saw a boy hurrying down the hall, and intercepted him.

The boy was upset.

"He doubled up his fists," Mrs. Roberts recalled. "He was as big as I, and it frightened me. But I didn't dare flinch. A few long seconds passed. His hands went slowly down to his sides and the crisis was over."

It turned out that the boy had troubles the teacher hadn't suspected. Soon they were friends, and years later the boy returned to thank her for being kind to him.

Mrs. Roberts has long been a champion of individualization, and did research work in cooperation with the Rocky Mountain Educational Laboratory in developing a program of individualized science teaching.

She is also a keen observer of student behavior.

Once her school got new desks, and had to dispose of the old ones. So the faculty decided to let the pupils tear them up in the schoolyard.

"It was interesting that the youngsters who went at their work with the most enthusiasm were the one who caused the most disturbances," she said.

Mrs. Roberts has some definite ideas on the outlook of children, too. She said:

"Children's sophistication demands that we 'tell it like it is' and I am not borrowing the modern cliche to make a point. Children can tell fact from fancy and they'll reject both the fabrication and the person who tries to enforce it. They want reasons based on logic.

"Their actions also are indicative of their freedom to choose an alternate behavior. We are seeing this clearly in the adult youth, but in the elementary schools, too, the change in attitude is evident."

The Teacher of the Year comes from a family of teachers. Three of her sisters are teachers and so are four sisters-in-law.

Mrs. Roberts taught both her children at Sutherland Elementary School, and both—Barrett H. Roberts and Mrs. Calvin Kunz—became teachers.

Professional activity has also kept Mrs. Roberts busy. She once served on the UEA Salary Committee, as president of Millard County Teachers Association, a member of the Legislative Council of the DCT, and is currently president of her association's credit union.

When she was teaching principal of Sutherland Elementary School, she was president and secretary of Millard Principals Association.

The classroom, she said, has changed considerably since she started teaching in 1935.

"I just had a chalkboard then," she said. "Now in my classroom I have a piano, a TV, phonograph, tape recorder, overhead projector, film strips and slides, movie projector and a huge supply of films."

Salaries have increased somewhat, she said. A starting teacher received $660 a year then—ten checks for $66.

"And Iron County had one of the higher paying districts then," Mrs. Roberts recalled.

SENATE—*Tuesday, March 24, 1970*

The Senate, in executive session, met at 10 o'clock a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

The Reverend Dr. Berthold Jacksteit, minister, Central Schwenkfelder Church, Worcester, Pa., offered the following prayer:

Father of us all, we who have so much pray for a compassion which will reach out in helpfulness to all who have so little; we who are so strong pray for a generosity of spirit which will respect and value all who are so weak and seek to reassure and strengthen them; we who wield such power pray for a humility which will temper this power with mercy so that it may heal and bless and not destroy; we who have the responsibility of making such awesome decisions pray for a wisdom which will keep the weight of our influence at the forefront of everything that blesses mankind and furthers the cause of justice and righteousness, of peace and brotherhood throughout the earth. For Thy mercy's sake we pray. Amen.

ORDER OF BUSINESS

Mr. HOLLINGS obtained the floor.

Mr. SCHWEIKER. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. I yield.

THE PRAYER

Mr. SCHWEIKER. Mr. President, I was very much pleased this morning to have the opportunity to hear the minister from my church of Worcester, Pa., give the opening invocation.

I want to say, since I come from a rather small denomination, that this is probably the first time a member of my faith has had the opportunity to present the opening prayer in either the House or Senate.

I deeply extend my appreciation to the Senate's Chaplain for his kind courtesy in bringing about this honor and thank the Senator from South Carolina for yielding to me.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. HOLLINGS. Mr. President, I ask unanimous consent, notwithstanding the previous order, that the Senate, as in legislative session, conduct routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. HOLLINGS. Mr. President, I ask unanimous consent to limit statements to 3 minutes in relation to routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE JOURNAL

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 23, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. HOLLINGS. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CARSWELL AND MEDIOCRITY

Mr. EAGLETON. Mr. President, I will vote not to confirm the nomination of Judge Carswell to the Supreme Court of the United States.

My opposition to Judge Carswell is not derived from the fact that he is classified as a "judicial conservative." Chief Justice Burger was widely hailed as a "judicial conservative" and I voted in favor of his nomination.

I oppose Judge Carswell because a very careful examination of his record as a Federal trial and appellate judge indicates that he is a jurist of the most pedestrian and distressingly mediocre talents and with a remarkable proclivity for being reversed by higher courts.

About the best that could be furnished in affirmative support of Judge Carswell's judicial and intellectual capacity was the testimony of one law professor who thought Judge Carswell had "growth potential."

Numerous individuals and groups—including some of the most prestigious legal scholars of the country—have voiced opposition to Judge Carswell because of his obviously meager judicial record.

Here are some of their observations:

With all deference, I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth this century.—Louis Pollak, dean, Yale Law School.

A level of competence well below the high standards that one would presumably consider appropriate and necessary for service on the court.—Derek Bok, dean, Harvard Law School.

That he is an undistinguished member of his profession, lacking claim to intellectual

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stature.—Twenty members of the University of Pennsylvania Law School faculty.

. . . has none of the legal or mental qualifications essential for service on the Supreme Court or on any high court in the land, including the one where he now sits. Presidents, past and present, Bar Association of the City of New York.

His record is totally devoid of any special attributes of learning, experience, or statesmanship, which should be the hallmarks of a Supreme Court Justice. Chicago Council of Lawyers.

Judge Carswell does not have the legal or mental qualifications essential for service on the Supreme Court. 350 lawyers and law professors in the United States.

Perhaps the most interesting statement in opposition to Judge Carswell came from Prof. William Van Alstyne of Duke University Law School, one of the most respected legal scholars in the South. Professor Van Alstyne, it will be remembered, testified in support of Judge Haynsworth's nomination. He strongly opposes the Carswell nomination and states as follows:

There is, in candor, nothing in the quality of the nominee's work to warrant any expectation whatever that he could serve with distinction on the Supreme Court of the United States. Judge Carswell's decisions reflect a lack of reasoning, care, or judicial sensitivity overall.

I must conclude that Judge Carswell, considered in the most favorable light, is a man of remarkably mediocre attainment for a position in which mediocrity can be ill afforded.

Senator ROMAN L. HRUSKA, of Nebraska, the principal advocate of Judge Carswell, had this to say on the subject of mediocrity as it relates to Judge Carswell:

Even if he were mediocre, there are a lot of mediocre judges and people and lawyers. They are entitled to a little representation, aren't they, and a little chance. We can't have all Brandeises and Frankfurters and Cardozos and stuff like that there.

I disagree.

The Supreme Court of the United States, consisting of only nine members who serve for life, is a vital institution.

I realize that men of limited capacity have served on the Court in the past. For every Louis Brandeis, one can cite a James C. McReynolds. For every Oliver Wendell Holmes, we can dredge up an Edward T. Sanford. For every Benjamin N. Cardozo, one can point to a Pierce Butler. Of course, we can never predict with absolute certainty the future performance of a judicial nominee.

However, the significant difference between Judge Carswell and other judicial also-rans is that Judge Carswell's woefully meager capacity is apparent now, while his nomination is under consideration by the Senate, whereas the shortcomings of these others became obvious only after they had served on the Court.

For this reason—Judge Carswell's obvious mediocrity—I oppose his nomination.

(At this point Mr. ALLEN took the chair as presiding officer.)

CORRECTION OF ANNOUNCEMENT ON VOTE

Mr. METCALF. Mr. President, on Thursday, in the vote on March 5, on Senator HRUSKA's motion to table the modified amendment in the nature of a substitute offered by Senator SCOTT to the voting rights bill, the proceedings in the CONGRESSIONAL RECORD on page 6169 incorrectly state that if I were present and voting I would vote "Yea."

Had I been present and voting, I would have voted "Nay."

I ask unanimous consent that the permanent RECORD be corrected.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. HOLLAND. Mr. President, I understand that, under the previous order, I am now allowed to proceed for 15 minutes; is that not correct?

The PRESIDING OFFICER. That is correct.

NOMINATION OF JUDGE G. HARROLD CARSWELL

Mr. HOLLAND. Mr. President, I regret very much to hear the statement just made by the distinguished Senator from Missouri (Mr. EAGLETON). The Senator does not know Judge Carswell as I do, and have for some years. I hope that he will check the record of the expressions of the leading judges in the courts of Florida.

Mr. President, on March 16, I placed in the RECORD a resolution adopted by the Governor and cabinet of the State of Florida commending the appointment of Judge Carswell to the Supreme Court. I also placed in the RECORD a telegram from Mr. Pat Thomas, chairman of the Democratic Executive Committee of the State of Florida, and telegrams signed by 17 of the judges in Florida, all strongly supporting the nomination of Judge Carswell, namely, John T. Wigginton, Donald K. Carroll, Dewey M. Johnson, John S. Rawls, and Sam Spector, judges of the District Court of Appeals, First District; and Tom Barkdull of the District Court of Appeals, Third District; W. May Walker, Ben C. Willis, Guyte P. McCord, Jr., and Hugh M. Taylor, all circuit judges of the Second Judicial Circuit; John A. Murphree, George L. Patten, and John J. Crews, circuit judges of the Eighth Judicial Circuit; B. C. Muszynski of the Ninth Judicial Circuit; Roger F. Dykes of the 18th Judicial Circuit; and D. C. Smith and Wallace Sample of the 19th Judicial Circuit.

