conduct their internal affairs amicably, though frequently there are bitter contests between rival candidates for office inside a union which stir up ill feelings. Officials of labor unions have found over the years that they can be re-elected only if they push steadily for wage increases. In a sense they are prompted by what may be called "labor union politics."

Employers recognize often that the union leaders would at times welcome some outside panel to pass judgment on their demands because strikes are costly and occasionally do not yield the anticipated benefits.

Labor unions have steadily grown in size until today the membership is approximately 19 million. The entire labor force is estimated at about 82 million. The unorganized labor population, however, is largely in rural districts and in occupations in which it would be difficult to effect organization.

Broadly speaking, labor union leaders feel that over the years they have benefited by collective bargaining, and that they have in many cases prevented the passage of legislation unfavorable to their own interests.

The power of the national labor union has grown extensively in recent decades. When a strike is called, an entire industry can be shut down because the local unions obey the orders of the leaders of the national union with which they are affiliated. Workers in the skilled trades are almost completely unionized. They have a monopoly in virtually all the manufacturing industries.

Nineteen states have what are known as "right-to-work" laws. These prohibit any labor union from compelling a worker to join a labor organization as a means of getting a job or remaining in a job. The labor groups, however, have managed to prevent the spread of such laws to other states.

What is surprising, of course, is that with all the talk about "liberalism" and "individual rights," a worker in numerous industries must join a union after 30 days in order to keep his job. The employer, moreover, has agreed to the mandate. The courts have never ruled against this obvious invasion of individual rights.

The argument usually heard is that the nonmembers can hardly bargain by themselves and that the labor union represents the only organized body which can conduct collective bargaining negotiations. But the compulsion nevertheless remains, and it is this factor which has led to the development of a National Right-to-Work Committee, which carries on a continuous crusade against any form of compulsory unionization.

ISRAEL'S NEED FOR AIRCRAFT

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

Mr. BINGHAM. Mr. Speaker, I am dismayed by the Nixon administration's decision denying Israel's request for additional jet planes. It is not particularly reassuring that the denial is made on an interim basis, subject to review in the light of developments.

Clearly, the Arab States already have six or seven times as many jets as Israel because of the enormous assistance given to them by the Soviet Union. The United Arab Republic alone has 2½ to 3 times as many combat jets as Israel. This ratio represents a dangerous imbalance, in spite of the great superiority of the Israeli pilots and aircraft maintenance.

A very ominous new factor is the Soviet's decision to send in SAM missiles and Russian personnel to man them. It is impossible for me to understand why the President did not withhold his announcement until this new factor had been fully considered in all its implications.

I intend to press in this House for action to bring about a swift reconsideration and reversal of the President's announced decision.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. HOSMER, from 3:30 p.m. for the balance of the day, on account of eye examination.

To Mr. LENNON (at the request of Mr. ALBERT), for today and the remainder of the week on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. STRATTON, today, for 1 hour, to revise and extend his remarks and to include extraneous material.

Mr. HOLIFIELD (at the request of Mr. CHARLES H. WILSON), for 30 minutes today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. BLACKBURN) and to revise and extend their remarks and include extraneous matter:)

Mr. FINDLEY, for 20 minutes, today.

Mr. RHODES, for 5 minutes, today.

Mr. POFF, for 10 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. CHARLES H. WILSON) and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. BYRNE of Pennsylvania, for 15 minutes, today.

Mr. BRINKLEY, for 60 minutes, on March 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. O'NEILL of Massachusetts in five instances.

Mr. ARENDS (at the request of Mr. BRAY) on H.R. 15728 and to follow the remarks of Mr. RIVERS.

Mr. MADDEN and to include extraneous matter.

Mr. EDWARDS of California in two instances.

Mr. GUBSER (at the request of Mr. STRATTON) to extend his remarks following those of Mr. STRATTON and prior to the colloquy.