At this time, Mr. President, I ask unanimous consent to have printed in the RECORD a telegram received from the Honorable Richard W. Ervin, chief justice, Florida Supreme Court, speaking for that entire court, as well as a telegram from the Honorable Fred O. Dickinson, Jr., comptroller of Florida, who was elected statewide in our State.

There being no objection the telegrams were ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA., *March 16, 1970.*
Hon. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

I am authorized by the members of the Florida supreme court to advise we strongly endorse the nomination of Judge G. Harrold Carswell as associate justice of the U.S. Supreme Court. We know him to be a good citizen, fairminded, and judicially and temperamentally suited to render great service as a Justice in the Nation's highest court.

We believe him to be eminently qualified as a learned jurist for service in the Supreme Court and that he will make an outstanding record in keeping with the highest traditions of the American judiciary.

We discount totally criticism that he will allow prejudice or racial bias to sully his service on the Court. On the contrary, we believe his record of service on the court in the area of human rights will prove noble and worthy of an enlightened civilization.

For the Court:

RICHARD W. ERVIN,
Chief Justice.

TALLAHASSEE, FLA., *March 17, 1970.*
Hon. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

The cabinet of Florida, representing the executive branch of Florida government proudly reiterates its support of and recommends confirmation of the Honorable G. Harrold Carswell to the Supreme Court of the United States.

The cabinet officially endorsed Judge Carswell on January 27, 1970.

We hope you will bring this to the attention of your colleagues.

FRED O. DICKINSON, Jr.,
Comptroller of Florida.

Mr. HOLLAND. Mr. President, I now ask unanimous consent to insert communications from other circuit judges of the State; namely: Woodrow M. Melvin, presiding judge of the First Judicial Circuit; Martin Sack, Gerald B. Tjoflat, Lamar Wingeart, Jr., Charles A. Luckie, Albert W. Graessle, Jr., Henry F. Martin, Jr., Marion W. Gooding, and Thomas A. Larkin, circuit judges of the Fourth Judicial Circuit; W. Troy Hall, Jr. and John W. Booth, circuit judges of the Fifth Judicial Circuit; Ben F. Overton, Mark R. McGarry, Jr., Robert O. Beach, and Charles R. Holley, circuit judges of the Sixth Judicial Circuit; Parker Lee McDonald, and Claude R. Edwards, circuit judges of the Ninth Judicial Circuit; James Lawrence King, David Popper, and Thomas E. Lee, Jr., circuit judges of the 11th Judicial Circuit; John D. Justice, Lynn N. Silvertooth, Robert E. Willis, and Robert E. Hensley, circuit judges of the 12th Judicial Circuit; H. John Moore II, O. Edgar Williams, L. Clayton Nance, and Stewart F. LaMotte, Jr., circuit judges of the 17th Judicial Circuit; and Lynn Gerald and Archie M. Odom, circuit judges of the 20th Judicial Circuit.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

MILTON, FLA.,
March 18, 1970.
Senator SPESSARD HOLLAND,
Senate Building,
Washington, D.C.:

We circuit judges of the First Judicial Circuit of Fla. have had the pleasure of knowing Judge G. Harrold Carswell as a lawyer and as a judge. It is a pleasure to vouch for him and urge his confirmation. Best wishes.

WOODROW M. MELVIN,
Presiding Judge.

JACKSONVILLE, FLA.,
March 17, 1970.
Senator SPESSARD HOLLAND,
Washington, D.C.:

You have our unqualified endorsement in urging the confirmation of Judge Carswell.

Judges Martin Sack, Gerald Tjoflat, Lamar Wingeart, Charles Luckie, Albert Graessle, Henry Martin, Marion Gooding, Thomas Larkin, 4th Judicial Circuit of Florida.

TAVARES, FLA.,
March 17, 1970.

Hon. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

I respectfully recommend Judge Carswell for your favorable consideration and urge you support his nomination by President Nixon as an Associate Justice of the United States Supreme Court.

Sincerely submitted.

W. TROY HALL, JR.,
Circuit Judge, Leesburg, Fla.

STATE OF FLORIDA, JUDICIAL DEPARTMENT, FIFTH JUDICIAL CIRCUIT,
March 17, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLAND: The appointment of a conservative man such as Judge G. Harrold Carswell to the United States Supreme Court is long overdue, and now that we have the opportunity of securing such an appointment, I sincerely and earnestly urge that you, as our Senator, give your unqualified support to this appointment.

I am sure that the opposition will continue to raise smoke screens and attempt to defeat this selection by our President. The people of Citrus, Hernando and Sumter Counties, where I serve as presiding judge are, in my opinion, solidly behind Judge Carswell and your part in assisting in his confirmation by the Senate would be well received.

Yours very truly,

JOHN W. BOOTH,
Circuit Judge.

ST. PETERSBURG, FLA.,
March 18, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senate,
Washington, D.C.:

I personally support the Senate's confirmation of Judge Harrold Carswell as a Justice of the United States Supreme Court.

BEN F. OVERTON,
Circut Judge, Sixth Judicial Circuit.

ST. PETERSBURG, FLA,
March 20, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senate,
Washington, D.C.:

I wish to record my wholehearted endorsement of Judge Carswell for elevation to the Supreme Court.

MARK R. MCGARRY, JR.,
Circuit Judge.

ST. PETERSBURG, FLA.,
March 23, 1970.

Senator SPESSARD HOLLAND,
U.S. Senate,
Washington, D.C.:

I urge your vote for approval of Judge Carswell nomination to the United States Supreme Court.

ROBERT O. BEACH,
Circuit Judge, Sixth Judicial Circuit, State of Florida.

BELLEAIR, FLA.
March 18, 1970.

Senator SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

I urge the confirmation of Judge Carswell.

CHARLES R. HOLLY,
Circuit Judge,
Clearwater Fla.

ORLANDO, FLA.,
March 18, 1970.

Honorable SPESSARD HOLLAND,
United State Senator,
Washington, D.C.:

The Judicial Administration Committee of the Florida Bar considers Judge Harrold Carswell to be eminently qualified, competent and learned to serve as Supreme Court Justice. We urge his confirmation without further delay. I also personally recommend this action.

PARKER LEE MCDONALD,
Circuit Judge and
Chairman of Committee.

ORLANDO, FLA.,
March 23, 1970.

Honorable SPESSARD HOLLAND,
U.S. Senate,
Washington, D.C.:

Respectfully urge you to continue pressing for Judge Carswell's appointment.

Best regards,

CLAUDE R. EDWARDS,
Circuit Judge.

MIAMI, FLA.,
March 17, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLAND: I respectfully urge that the Senate confirm the appointment of G. Harrold Carswell of Tallahassee to the United States Supreme Court. While I do not know Judge Carswell personally, I have, upon many occasions, reviewed opinions cited to me in which Judge Carswell has participated either as a district or appellate judge. These decisions reflect a sound and thorough grasp of the law. In addition, through conversation with my colleagues and general observations of Judge Carswell I believe that he is possessed of the proper judicial requirements and temperament to fill this vacancy.

The selection of any person to the United States Supreme Court is, as you might imagine, a subject of keen interest to lawyers and judges throughout the land. Although I do not proport to speak for the twenty-two Circuit Judges of the Eleventh Judicial Circuit, I can state with considerable accuracy that the judges of my Circuit unanimously believe that the appointment of Judge Carswell to this position is an excellent choice. We feel that the selection of a person to the Supreme Court should be based upon ability and judicial temperament rather than partisan political considerations. I respectfully invite your attention to the fact that twenty-one of our twenty-two judges are, like myself, registered democrats.

Cordially,

JAMES LAWRENCE KING.

MIAMI, FLA.,
March 20, 1970.

Hon. SPESSARD HOLLAND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLAND: We strongly support confirmation of Judge Carswell to U.S. Supreme Court.

DAVID POPPER,
Circuit Judge, Dade County Courthouse.

MIAMI, FLA.,
March 20, 1970.

Senator SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

I urge your support for confirmation of Judge Carswell.

THOMAS E. LEE,
Circuit Judge.

SARASOTA, FLA.,
March 16, 1970.

Senator SPESSARD HOLLAND,
Washington, D.C.:

We the undersigned circuit judges of Twelfth Judicial Circuit, Florida join with many other good Floridians urging confirmation of Honorable Harrold Carswell to Supreme Court Bench.

JOHN D. JUSTICE,
LYNN N. SILVERTOOTH,
ROBERT E. WILLIS,
ROBERT E. HENSLEY,

FORT LAUDERDALE, FLA.,
March 17, 1970.

Senator SPESSARD L. HOLLAND,
U.S. Senate,
Washington, D.C.

I urgently and respectfully request your favorable consideration and affirmation vote for confirmation of Judge Carswell's nomination.

H. JOHN MOORE,
Circuit Judge.

FT. LAUDERDALE, FLA.,
March 17, 1970.

Sen. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

Recommend nomination of Judge Harrold Carswell be approved.

O. EDGAR WILLIAMS,
Circuit Judge.

FT. LAUDERDALE, FLA.,
March 18, 1970.

Sen. SPESSARD L. HOLLAND,
New Senate Office Building,
Washington, D.C.:

I urge confirmation of Judge Carswell on nonpartisan basis.

L. CLAYTON NANCE,
Circuit Judge.

FT. LAUDERDALE, FLA.,
March 20, 1970.