(The following Members (at the request of Mr. BLACKBURN) and to include extraneous matter:)

Mr. BROWN of Ohio in three instances.
Mr. BURTON of Utah in five instances.
Mr. BROOMFIELD.
Mr. AYRES.
Mr. ZWACH in two instances.
Mr. MCCLORY.
Mr. SCHERLE.
Mr. CARTER in four instances.
Mr. ASHBROOK in two instances.
Mr. WYMAN in two instances.
Mr. LANGEN in two instances.
Mr. MYERS.
Mr. WOLD.
Mr. BERRY.
Mr. ROBISON in four instances.
Mr. DERWINSKI in two instances.
Mr. DICKINSON.
Mr. SEBELIUS.
Mr. BEALL of Maryland in two instances.
Mr. QUIE.
Mr. STEIGER of Wisconsin.
Mr. MIZE.
Mr. SCHWENGEL.
Mr. ESCH in two instances.
Mr. CRAMER in two instances.
Mr. GROSS.
Mr. FRELINGHUYSEN.
Mr. BOW.

(The following Members (at the request of Mr. CHARLES H. WILSON) and to include extraneous matter:)

Mr. MONTGOMERY.
Mr. BOLAND.
Mr. LONG of Maryland.
Mr. HARRINGTON.
Mr. DADDARIO in five instances.
Mr. ULLMAN in 10 instances.
Mr. GONZALEZ in two instances.
Mr. NATCHER.
Mr. O'HARA.
Mr. POWELL in five instances.
Mr. GILBERT in two instances.
Mr. DENT.
Mr. BIAGGI in 10 instances.
Mr. EVINS of Tennessee in four instances.
Mr. RARICK in three instances.
Mr. FASCELL in two instances.
Mr. GRIFFIN in two instances.
Mr. BARING.
Mr. MAHON in two instances.
Mr. CELLER.
Mr. FOUNTAIN in two instances.
Mr. HELSTOSKI in three instances.
Mr. WOLFF in four instances.
Mr. FEIGHAN in five instances.
Mr. RODINO.
Mr. GALLAGHER.
Mr. TEAGUE of Texas in eight instances.
Mr. ROE.
Mr. BURKE of Massachusetts.
Mr. SYMINGTON.
Mr. PEPPER.
Mr. HATHAWAY in two instances.
Mr. PICKLE in three instances.
Mr. RYAN in two instances.
Mr. HAGAN in two instances.
Mr. GARMATZ.
Mr. BROWN of California in five instances.
Mr. BINGHAM.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 162. Joint resolution in recognition of the Fifth International Conference on Water Pollution Research; to the Committee on Foreign Affairs.

ENROLLED BILL SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3786. An act to authorize the appropriation of additional funds necessary for acquisition of land at the Point Reyes National Seashore in California.

BILLS PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on March 20, 1970, present to the President, for his approval bills of the House of the following titles:

H.R. 6543. An act to extend public health protection with respect to cigarette smoking and for other purposes; and

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

ADJOURNMENT

Mr. CHARLES H. WILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 42 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 24, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1809. A communication from the President of the United States transmitting certain amendments to the 1971 budget for the Office of Education, Department of Health, Education, and Welfare (H. Doc. No. 91–285); to the Committee on Appropriations and ordered to be printed.

1810. A letter from the Assistant Secretary of Defense, transmitting a report relative to the cost of disposal of surplus military supplies and production of lumber products for the first half of fiscal year 1970, pursuant to the provisions of section 612 of Public Law 91–171 and 10 U.S.C. 2665; to the Committee on Appropriations.

1811. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notification of the location, nature, and estimated cost of an armory project proposed to be undertaken for the Army National Guard, and certain cancellations of projects listed in previous notifications, pursuant to the provisions of 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1812. A letter from the Assistant to the Commissioner, District of Columbia, transmitting a draft of proposed legislation relating to education in the District of Columbia; to the Committee on the District of Columbia.

1813. A letter from the Assistant to the Commissioner, District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Code to increase the jurisdictional amount for the administration of small estates, to increase the family allowance, to provide simplified procedures for the settlement of estates, and to eliminate provisions which discriminate against women in administering estates; to the Committee on the District of Columbia.

1814. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Longshoremen's and Harbor Workers' Compensation Act and improve its benefits, and for other purposes; to the Committee on Education and Labor.

1815. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend and amend the Higher Education Act of 1965, and for other purposes; to the Committee on Education and Labor.

1816. A letter from the Assistant Secretary of the Interior, transmitting the first annual report of the Governor of Guam, pursuant to the provisions of Public Law 90–601; to the Committee on Interior and Insular Affairs.