Hon. SPESSARD L. HOLLAND,
New Senate Office Building,
Washington, D.C.:

Petty politics should be set aside and Judge Carswell should be seated because of his qualifications.

STEWART F. LAMOTTE, JR.,
Circuit Judge.

FORT MYERS, FLA.,
March 16, 1970.

Hon. SPESSARD L. HOLLAND,
Old Senate Office Building,
Washington, D.C.:

We sincerely endorse Judge G. Harrold Carswell for Associate Justice of the United States Supreme Court.

LYNN GERALD,
Circuit Judge,
ARCHIE M. ODOM,
Circuit Judge.

Mr. HOLLAND. Mr. President, I also ask, at this time, unanimous consent to place in the RECORD communications from the following county judges: Joe Dan Trotman, of Walton County; Kenneth E. Cooksey, of Jefferson County; Monroe E. Treiman, of Hernando County; R. R. Brown, of Jackson County; and James W. West, of Sumter County.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

DEFUNIAK SPRINGS, FLA.,
March 19, 1970.

Senator SPESSARD HOLLAND,
U.S. Senate,
Washington, D.C.

SIRS: I have been a county judge in Walton County Florida for 21 years. I wish to

say that the Hon. Harrold Carswell is qualified in every respect. I give him my unqualified support. All my friends also feel this way.

JOE DAN TROTMAN.

MONTICELLO, FLA.,
March 19, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senator,
U.S. Congress, Washington, D.C.

DEAR SENATOR HOLLAND: I have known Judge Harrold Carswell since he became U.S. District Attorney. I have practiced before his court when he was district judge. He is most eminently qualified to sit on the U.S. Supreme Court especially when viewed from the standpoint of the qualification of some present and former justice. I sincerely believe he will interpret the law rather than legislate. I urge that the verification and the defamation spawned by Senators Bayh et al. cease, and the Senate get on with immediate confirmation, respectfully.

KENNETH E. COOKSEY,
County Judge, Monticello, Fla.

BROOKSVILLE, FLA.,
March 17, 1970.

Senator SPESSARD HOLLAND,
Washington, D.C.

DEAR SENATOR: Your support for Judge Carswell as Justice of the Supreme Court sincerely appreciated by the Judiciary of Florida. Carswell is a qualified jurist.

MONROE W. TREIMAN,
County Judge, Hernando County.

MARIANNA, FLA.,
March 19, 1970.

Senator SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

Sincerely believe circus has lasted long enough. For sake of a strong court system commanding respect of all, urge your efforts to enforce involving Judge Carswell and press for immediate confirmation.

R. ROBERT BROWN,
County Judge, Juvenile Court Judge.

BUSHNELL, FLA.,
March 18, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senator,
Washington, D.C.

DEAR SENATOR: Please continue to do everything in your power to get a good man on the Supreme Court. Please keep pushing for Judge Carswell.

Respectfully,

JAMES W. WEST,
County Judge, Sumter County.

Mr. HOLLAND. I ask unanimous consent, also, Mr. President, to insert in the RECORD at this point telegrams from Robert W. Rust, U.S. attorney for the southern district of Florida and from Robert Eagan, State attorney for the ninth judicial circuit.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

MIAMI, FLA.,
March 21, 1970.

Senator SPESSARD HOLLAND,
Senate Office Building,
Washington, D.C.:

I wish to thank you for your support for Judge Carswell. He is highly qualified to serve on the U.S. Supreme Court. I am proud that President Nixon has nominated him and that you will vote to confirm a southern jurist who is gifted with common sense and practical experience as well as intellectual capability.

ROBERT W. RUST,
U.S. Attorney.

ORLANDO, FLA.,
March 16, 1970.

Senator SPESSARD HOLLAND,
Senate Office Building,
Washington, D.C.:

Urge your confirmation of Justice Carswell.

Very truly yours,

ROBERT EAGAN,
State Attorney
Ninth Circuit, Orlando, Fla.

Mr. HOLLAND. I ask unanimous consent, Mr. President, to insert in the RECORD at this point telegrams which I have received from a number of professors at the State universities who have endorsed Judge Carswell; namely, J. M. Morse III, dean, College of Law, Florida State University; Dexter Delony, professor of law, University of Florida; and Norman A. Faulkner, associate professor of law and director of law placement, University of Florida.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA.,
March 19, 1970.

Senator SPESSARD L. HOLLAND,
U.S. Senate,
Washington, D.C.:

I support the nomination of G. Harrold Carswell for Associate Justice of the Supreme Court of the United States. In my opinion he is qualified by training, experience, and temperament for the position. Dean Mason Ladd joins me in support of Judge Carswell.

J. M. MORSE III,
Dean, College of Law,
Florida State University.

GAINESVILLE, FLA.,
March 19, 1970.

Senator SPESSARD L. HOLLAND,
U.S. Senate,
Washington, D.C.:

I vigorously urge confirmation of Judge Harrold Carswell.

DEXTER DELONY,
Professor of Law, University of Florida.

GAINESVILLE, FLA.,
March 19, 1970.

Senator SPESSARD L. HOLLAND,
U.S. Senate,
Washington, D.C.:

Please add my name to those that strongly support and urge the immediate confirmation of Judge G. Harrold Carswell to the United States Supreme Court.

NORMAN A. FAULKNER,
Associate Professor of Law and Director of Law Placement, Spessard L. Holland Law Center, University of Fla.

Mr. HOLLAND. I mention in closing, Mr. President, that the CONGRESSIONAL RECORD of March 17 shows the following communications in support of Judge Carswell's nomination: letters from Mason Ladd, visiting professor and former dean, Florida State University, dean emeritus of Iowa; William Vandercreek, law professor of Southern Methodist University; and Frank E. Maloney, dean of the University of Florida Law School.

Mr. President, I have previously inserted into the RECORD telegrams and letters from most reputable judiciary and legal professional personages, all of whom have knowledge of Judge Carswell's ability. I now ask unanimous consent to insert into the RECORD the following letters or portions thereof from men of the judiciary and of the legal profession whom I regard most highly and on whom I would prefer to rely as to the ability, integrity, and qualifications of Judge Carswell than would rely on persons of the profession, totally unfamiliar with Judge Carswell or who I believe have not taken the time to analyze the man and his character but yet are willing to demean him by signing petitions against his appointment. These letters are all relative to Judge Carswell's appointment to the circuit court of appeals but reflect the true expressions of persons well qualified to judge the ability of the man now nominated for the Supreme Court.

First, I ask unanimous consent to have a letter which I received from Campbell Thornal, chief justice, Supreme Court of Florida, printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA.,
April 14, 1966.

Hon. SPESSARD L. HOLLAND,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR: I am told that there is a possibility that District Judge Harrold Carswell may be considered for one of the several vacancies to be filled on the Court of Appeals, Fifth Circuit.

I am sure that you know Judge Carswell quite well. It is my impression that he has rendered an excellent service as a Federal District Judge. He enjoys the confidence of the Bar, is diligent in dispatching the business of the Court and has an excellent reputation among the judges who know him here in Florida. Additionally, we in the state judiciary have appreciated the very cordial and congenial relationship with Judge Carswell as one of our Federal Trial Judges. I certainly have no reluctance to commending him to your favorable consideration in the event that he is among those considered for the Court of Appeals appointment.

With warmest regards, I remain,

Sincerely,

CAMPBELL THORNAL.

Mr. HOLLAND. Second, I ask unanimous consent to have a letter which I received from Elwyn Thomas, justice of the Supreme Court of Florida, printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF FLORIDA,
Tallahassee, April 4, 1966.

Hon. SPESSARD HOLLAND,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SPESSARD: There has been some discussion hereabouts with reference to the appointment of Judge Harrold Carswell to the Circuit Court of Appeals in which case we would have two Federal District Judges in North Florida as well as a Tallahassee Judge on the Circuit Court. This seems to me a wise solution of the present situation and, certainly, Harrold is abundantly qualified by training, character and experience to perform the duties of the higher court.

I am not too familiar with the efforts that are being made to secure these places but it occurs to me that this would be a very sensible move.

Please forgive me for the liberty I take in addressing you on the subject but if there is any possibility that this arrangement could be made, I should like to be counted as favoring it enthusiastically.

With warm personal regards, I am

Sincerely yours,

ELWYN THOMAS.

Mr. HOLLAND. Third, I ask unanimous consent to have a letter which I received from Ben C. Willis, circuit judge, Second Judicial Circuit of Florida, printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECOND JUDICIAL CIRCUIT,
Tallahassee, Fla., April 4, 1966.

Hon. SPESSARD L. HOLLAND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I have heard rumors that United States District Judge Harrold Carswell is being considered for appointment to the United States Court of Appeals for the Fifth Circuit to replace Judge Jones, who is retiring. If he should be nominated and confirmed, I feel that he would serve ably and creditably and would be governed by sound legal judgments in the decisions he would reach. Of course, I have had no opportunity to observe him, but from the reports I receive from members of the bar and from other sources, he has been an excellent District Judge. I feel the nation would be well served by him on the appellate court and that his type of man is very much needed in such positions.

With kindest personal regards and all good wishes, I am,

Sincerely,

BEN C. WILLIS.

Mr. HOLLAND. Fourth, I wish to read a portion of a letter which I received from Stephen C. O'Connell, then justice of the Supreme Court of Florida, now President of the University of Florida:

Yesterday I was told that Judge Harrold Carswell is being considered for appointment to the Court of Appeals and I was asked to express my views to you on this. I endorsed Harrold's appointment to his present office and his record has made me proud that I did so. I believe he would make an excellent appellate judge.

Fifth, I wish to read a portion of a letter which I received from Millard F. Caldwell, then chief justice of the Supreme Court of Florida and former Governor of the State I have the honor to represent in part. In writing about the vacancy on the Fifth Circuit Court of Appeals, last year he said:

My best suggestion is the appointment of Harrold Carswell to one of the vacancies. His calm common sense approach to the tough problems of the day would be helpful, to say the least. I do not need to remind you that he has rendered splendid service to the Federal Bench, a service recognized by the Circuit and District Judges of the Fifth Circuit in electing him District Judge Representative to the United States Judicial Conference.

Sixth, I ask unanimous consent to have a letter and enclosed editorial which I received from Douglass B. Shivers, of the law firm of Cotton, Shivers, Gwynn & Daniel, Tallahassee, Fla., printed in the RECORD at this point.

There being no objection, the letter and editorial were ordered to be printed in the RECORD, as follows:

COTTEN, SHIVERS, GWYNN & DANIEL,
Tallahassee, Fla., January 24, 1969.

Hon. SPESSARD HOLLAND,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLAND: Enclosed is an editorial which appeared in the Pensacola Journal on January 22, 1969, endorsing our mutual good friend and able United States District Judge Honorable Harrold Carswell for appointment to the United States Circuit Court of Appeals.

We enthusiastically endorse this editorial. Judge Carswell has done an outstanding job on the United States District Court bench and he would make an excellent Judge for the United States Circuit Court of Appeals.

Warm personal regards.

Respectfully yours,

DOUGLASS B. SHIVERS.

[From the Pensacola (Fla.) Journal, Jan. 22, 1969]

MAN FOR THE JOB

We hope reports of the proposed appointment of Federal Judge G. Harrold Carswell of Tallahassee to the position of judge of the U.S. Circuit Court of Appeals are correct, and the appointment is speedily confirmed.

We can think of no man better suited for the job.

When Judge Carswell, at age 38, was appointed to the judgeship of this federal court district, there were complaints as to his "limited" experience in the practice of law and his "total lack" of judicial experience.

There can be no such complaints now, however. Judge Carswell has served as district judge in this area for more than 10 years, and served for several years prior to that time as U.S. Attorney in the same district. He finished law school in 1948, giving him more than 20 years of law experience in all.

Furthermore, in his years of service on the district court bench, despite a tremendous work load, Judge Carswell has done what we believe has been an outstanding job.

Now, approaching 50, he has the maturity and experience needed and yet is still young enough and active enough to offer many years of service to this nation in this high level position on the appeals court, embracing Florida, Georgia, Alabama, Mississippi, Louisiana, and Texas.

To be practical about it, Judge Carswell is a Republican, as is the new President of the United States and the new U.S. Senator for the State of Florida.

Two new judges are to be named for the Appeals Court, making a total of 13, and at present only one state, Texas, has sent three men to this bench. Florida should be in line now for one such appointment, as the fastest growing of the states involved, and—again being practical—as the adopted state of President Nixon.

We have long contended that judges should be appointed not from the standpoint of political cronyism, but from the standpoint of experience and demonstrated ability.

Judge Carswell, without question, has both, as well as the political credentials which have always been necessary in the past.

We hope the job will be his.

Mr. HOLLAND. Seventh, I ask unanimous consent to have a letter which I received from Joseph C. Jacobs of the law firm of Ervin, Pennington, Varn & Jacobs, Tallahassee, Fla., printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ERVIN, PENNINGTON, VARN & JACOBS,
Tallahassee, Fla., June 18, 1969.

Re Hon G. Harrold Carswell, U.S. district judge.

Hon. SPESSARD L. HOLLAND,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLAND: I have noted newspaper accounts to the effect that Judge Carswell's record in the field of civil rights has been attacked by some individuals.

I believe that I am uniquely qualified to attest to Judge Carswell's judicial temperament and his performance in civil rights cases. For 10 years, I was Assistant Attorney General here in Tallahassee, and for two years was Chief Trial Counsel in the Attorney General's office; therefore, I either personally handled or had supervisory responsibility for all civil rights cases in which the state was a party. I certainly did not agree with all of Judge Carswell's decisions and, in fact, vehemently disagreed with many of them; but he was always fair, courteous, and exhibited the judicial temperament of a good judge—many times under trying circumstances.

In the past five years, I have been in the private practice of law, actively engaged in trial work with a very active firm requiring the handling of similar cases and cases generally before the Federal District Court here and throughout the State of Florida. Viewing Judge Carswell's activities from the vantage point of the other side of these cases. I can again report that he is fair and exhibited the same judicial temperament which I had observed in my representation of the state in his court and the other federal courts in the state.

I have properly avoided—and respectfully suggest that it is inappropriate in the evaluation of any judge—to summarize the decisions which Judge Carswell has rendered in any particular area. A judge, like a lawsuit, must be judged on the basis of each individual decision and each individual set of circumstances as it develops through our court system. Any attempt to form a composite view of a judge's performance based on cases handled in one particular area would give a distorted view of the qualifications of the individual judge involved.

I have discussed this with other members of my firm and lawyers generally throughout Florida, and can assure you that the above opinion is shared by the vast majority of lawyers who practice in the District Court of the Northern District of Florida.

Sincerely,

JOSEPH C. JACOBS.

Mr. HOLLAND. Eighth, I also ask unanimous consent to have a letter which I received from Carl R. Pennington, Jr., of the law firm of Ervin, Pennington, Varn & Jacobs, Tallahassee, Fla., printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ERVIN, PENNINGTON, VARN & JACOBS,
Tallahassee, Fla., November 26, 1968.

Senator SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLAND: Although it may be somewhat presumptuous on my part, I would like to add my endorsement and support to Harrold Carswell in connection with his consideration for appointment to the Circuit Court of Appeals, Fifth Circuit. I am certain that you are more aware of Harrold's political philosophies than I am. Suffice it to say that we all hold to the same basic beliefs. I believe that it is equally apparent that Harrold possesses all of the requisite qualifications, and that it will be difficult to find anyone as well qualified for this judgeship. As a practicing attorney I believe that his appointment would add both to the stature and quality of the Court.

Very truly yours,

CARL R. PENNINGTON, Jr.

Mr. HOLLAND. Ninth, I ask unanimous consent to have a letter which I received from Marion B. Knight of the law firm of Marion B. Knight and/or

Philip J. Knight Blountstown, Fla., to be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARION B. KNIGHT AND/OR PHILIP J. KNIGHT,
Blountstown, Fla., December 9, 1969.

Hon. SPESSARD L. HOLLAND,
U.S. Senate
Attention Mr. Merrill Winslett,
Washington, D.C.

DEAR MERRILL: At the meeting of our Fourteenth Judicial Circuit Bar Association in Marianna, Saturday afternoon, I discussed the appointment of one of the Judges of the Circuit Court of Appeal for the Fifth Circuit, with some of our lawyers who are familiar with both Judges, and since I represented the Marianna Division of the U.S. District Court, Northern District of Florida in Gainesville, at the Enrobing of Judge Bud Arnow, and since I am the oldest acting practitioner in our circuit, I agreed to write this letter to you directly and request that you take the matter up on your confidential meeting with Senator Holland to be sure that it gets to his attention.

I have only been intimately acquainted with Judge Harrold Carswell, our Senior Judge since a short time before his appointment.

I have also known Judge McRae since Law School days in the early twenties, which of course is not quite as long as I have known you, but still longer than I have personally known Senator Holland.

It is my opinion, which is concurred in by the active lawyers in this Division, that we recommend Judge Carswell to be elevated to the Circuit Court of Appeals.

He is not only judicially qualified, but has not lost the practical ability to observe matters and persons in a qualified manner, and I sincerely recommend that he be appointed with the utmost confidence that he will lend dignity to the profession, reflect honor to Senator Holland and merit the confidence of the other members of the Court and reflect honor to himself.

With kindest personal regards to you and Senator Holland.

Yours sincerely,

MARION B. KNIGHT.

Mr. HOLLAND. Mr. President, I have received numerous letters attesting to the ability of Judge Carswell and strongly endorsing his nomination to the Supreme Court. These letters are from persons in all walks of life. In order not to enlarge the RECORD too greatly, I will not ask that all of them be placed in the RECORD. I do feel, however, that certain letters from members of the bar are most appropriate, and I ask unanimous consent to have these letters printed in the RECORD.

The first is a letter addressed to Senator EASTLAND, a copy of which was sent to me, from the Honorable Bryan Simpson, circuit judge, U.S. Court of Appeals, Fifth Judicial Circuit.

The second letter is one from the Honorable Ben F. Barnes of the firm of Barnes & Grant, Marianna, Fla.

The third is a letter from the Honorable Bryon B. Block of the firm of Glickstein, Crenshaw, Glickstein, Fay & Allen, Jacksonville, Fla.

The fourth is a letter addressed to Mr. Melvin L. Kodas, chairman, section on judicial administration law, American Trial Lawyers Association, Kansas City, Mo., from the Honorable Perry Nichols, a copy of which was forwarded to me.