1817. A letter from the Secretary of Commerce, transmitting a report of activities under the Flammable Fabrics Act for 1968 and 1969, pursuant to the provisions of section 14(b) of the act, as amended by Public Law 90–189; to the Committee on Interstate and Foreign Commerce.

1818. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize an additional Assistant Secretary of Commerce; to the Committee on Interstate and Foreign Commerce.

1819. A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to extend for 1 year the act of September 30, 1965, as amended by the act of July 24, 1968, relating to high-speed ground transportation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1820. A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend section 1114 of title 18 of the United States Code to make the killing, assaulting, or intimidating of any officer or employee of the Federal Communications Commission performing investigative, inspection, or law-enforcement functions a Federal criminal offense; to the Committee on the Judiciary.

1821. A letter from the Administrator, General Services Administration, transmitting a report of the status of construction,

alteration, or acquisition of public buildings for the year ending December 31, 1969, pursuant to the provisions of section 11(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works.

1822. A letter from the Director, National Science Foundation, transmitting a report on the Federal support of research and development at universities and colleges and selected nonprofit institutions, for the fiscal year 1968, pursuant to the provisions of the National Science Foundation Act, as amended; to the Committee on Science and Astronautics.

1823. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to clarify and extend the authority of the Small Business Administration, and for other purposes; to the Committee on Banking and Currency.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on March 19, 1970 the following report was filed on March 20, 1970]

Mr. DAWSON: Committee on Government Operations. Report on the British Drug Safety System (Rept. No. 91–931). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted March 23, 1970*]

Mr. MILLER of California: Committee on Science and Astronautics. Report on Issues and Directions for Aeronautical Research and Development (Rept. No. 91–932). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROGERS of Colorado: Committee on the Judiciary. S. 980. An act to provide courts of the United States with jurisdiction over contract claims against nonappropriated fund activities of the United States, and for other purposes; with amendments (Rept. 91–933). Referred to the Committee of the Whole House on the State of the Union.

Mr. BRADEMAS: Committee on Education and Labor. H.R. 16065. A bill to amend the National Foundation on the Arts and Humanities Act of 1965, as amended (Rept. No. 91–936). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE 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. SMITH of New York: Committee on the Judiciary. H.R. 13740. A bill for the relief of Kimball Brothers Lumber Co.; with an amendment (Rept. No. 91–934). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 15760. A bill for the relief of Dr. Anthony S. Mastrian (Rept. No. 91–935). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AYRES:

H.R. 16589. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to improve its benefits, and for other purposes; to the Committee on Education and Labor.

By Mr. BURTON of Utah:

H.R. 16590. A bill to adjust agricultural production, to provide a transitional program for farmers, and for other purposes; to the Committee on Agriculture.

By Mr. FISHER:

H.R. 16591. A bill to amend title 5, United States Code, to provide penalties of reduction in pay for employees in the competitive service who participate in strikes against the United States, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FLOOD:

H.R. 16592. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, as amended; to the Committee on Education and Labor.

By Mr. FOLEY:

H.R. 16593. A bill to amend the Land and Water Conservation Fund Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HUTCHINSON:

H.R. 16594. A bill to encourage the growth of international trade on a fair and equitable basis; to the Committee on Ways and Means.

By Mr. MILLER of California:

H.R. 16595. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes; to the Committee on Science and Astronautics.

By Mr. SIKES:

H.R. 16596. A bill to amend section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization, and for other purposes; to the Committee on Agriculture.

By Mr. TEAGUE of Texas (by request):

H.R. 16597. A bill to amend section 1682 of title 38 of the United States Code to require that more emphasis be given to supervised work experience in the farm cooperative training program; to increase the educational assistance allowance rates for such program; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WYDLER:

H.R. 16598. A bill to establish a commission appointed by the President to conduct an immediate study of the pay system of postal field service employees and recommend necessary changes therein to the Congress, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ASHLEY:

H.R. 16599. A bill to preserve, protect, develop, restore, and make accessible the lake areas of the Nation by establishing a National Lake Areas System and authorizing programs of lake and lake areas research, and for other purposes; to the Committee on Public Works.