The fifth is a letter from the Honorable Phillip W. Knight of the firm of Fowler, White, Humkey, Burnett, Hurley & Banick of Miami, Fla. The last paragraph of this letter is more of a personal nature regarding my pending retirement deleted this from the letter.

The sixth letter and enclosure which I ask unanimous consent to have printed in the RECORD is one I received from the Honorable Edward E. Hedstrom, president of the Putnam County Bar Association, Palatka, Fla., enclosing a resolution adopted by the Putnam County Bar Association endorsing the nomination and confirmation of Judge Carswell.

I ask unanimous consent that the letters and the resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. COURT OF APPEALS,
FIFTH JUDICIAL CIRCUIT,
Jacksonville, Fla., January 22, 1970.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR EASTLAND: The purpose of this letter is to attest to you and the members of your committee, for whatever value it may have, my personal judgment of the qualifications of U.S. Circuit Judge G. Harrold Carswell to become an Associate Justice of the United States Supreme Court.

I have been closely associated with Judge Carswell as a brother Florida federal judge since he became a District Judge in the spring of 1958. We worked closely together over the years. In recent months that association has continued on the Court of Appeals. I knew him slightly, but mainly by reputation, in the early Fifties when he was U.S. Attorney for the Northern District of Florida.

He possesses and uses well the requisite working tools of the judge's trade: industry, promptness, learning, attentiveness and writing skills. He is a competent and capable judicial craftsman, experienced in the diverse and complex areas of federal law as well as the almost limitless variety of cases coming to us under the diversity jurisdiction. In the six or seven months he has been a member of our Court and in extensive service thereon as a visiting judge over the prior years, he has shown a steady capacity for high productivity without the sacrifice of top quality in his work.

More important even than the fine skill as a judicial craftsman possessed by Judge Carswell are his qualities as a man: superior intelligence, patience, a warm and generous interest in his fellow man of all races and creeds, judgment and an open-minded disposition to hear, consider and decide important matters without preconceptions, predilections or prejudices. I have always found him to be completely objective and detached in his approach to his judicial duties.

In every sense, Judge Carswell measures up to the rigorous demands of the high position for which he has been nominated. I hope that the Judiciary Committee will act promptly and favorably upon his nomination. It is a privilege to recommend him to you without reservation.

With kind personal regards, I am.

Sincerely,

BRYAN SIMPSON.

BARNES & GRANT,
Marianna, Fla., January 19, 1970.

Hon. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I am advised that Judge Carswell was nominated by the President for appointment to the United States Supreme Court this afternoon.

Since Judge Carswell's appointment to the District Court, I have been before him on numerous occasions each year, in criminal matters, by virtue of appointment generally, and from time to time in civil matters. I have appreciated the manner and form in which he operated his Court; his ability to comprehend the issues immediately, even in complicated civil matters; and to make decisions, without hesitation, regardless of the parties.

I sincerely hope that you will do everything within your power to assure Judge Carswell's confirmation by the Senate.

With best personal regards, I am

Sincerely,

BEN F. BARNES.

GLICKSTEIN, CRENSHAW,
GLICKSTEIN, FAY & ALLEN,
Jacksonville, Fla., January 23, 1970.

Hon. HARROLD CARSWELL,
Federal Building,
Tallahassee, Fla.

DEAR JUDGE CARSWELL: It was with a great deal of pleasure that I read of your nomination to the Supreme Court of the United States. I am confident that the Senate of the United States will recognize your ability and integrity in promptly confirming President Nixon's most recent nomination to the highest Court in the land.

As a native Tallahasseean and Floridian I recognize the deep significance your appointment has for the Florida Bar and am confident that your tenure on the Supreme Court will be a continuation of your distinguished service in the District Court and Fifth Circuit Court of Appeals.

Again, let me extend my heartiest congratulations.

Respectfully,

BYRON BLOCK.

NICHOLS & NICHOLS,
Miami, Fla., January 27, 1970.

Re Judge G. Harrold Carswell, Nixon appointee to the U.S. Supreme Court.

Mr. MELVIN L. KODAS,
Chairman, Section on Judicial Administration Law, American Trial Lawyers Association, Kansas City, Mo.

DEAR SIR: I highly recommend the confirmation of Judge G. Harrold Carswell, recent appointee to the Supreme Court of the United States, and I am sending to each member of President Wolfstone's Judicial Committee a copy of this letter.

I have personally known Judge Carswell for about twenty years. He has an outstanding record as a fine trial lawyer, as an excellent prosecuting attorney, as a Federal District Trial Judge and on the 5th Circuit Court of Appeals. This is well recognized by all lawyers who have been before him and who know him in this territory.

In addition to the above, I have had the privilege of being on a number of annual deer hunting trips, on which there were about fifteen prominent lawyers, doctors, insurance men and other friends, where we spent several days on a deer hunt at Cumberland Island, off the lower coast of Georgia. On several occasions, Judge Carswell has been a guest in this group, and I have had the privilege and opportunity to visit with him man to man and under circumstances which were informal and you could talk "off the record," without embarrassment, and I can tell you that Judge Carswell is a moderate conservative. He likewise, however, is a fine judge and follows the law of the land and the Constitution and decisions of the Supreme Court of the United States. He has applied these without favoritism and without regard to race, color or creed.

Concerning Judge Carswell's remark about integration immediately after graduating from Mercer College, when he was running for the legislature, I call it to your attention that the Constitution of the State of Georgia required segregation at that time, and the United States Supreme Court decisions had

approved segregation. At that time he was following the Constitution of his state and the decisions of the Supreme Court of the United States. His views today are as liberal and as modern as the decisions of the United States Supreme Court.

Judge Carswell is a hard worker. He keeps his calendar in good up-to-date shape and tends to the Court's business with dispatch.

He has a fine family and a good, high moral personal reputation in this state and in his own community where they know him best.

Having been president of the American Trial Lawyers Association and the International Academy of Trial Lawyers, as well as serving on the Judicial Council of Florida for six years dealing with the judicial system, qualifications and appointments of judges in this area, I unhesitatingly recommend Judge G. Harrold Carswell for confirmation to this high office. I feel he will grace the Bench and serve with honor and distinction and, at the same time, reflect credit upon the office itself.

Yours very truly,

PERRY NICHOLS.

FOWLER, WHITE, HUMKEY, BURNETT, HURLEY & BANICK,
February 2, 1970.

Senator SPESSARD HOLLAND,
Washington, D.C.

DEAR SENATOR: Please excuse this belated opportunity to extend my congratulations to you for your excellent bipartisan efforts in assisting the President in his selecting Judge Carswell as nominee to the Supreme Court. Judge Carswell's appointment will strengthen the Supreme Court immeasurably.

Being a "strict constructionist" myself, I sincerely urge your continued efforts to secure the Senators' consent of his nomination. Such action will improve the stature of the Bar, the Judiciary, the State of Florida, and the nation as a whole.

Respectfully yours,

PHILLIP W. KNIGHT.

DOWDA, MILLER & HEDSTROM,
Palatka, Fla., January 29, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senate, Washington, D.C.

DEAR SIR: Enclosed is the Resolution adopted by the Putnam County Bar Association endorsing the nomination and confirmation of Judge G. Harrold Carswell as an Associate Justice of the United States Supreme Court.

We respectfully submit this Resolution as an expression of our confidence in Judge Carswell.

Very truly yours,

EDWARD E. HEDSTROM,
President, Putnam County Bar Association.

Enclosure.

RESOLUTION

Whereas, the Putnam County Bar Association, a corporation not for profit, of the State of Florida, desires to express its views concerning the nomination of the Honorable G. Harrold Carswell for the position of Associate Justice of the United States Supreme Court; and

Whereas, this Association is convinced that Judge Carswell is fully worthy of appointment to the United States Supreme Court, is a man with a distinguished record as a jurist, and should be confirmed as soon as possible;

Now, therefore, be it resolved by the Putnam County Bar Association of Putnam County, Florida, in special meeting assembled this 26th day of January, A.D. 1970, that this Association does hereby endorse and support the nomination of the Honorable G. Harrold Carswell for appointment as Associate Justice of the Supreme Court of the United States of America, and does urge the United States Senate to confirm his appointment at the earliest possible date; and,

Be it further resolved that copies of this Resolution be forwarded to the President of the United States, to the president of the United States Senate, to the United States Senators from the State of Florida, and to the Honorable G. Harrold Carswell.

Passed and adopted this 26th day of January, A.D. 1970.

PUTNAM COUNTY BAR ASSOCIATION,
EDWARD E. HEDSTROM, *President.*

Mr. HOLLAND. Mr. President, in addition, I have received 232 telegrams, which I shall not ask to have printed in the RECORD because that would unduly encumber the RECORD. All of these telegrams are from reputable members of the bar in my State. I think I know pretty well the members of the bar of my State, having practiced there since 1916 and being a native of my State. I do not know every one of them but I know by far the greater majority of them.

It would be inconceivable to me that all these judges of our State, Governors, and cabinet members of our State, regardless of party, and all these fine practicing attorneys would recommend Judge Carswell so strongly for confirmation unless he is vastly more than a mediocre judge.

As I have said, I had the pleasure to sit as a witness in the largest case ever tried during my lifetime in my State, when Judge Carswell was presiding. I have stated how thoroughly I was impressed with his character in presiding and his rulings. There were some 20 to 30 lawyers on the two sides. When the case was decided by the jury there was no appeal. There can be no stronger endorsement of a trial judge than that.