By Mr. BURLESON of Texas (for himself and Mr. LANDRUM):

H.R. 16600. A bill to combine and improve the Federal-State programs of public assistance for the aged, blind, and disabled so as to increase payment levels and achieve greater uniformity of treatment of recipients under such programs, and for other purposes; to the Committee on Ways and Means.

By Mr. BUTTON:

H.R. 16601. A bill to provide for the crediting of certain past employment by certain persons subject to the National Guard Technicians Act of 1968; to the Committee on Armed Services.

By Mr. CHAMBERLAIN:

H.R. 16602. A bill to restrict travel in violation of area restrictions; to the Committee on the Judiciary.

By Mr. DOWNING (for himself, Mr. GARMATZ, Mr. LENNON, and Mr. DINGELL):

H.R. 16603. A bill to authorize a program of exploratory fishing for the purpose of assisting in the development and utilization of species of fish suitable for industrial uses, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FINDLEY:

H.R. 16604. A bill to extend the highway trust fund and the time for completion of the Interstate Highway System until 1976, and to include automobile excise taxes in the highway trust fund; to the Committee on Ways and Means.

By Mr. GUBSER:

H.R. 16605. A bill to provide for the adoption of the adjusted Gregorian calendar; to the Committee on Foreign Affairs.

By Mr. MELCHER:

H.R. 16606. A bill to amend the Internal Revenue Code of 1954 to provide for the continuation of the investment tax credit for small businesses, and for other purposes; to the Committee on Ways and Means.

By Mr. MOSHER (for himself and Mr. MAILLARD):

H.R. 16607. A bill to amend the Marine Resources and Engineering Development Act of 1966 to continue the National Council on Marine Resources and Engineering Development; to the Committee on Merchant Marine and Fisheries.

By Mr. MURPHY of New York:

H.R. 16608. A bill to amend title 10 of the United States Code to require the presentation of full military honors at the burial of veterans; to the Committee on Armed Services.

By Mr. MURPHY of New York (for himself, Mr. THOMPSON of Georgia, Mr. FRASER, Mr. UDALL, Mr. HALPERN, Mr. BINGHAM, Mr. HATHAWAY, Mr. PODELL, Mr. WOLFF, Mr. POWELL, Mr. ST. ONGE, Mr. HARRINGTON, Mr. SANDMAN, Mr. MIKVA, Mr. ROE, Mr. MOORHEAD, Mr. EDWARDS of California, Mr. MATSUNAGA, Mr. HELSTOSKI, Mr. THOMPSON of New Jersey, Mr. DADDARIO, and Mr. MANN):

H.R. 16609. A bill to require the establishment of marine sanctuaries and to prohibit the depositing of any harmful materials therein; to the Committee on Merchant Marine and Fisheries.

By Mr. STRATTON:

H.R. 16610. A bill to provide for the establishment of standards of financial responsibility to be met by private vocational schools operated for profit in the District of Columbia; to the Committee on the District of Columbia.

By Mr. VANIK (for himself, Mr. DIGGS, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. MATSUNAGA, and Mr. MCCARTHY):

H.R. 16611. A bill to amend the Internal Revenue Code of 1954 by imposing a tax on the transfer of explosives to persons who may lawfully possess them and to prohibit possession of explosives by certain persons; to the Committee on Ways and Means.

By Mr. MCMILLAN (for himself and Mr. NELSEN):

H.R. 16612. A bill to amend the District of Columbia Bail Agency Act to provide additional funds for the District of Columbia Bail Agency for fiscal year 1970; to the Committee on the District of Columbia.

By Mr. HOLIFIELD (for himself and Mr. WIGGINS):

H.J. Res. 1144. Joint resolution authorizing the President to annually issue a proclamation designating the first Monday in October as "Free Enterprise Day"; to the Committee on the Judiciary.

By Mr. MINISH:

H. Con. Res. 555. Concurrent resolution urging the President to determine and undertake appropriate actions with respect to stopping armed attacks on aircraft and passengers engaged in international travel; to the Committee on Foreign Affairs.