Mr. President, I close by asking that there be printed in the RECORD a telegram from the president, vice president, and treasurer of the Student Bar Association; the president of Phi Delta Phi legal fraternity; editor in chief, Law Review and others, of the Florida State University College of Law strongly endorsing Judge Carswell for this appointment.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA.,
March 19, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senator,
Senate Office Building,
Washington, D.C.:

As students of Florida State University College of Law we urge the confirmation of Judge Harrold Carswell to the Supreme Court of the United States. We are in complete agreement with the mature judgment of Dean Joshua Morse, Dean Mason Ladd and Professor William Von der Creek in our complete support of Judge Carswell. We feel that his judicial record is outstanding, his character is impeccable and his judicial philosophy is sound.

Robert B. Cyrus, President, Student Bar Association; J. Michael Huey, Executive Vice President, Student Bar Association; Edwin A. Green, Vice President, Student Bar Association; Michael P. Casterton, Treasurer, Student Bar Association; William C. Martin III, President, Phi Delta Phi Legal Fraternity; Wendell J. Kiser, Editor in Chief, Law Review; Lee L. Willis, Paul M. Ruff, Zollie Maynard.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate, as in legislative session, will proceed to the consideration of routine morning business, with a 3-minute limitation for the remainder of the 15 minutes previously allotted for that purpose.

Is there further morning business?

ABORTION REFORM

Mr. PACKWOOD. Mr. President, several weeks ago I introduced a bill to eliminate restrictions on abortion in the District of Columbia. It is my feeling that a woman, as a matter of voluntary decision and private right, should have the decision left to her as to whether or not she wants to terminate the pregnancy.

Since that time the State of Hawaii has passed a law making it a private decision between the woman and her physician whether she wants to terminate a pregnancy. The State of Washington has referred a similar law to the electorate, to be decided by them at the general election this fall. One house of the New York Legislature and one house of the Maryland Legislature have passed laws which would, in essence, do the same thing; that is, give the woman the private right to determine whether she wants to abort a pregnancy.

Courts in several States, including the California Supreme Court, and the Federal districts courts in Wisconsin and the District of Columbia have held abortion laws of those States to be unconstitutional.

Recently both the New York Times and the Wall Street Journal editorialized in favor of these changes. I will now read from the editorial published in the New York Times:

While fully recognizing the depth and sincerity of feeling of those who believe that abortion is an immoral act, we have come to the conclusion that it is not a matter for the state to decide but that each woman, in consultation with her physician, should have the right to determine whether to continue a pregnancy or not, just as she should have the right to decide whether to begin one or not.

The editorial in the Wall Street Journal states:

In addition, the question of how many children should be up to the discretion of the woman or the husband and wife as the case may be. Generally speaking they have that right now—they do not have to have any children if they do not want to—and the right, it seems to us, should include the possibility of terminating an unwanted pregnancy.

To put it another way, this is an area where government has no necessary or appropriate function.

Mr. President, considering the stature of the New York Times and the Wall Street Journal, I ask unanimous consent that the full text of these two editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 20, 1970]

AT LAST, ABORTION REFORM

After years of delay in Albany, when an abortion reform measure could not even get out of committee for floor debate and a vote, the Senate has now approved the most sweeping reform yet enacted in any state. Its prospects for approval in the assembly are encouragingly good.

Abortion reform is long overdue. The state's present law, enacted in the 19th century, permits abortions only when a licensed physician has "a reasonable belief that such is necessary to preserve the life" of the prospective mother. It is a cruelly restrictive law that has doomed countless thousands of women to continued unwanted pregnancies, even those that might have resulted from incest or rape or those that might pose a threat to physical or emotional health.

The reform approved by the State Senate repeals the language restricting abortions to cases in which the life of the prospective mother can be said to be endangered if the pregnancy is allowed to continue. It would permit abortions when a woman and her physician agree that one is desirable.

This may seem like too sweeping a reform of too restrictive a statute. It is, however, probably the only kind of change that will ultimately withstand court challenges that have already been mounted in various states against existing abortion laws.

While fully recognizing the depth and sincerity of feeling of those who believe that abortion is an immoral act, we have come to the conclusion that it is not a matter for the state to decide but that each woman, in consultation with her physician, should have the right to determine whether to continue a pregnancy or not, just as she should have the right to decide whether to begin one or not. We therefore urge the Assembly and Governor Rockefeller to join the Senate in establishing this as the public policy of the State of New York.

[From the Wall Street Journal, Mar. 20, 1970]

REPEALING ABORTION LAWS

A growing number of Americans are coming to the conclusion that the best reform of abortion laws is outright repeal, and the state of Hawaii has already acted on that premise.

It is a rather remarkable turnaround. Only a couple years ago no one would think that anything so "radical" as a repeal proposal would have any chance at all. Yet today several states have liberalized their laws and one house of the New York State legislature this week approved what would amount to Hawaii-like repeal.

The changing attitude is not, in our opinion, just one more manifestation of the new permissiveness of the times. On the contrary, it attests to a greater awareness of the anguish suffered by the victims of the harsh laws that remain on the books.

The objections to repealing abortion laws have by no means, of course, been completely stilled.

Abortion is anathema to certain religions, and while they have every right to their views, they have no right to impose their views on the society at large. Legalizing abortion obviously does not require Roman Catholics or anyone else to practice it; they are as free as ever to shun it and indeed to denounce it.

Some contend that legal abortion would aggravate the sexual latitude of the age. We doubt it. Presumably no one wants an abortion if there is a better choice; and as it is the number of illegal abortions is appallingly high. Taking abortion out of the legal realm altogether might therefore not mean any significant increase in the total number of the operations.

Then there is the objection on the ground of moral philosophy: That abortion is the taking of human life. One answer to it is that no consensus, let alone proof, exists among medical practitioners or moralists. The fact is that many doctors would long since have been performing abortions had it been legal to do so.

For our layman's part, we find it particularly hard to accept that the embryo (first three months of pregnancy) is a human being in any real sense; we incline to the thesis that it is still part of the mother, manifestly incapable of independent existence.

Against these objections, the arguments for repeal seem far more persuasive.

First is that it is simply humanitarian. We have mentioned the suffering of the victims. It involves the degradation, humiliation and mental strain imposed by unwanted pregnancy and the effort to remedy it. A civilized society should not have such draconian laws, although it certainly can and should require that abortions be performed by licensed physicians under sanitary conditions.

Probably legalizing abortion would not be a significant population-control measure in this country (it has been highly effective in Japan). However, it fits in with the new concern—even apprehension—that unless population is controlled, the nation will in the not too distant future be so inundated that decent living conditions will be impossible.

In addition, the question of how many children should be up to the discretion of the woman or the husband and wife as the case may be. Generally speaking they have that right now—they do not have to have any children if they do not want to—and the right, it seems to us, should include the possibility of terminating an unwanted pregnancy.

To put it another way, this is an area where government has no necessary or appropriate function. These severe laws go back to a time and a mentality in which the State assumed it should closely regulate people's private lives; the statutes are, or are analogous to, sumptuary laws. We do not think they accord well with the concept of individual liberty.

Needless to say, there are still other areas where the State's intrusion is questionable. As a broad criterion in such matters, we believe that where the situation is truly private—that is, where the conduct of the individual or couple or family does not impinge on society or hurt anyone—government should refrain from intervention.

For whatever it is worth, it seems to us that abortion, unhappy though it be at best, belongs in that category.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

REPORT OF RECEIPTS AND DISBURSEMENTS TO APPROPRIATIONS FROM DISPOSAL OF MILITARY SUPPLIES, EQUIPMENT, AND MATERIEL AND LUMBER OR TIMBER PRODUCTS

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report of receipts and disbursements to appropriations from disposal of military supplies, equipment, and materiel and lumber or timber products, as of December 31, 1969 (with an accompanying report); to the Committee on Armed Services.

REPORT ON CERTAIN PROJECTS UNDERTAKEN FOR THE ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on certain projects undertaken for the Army National Guard; to the Committee on Armed Services.

PROPOSED SMALL BUSINESS AMENDMENTS OF 1970

A letter from the Administrator, Small Business Administration, Washington, D.C., transmitting a draft of proposed legislation to clarify and extend the authority of the Small Business Administration, and for other purposes (with accompanying papers); to the Committee on Banking and Currency.

PROPOSED ADDITIONAL ASSISTANT SECRETARY OF COMMERCE

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize an additional Assistant Secretary of Commerce (with an accompanying paper); to the Committee on Commerce.

PROPOSED EXTENSION FOR ONE YEAR OF ACT RELATING TO HIGH-SPEED GROUND TRANSPORTATION

A letter from the Acting Secretary of Transportation, Washington, D.C., 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 (with accompanying papers); to the Committee on Commerce.

PROPOSED AMENDMENT OF SECTION 1114 OF TITLE 18, U.S. CODE

A letter from the Chairman, Federal Communications Commission, Washington, D.C., 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 (with accompanying papers); to the Committee on Commerce.

REPORT OF ACTIVITIES UNDER THE FLAMMABLE FABRICS ACT

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of activities under the Flammable Fabrics Act, for the calendar year 1969, plus 3 months of calendar year 1968 (with an accompanying report); to the Committee on Commerce.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need to strengthen concrete inspections and testing requirements in the construction of low-rent public housing projects, Department of Housing and Urban Development, dated March 24, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT ON GUAM ECONOMIC DEVELOPMENT FUND ACT OF 1968

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report of the Governor of Guam on the Guam Economic Development Fund Act of 1968 (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED IMPROVEMENT OF LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

A letter from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Longshoremen's and Harbor Workers' Compensation Act to improve its benefits, and for other purposes (with accompanying papers); to the Committee on Labor and Public Affairs.

PROPOSED HIGHER EDUCATION OPPORTUNITY ACT OF 1970

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 (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT OF THE COMMISSIONER OF EDUCATION

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Commissioner of Education, for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

Resolutions of the Commonwealth of Massachusetts; to the Committee on Finance:

"RESOLUTION OF THE COMMONWEALTH OF MASSACHUSETTS

"Resolutions memorializing the Congress of the United States to help preserve the shoe and allied industries in the Commonwealth of Massachusetts

"Whereas, Shoe manufacturing is, and has been for more than a century, a major industry in the Commonwealth of Massachusetts currently employing almost thirty thousand persons, plus an additional ten thousand persons who are employed in allied industries; and

"Whereas, Many of the four hundred companies employing these persons have plants located in cities and in small towns where they supply the major source of income and employment; and

"Whereas, The Massachusetts footwear and allied manufacturing industries face continuing and expanding competition from imports of foreign footwear, which have expanded dramatically from seventy-eight million pairs in nineteen hundred and fifty-five to one hundred and seventy-five million pairs in nineteen hundred and sixty-eight and an estimated two hundred and ten million pairs in nineteen hundred and sixty-nine; and

"Whereas, Such imports have curtailed the growth and eliminated many job opportunities and resulted in the liquidation of some thirty companies employing over four thousand persons in the years nineteen hundred and eighty-eight and nineteen hundred and sixty-nine and in the loss of eighteen thousand jobs since nineteen hundred and sixty; and

"Whereas, The footwear and allied manufacturing industries in the commonwealth are labor intensive industries and cannot compete with foreign footwear imports produced by low-wage workers; now, therefore, be it

"Resolved, That the General Court of the Commonwealth of Massachusetts respectfully requests the Congress of the United States to enact legislation that will provide for quotas limiting future importation of foreign footwear for a period sufficient to enable the federal government to develop effective alternative methods of aiding the shoe industry and the workers employed therein; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the Secretary of Commerce, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

A concurrent resolution of the Legislature of the State of New York; to the Committee on Finance:

"RESOLUTION OF STATE OF NEW YORK

"Whereas, The State of New York has undertaken a comprehensive program for the development of mass transportation facilities and has provided two and one-half billion dollars to assist in the development of said program; and

"Whereas, Comprehensive studies of the problems of mass transportation have been commenced leading to the development of a comprehensive state-wide master plan for mass transportation needs and techniques in the course of which certain problems arising from the existing relationship of state and federal funding have become apparent; and

"Whereas, The federal funding programs have in the past generally been orientated in favor of the private automobile, a policy which has contributed significantly to metropolitan sprawl with its injudicious planning and uses of land and a general weakening of public transportation systems in the central cities, and has created serious relocation problems in urban areas for citizens and businesses displaced by new highway construction; and

"Whereas, The Federal Highway Trust Fund annually receives approximately four and one-half billion dollars for highway construction, which funds, under the Highway Act of 1956, are used to pay ninety per cent of the cost of approved highway construction by all of the states, with the result that highway construction has received preferential treatment in transportation development; and

"Whereas, The studies of the Joint Legislative Committee on Mass Transportation of this Legislature has revealed the desirability of encouraging a comprehensive development of mass transit systems so that federal funding for such programs can be established on an equal basis with that of the highway program on a 90–10 basis between federal and state funds, now, therefore, be it

"Resolved (if the Assembly concur), That the Congress of the United States be and it hereby is memorialized to enact legislation amending the Urban Mass Transportation Act of 1964 by providing for the establishment of a Mass Transportation Trust Fund financed by an extension of the federal automobile excise tax with an increasing proportion earmarked for mass transportation projects each year and to provide for the continuance of the Federal Airport Aid program with an amendment to provide for its funding by means of an increased federal excise tax on airline passenger tickets and aviation fuels, it being the intention of such amendments to create trust funds which will participate in the development of mass transportation and aviation projects on the basis of payment by the federal government of ninety percent of the cost of such approved projects by all of the states similar to the payments as presently provided for the construction and development of highways under the Highway Act of 1956; and be it further

"Resolved (if the Assembly concur), That copies of this resolution be transmitted to the Congress of the United States by forwarding one copy thereof to the Secretary of the Senate, one copy to the Clerk of the House of Representatives and one copy to each member of the Congress from the State of New York."

A resolution adopted by the United Nations Association of Minnesota, Minneapolis, Minn., praying for ratification of the Genocide Convention; to the Committee on Foreign Relations.

A resolution adopted by the City Council of Philadelphia, Pa., praying for an immediate end to the loss of lives and resources in Vietnam; to the Committee on Foreign Relations.

A resolution adopted by the Village of Hazel Crest, Ill., praying for obedience to the law and courtesy to others; to the Committee on the Judiciary.

A resolution adopted by the City Council of San Diego, Calif., praying for the enactment of legislation to repeal the provisions of the Emergency Detention Act of 1950; to the Committee on the Judiciary.

The petition of Ohio Bell, of Chicago, Ill., praying for a redress of grievances; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. METCALF) announced that on today, March 24, 1970, he signed the enrolled bill (H.R. 3786) to authorize the appropriation of additional funds necessary for acquisition of land at the Point Reyes National Seashore in California, which had previously been signed by the Speaker of the House of Representatives.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

H.R. 14289. An act to permit El Paso and Hudspeth Counties, Tex., to be placed in the mountain standard time zone (Rept. No. 91–748).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

S. Res. 211. Resolution seeking agreement with the Union of Soviet Socialist Republics on limiting offensive and defensive strategic weapons and the suspension of test flights of reentry vehicles (Rept. No. 91–749).

EXECUTIVE REPORT OF A COMMITTEE

The following favorable report of a nomination was submitted:

By Mr. SPARKMAN, from the Committee on Banking and Currency:

Allan Oakley Hunter, of California, to be President of the Federal National Mortgage Association.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. METCALF:

S. 3625. A bill to amend section 614 of the Bankruptcy Act to extend the scope of relief available during the pendency of proceedings for wage earners' plans; to the Committee on the Judiciary.

(The remarks of Mr. METCALF when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MOSS:

S. 3626. A bill to authorize the Interstate

Commerce Commission, after investigation and hearing, to require the establishment of through routes and joint rates between the motor common carriers of property, and between such carriers and common carriers by rail, express, and water, and for other purposes; to the Committee on Commerce.

(The remarks of Mr. Moss when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. INOUYE (for himself and Mr. FONG):

S. 3627. A bill to provide for the establishment of the Puukohola Heiau National Historic Site, in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FULBRIGHT (by request):

S. 3628. A bill to authorize an increase in the resources of the International Monetary Fund and the International Bank for Reconstruction and Development, and for other purposes; to the Committee on Foreign Relations.

(The remarks of Mr. FULBRIGHT when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. PROUTY:

S. 3629. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to improve its benefits, and for other purposes; to the Committee on Labor and Public Welfare.

(The remarks of Mr. PROUTY when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. PASTORE (for himself and Mr. COTTON):

S. 3630. A bill to amend the joint resolution establishing the American Revolution Bicentennial Commission; to the Committee on the Judiciary.

By Mr. NELSON:

S. 3631. A bill to amend the Outer Continental Shelf Lands Act, to establish a National Marine Mineral Resources Trust, and for other purposes; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. NELSON when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. TOWER:

S.J. Res. 184. A joint resolution to authorize the Secretary of the Interior to conduct a study of the solar rays with a view to determining the potential of such rays as an alternative source of electrical energy; and

S.J. Res. 185. A joint resolution to authorize the Secretary of the Interior to conduct a study of the tides of oceans and other bodies of water with a view to determining the potential of such tides as an alternative source of electrical energy; to the Committee on Commerce.

(The remarks of Mr. TOWER when he introduced the joint resolutions appear later in the RECORD under the appropriate heading.)

S. 3625—INTRODUCTION OF A BILL TO AMEND SECTION 614 OF THE BANKRUPTCY ACT

Mr. METCALF. Mr. President, I introduce, for appropriate reference, a bill to amend section 614 of the Bankruptcy Act to extend the scope of relief available during the pendency of proceedings for wage earners' plans.

Under the Bankruptcy Act a wage earner may file under chapter XIII and pay off his debts over a 36-month period, free from garnishment and harassment by creditors. One practical interference with the success of the wage-earner plan is that in order to avoid garnishments by creditors it is often necessary to file for both the husband and the wife and incur double legal fees and double filing costs. One attorney who tried to get the court to issue an injunction to protect the wife's wages after the husband had filed for a wage-earner plan, found the court rejecting his plea. *Reed* v. *General Finance Loan Co. of Norfolk*, 394 F. 2d 509 (1968).

The use of the wage-earner plan has been encouraged by the Judicial Conference of the United States and by many referees in bankruptcy and lawyers involved in bankruptcy court practice. It is one way that a man who has made financial errors can pay off his creditors and still retain his self-esteem and dignity without the stigma of bankruptcy. The remedy ought to be further encouraged by amending the Bankruptcy Act to permit the referee in bankruptcy to enjoin the garnishment of the wife's salary or property during the period of the plan.