By Mr. OTTINGER (for himself, Mr. SCHEUER, Mr. PODELL, Mr. ADDABBO, Mr. BRASCO, Mr. BIAGGI, Mr. RYAN, Mr. HALPERN, Mr. FARBSTEIN, Mr. KOCH, Mr. BINGHAM, Mr. GILBERT, Mr. PEPPER, Mr. POLLOCK, Mr. MOORHEAD, Mr. FRIEDEL, Mr. VANIK, Mr. STOKES, Mr. LUKENS, Mr. BROWN of California, Mr. BURTON of California, Mr. LEGGETT, Mr. REES, and Mr. EDWARDS of California):

H. Con. Res. 556. Concurrent resolution on the Middle East; to the Committee on Foreign Affairs.

By Mr. PATMAN:

H. Res. 890. Resolution authorizing the printing of additional copies of the "Report of the Joint Economic Committee"; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. GUDE:

H.R. 16613. A bill for the relief of Rea Republica Ramos; to the Committee on the Judiciary.

By Mr. KOCH:

H.R. 16614. A bill for the relief of Mrs. Maya Jabbour Grigg; to the Committee on the Judiciary.

By Mr. PEPPER:

H.R. 16615. A bill for the relief Dr. Clara Satanowsky Becker; to the Committee on the Judiciary.

H.R. 16616. A bill for the relief of Luc Pal Emil Fafard; to the Committee on the Judiciary.

H.R. 16617. A bill for the relief of Dr. Kazi Mobin-Uddin; to the Committee on the Judiciary.

By Mr. ROONEY of New York:

H.R. 16618. A bill for the relief of Virgilio Cruz Leynes; to the Committee on the Judiciary.

By Mr. VAN DEERLIN:

H.R. 16619. A bill for the relief of Victoria B. Toia; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

338. By the SPEAKER: A memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to restoring funds for the agricultural conservation program; to the Committee on Agriculture.

339. Also, a memorial of the General Court of the Commonwealth of Massachusetts, relative to providing import quotas to aid the shoe industry; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

420. By the SPEAKER: Petition of Henry Stoner, York, Pa., relative to calling an advisory conference to meet on wages, prices, and profits; to the Committee on Banking and Currency.

421. Also, petition of the council of the city of Philadelphia, Pa., relative to ending the tragic waste of American lives and resources in Vietnam; to the Committee on Foreign Affairs.

422. Also, petition of the central council of the Popular Democratic Party of Puerto Rico, San Juan, P.R., relative to the designations to ad hoc committees for the integral growth of the Commonwealth of Puerto Rico; to the Committee on Interior and Insular Affairs.

423. Also, petition of the council of the city of San Diego, Calif., relative to repealing the provisions of the Emergency Detention Act of 1950; to the Committee on Internal Security.

SENATE—*Monday, March 23, 1970*

The Senate, as in legislative session, met at 11 o'clock a.m. and was called to order by Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord of life and God of our salvation, who has brought us to this week of holy recollection, grant that in our work and in our meditation we may be aware of Thy presence, strengthened by Thy power, and guided by Thy spirit. Give us eyes to see that the cycle of death and resurrection is the law of life, that to lose life for others is to find it again in service to Thee.

Teach us, O Lord, that suffering can be redemptive, that truth is invincible, and life impervious to physical death. Let the life of the spirit be nourished in us, that being made new by Thy grace we may serve Thee and this Nation for the welfare of all Thy children and for the establishment of that kingdom whose builder and maker is God. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 23, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. EAGLETON thereupon took the chair as Acting President pro tempore.

THE LEGISLATIVE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the legislative Journal of the proceedings of Friday, March 20, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER DISPENSING WITH THE CALL OF THE CALENDAR UNDER RULE VIII

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent to waive the call of the calendar of unobjected-to bills under rule VIII.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to limit statements to 3 minutes in relation to the transaction of routine morning business as in legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 O'CLOCK TOMORROW MORNING

Mr. MANSFIELD. Mr. President, because of a change in plans of a Senator, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning, rather than 9:30.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SMITH OF MAINE FOR 10 MINUTES TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Maine (Mrs. SMITH) be recognized for not to exceed 10 minutes tomorrow morning, after the prayer.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND CONSIDERATION OF CONFERENCE REPORT ON ELEMENTARY AND SECONDARY EDUCATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business tomorrow morning, as in legislative session, not to exceed 15 minutes, and that statements therein be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. I also ask unanimous consent that at the conclusion of morning business tomorrow, within a 15-minute limitation, the Senate proceed to the consideration of the conference report on the elementary and secondary education bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.