The bill I introduce today would provide this remedy.

I ask unanimous consent to have printed at this point in the RECORD a copy of the bill, the court decision to which I made reference and the foreword from "Wage Earner Plans Under Chapter XIII of the Bankruptcy Act," Hilliard and Hurt, published by the Section of Corporation, Banking and Business Law of the American Bar Association.

The PRESIDING OFFICER (Mr. ALLEN). The bill will be received and appropriately referred; and, without objection, the bill and material will be printed in the RECORD.

The bill (S. 3625) to amend section 614 of the Bankruptcy Act to extend the scope of relief available during the pendency of proceedings for wage earners' plans, introduced by Mr. METCALF, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 3625

That section 614 of the Bankruptcy Act (11 U.S.C. 1014) is amended by inserting therein, immediately after the word "debtor", wherever it appears therein, the words "or a debtor's spouse".

The material furnished by Mr. METCALF is as follows:

JAMES DELANO REED, APPELLANT, v. GENERAL FINANCE LOAN COMPANY OF NORFOLK, APPELLEE, NO. 11951, UNITED STATES COURT OF APPEALS, FOURTH CIRCUIT, ARGUED MARCH 8, 1968. DECIDED MAY 3, 1968

Bankruptcy proceeding under Chapter XIII. The debtor applied for restraining order against garnishment proceedings begun against wages of his wife. The referee in bankruptcy denied the application and the United States District Court for the Eastern District of Virginia, Newport News, Walter E. Hoffman, Chief Judge, affirmed the denial. The debtor appealed. The Court of Appeals held that where husband had filed petition for Chapter XII arrangement with creditors but wife had not so petitioned, referee in bankruptcy and district court properly denied restraining order against garnishment proceedings begun against wife's wages on account of joint debt.

Affirmed.

Bankruptcy—1101

Where husband had filed petition for Chapter XIII arrangement with

Richard W. Hudgins, Warwick, Va., and William C. Worthington, Norfolk, Va., Worthington, White & Harper, Norfolk, Va., on the brief, for appellant.

No appearance for appellee.

Before Boreman and Butzner, Circuit Judges, and Russell, District Judge.

Per curiam:

Appellant-Debtor, proposing an Arrangement with his creditors under a Chapter XIII proceedings,[1] appeals from a denial of a restraining order against garnishment proceedings begun against the wages of his wife on account of a joint debt of the Debtor and his wife. He contends that "the wages of the wife of the debtor are (were) essential and necessary for the family and for the stability of the proposed Plan," and that the garnishment proceedings, if maintained, will make his Plan ineffective. The Referee in Bankruptcy denied the application for a restraining order, "the wife not having filed a Chapter XIII, and she not being a party to the proceedings." Although finding that the garnishment would "seriously affect the operation of the debtor's extension plan", the District Court sustained the ruling of the Referee. In so doing, it expressed sympathy "with the position of the debtor" and suggested that injunctive relief could be secured if the wife would "file a debtor proceeding in her own behalf." We agree.

Affirmed.

AN APPEAL FOR THE USE OF CHAPTER XIII

In the past forty years consumer credit in the United States has risen from an aggregate of one billion dollars in outstanding debts to more than sixty-three billion in 1963. It would appear we have geared ourselves—perhaps inextricably—to a consumer-credit economy. A new and extremely numerous class of debtors has been created, and continues to increase, made up of those whose incomes are derived from wages, salaries, or commissions.

The Bankruptcy Act of 1898, intended to cope with business failures, did not envision the problems of wage-earner debtors or afford realistic procedures with respect to them.

As we have been instructed through a long series of federal decisions, the purpose of that Bankruptcy Act was: (1) to apply the property of the insolvent person or corporation to the payment of the debts with as little expense and delay as would be consistent with the interests of the creditors, and (2) to relieve the honest and unfortunate debtor from his debts and give him another opportunity in the industrial life of the community.[2] With the advent of consumer credit one of the primary purposes of the Act was not being met for in the great majority of bankruptcy cases (today almost 90%) there are virtually no assets for distribution to creditors.

The great depression of the 1930's found many non-business debtors in deep distress. Mostly they were insolvent in the bankruptcy sense and uniformly they were unable to pay their debts as they matured. Congress, recognizing the necessity of measures for their relief, in keeping with the changing order of things, took action through enactment of Chapter XIII, one of the many 1938 amendments of the Bankruptcy Act. Chapter XIII created a method by which a wage earner debtor may, under the protection and guidance of the Bankruptcy Court, pay his creditors in full in installments or effect a composition entailing payment of a

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[1] Section 1001 et seq., Title 11, U.S.C.A.

[2] In re Munford, 255 Fed. 108 (1919); Kothe v. R. C. Taylor Trust, 280 U. S. 224 (1930); Local Loan Co. v. Hunt, 292 U.S. 234 (1934).

percentage of his debts over a time, in each instance without becoming a bankrupt.

When Chapter XIII was first passed, it was limited to those whose income did not exceed $3,600. In 1950 the limit was rasied to $5,000. In 1959 all monetary restrictions were eliminated. Under the Chapter both secured and unsecured debts may be adjusted, excepting debts secured by liens on real property which are excluded by the terms of Section 606(1). Unsecured debts must be dealt with on equal terms. Secured debts may be dealt with severally. By virtue of Sections 621 and 622 a Chapter XIII petition may be filed in a pending bankruptcy proceeding, either before or after adjudication, or if no bankruptcy proceeding is pending, as an original petition.

Chapter XIII has worked, *where it has been used.* But its use has not been uniform or distributed in any discernibly logical pattern. Its greatest employment has been in the following 8 states in which the ratio of Chapter XIII cases to total bankruptcy filings over the perod 1957–1962 has been as follows: Missouri (12.4%), Iowa (24.3%), Georgia (29.2%), Maine (36.3%), Tennessee (43.1%), Kansas (53.9%), Arkansas (61%), and Alabama (86%). The remaining 42 states, in the ratio of Chapter XIII cases to straight bankruptcies, descend from 15% in Idaho to less than 1%. Although there were only 6 federal districts in the United States in which no Chapter XIII cases were filed in 1962, there were six districts wherein more than 1,000 such cases were filed, six additional districts with more than 500, and 18 districts with more than 100 Chapter XIII filings.

Although the use of Chapter XIII has varied widely it has been gradually increasing in popularity and to an accelerated degree in the last few years, as the following progression of figures shows for the filings in the years 1957 through 1962:

1957	11,549
1958	13,391
1959	12,993
1960	13,599
1961	19,723
1962	22,880
1963	24,329

This has been due in part to the endorsement of its use by the Judicial Conference of the United States and the promotional efforts of the Bankruptcy Division of the Administrative Office of the United States Courts. A total of $6,344,660 was paid to creditors in Chapter XIII proceedings successfully completed in fiscal year 1962. During the last ten years (1953 thru 1962) a total of $37,824,436 has been paid to creditors in cases successfully concluded under Chapter XIII, of which amount $25,805,371 was paid during the years 1958 through 1962.

The use of Chapter XIII also has depended and will depend on personal factors, the disparate attitudes of those who actively favor the device; who dislike it; who have not familiarized themselves with it; and who choose to ignore it. Some of these are to be found in each of these groups: Creditors, especially of the merchant, finance-company and collection-agency classes to whom innumerable relatively small debts are due; employers, especially those who are affected and usually annoyed or enraged by garnishments and collection methods used to obtain payments from their employees; the referees in bankruptcy, upon whom fall the burden of supervising the use of Chapter XIII; debtors' attorneys, who must advise debtors as to the relief they should seek; and, of course, the debtors, the persons whose inability to pay lies at the root of the problem.

There is no reason whatever why Chapter XIII should not be widely used and its use welcomed by all in the groups mentioned and the economy as a whole be thereby benefited. In the areas in which the use of Chapter XIII is widespread, the creditors are getting nearly 100% of their accounts; whereas in straight bankruptcy proceedings throughout the whole country less than 10% of the cases produce anything at all for the creditors, and even in those cases only small dividends are paid. Certainly the creditor class ought to want to promote the use of Chapter XIII. Employers ought to be for it, for its use definitely stimulates the morale of their employees and their ability to concentrate on their employment; it protects employers from the burdens of garnishments and collection calls without the necessity of their employees resorting to the extreme and desperate straight bankruptcy proceedings, and thus is beneficial to the whole community; and indirectly in the overall cases in the community it also results in employers being able to collect from their debtors. The referees ought to be for it for it is their duty to carry out the spirit and purpose of the Act and to promote the public good; and they are or should be keenly aware of the tremendous financial losses straight bankruptcy is causing and of the lowering of the moral tone which wholesale bankruptcy is producing; and they ought to remember that the Judicial Conference of the United States has called upon them to urge the use of Chapter XIII in all feasible cases. And the debtors ought to be for it because it enables them to pay their debts, relieve themselves from collection procedures and pressures, discharge both their legal and moral obligations and hold their heads high, and avoid the stigma of bankruptcy.

On initial consideration some attorneys have wondered why they should recommend Chapter XIII to a debtor when he may be relieved of all his debts without payment by petitioning for straight bankruptcy. Fundamentally the question is, what is in the best interest of the debtor-client. If, with a reasonable effort, the debtor is able to pay his debts out of future earnings, he should be advised that in the event of straight bankruptcy he may be faced with the following problems: (1) Some obligations may not be dischargeable in straight bankruptcy and so despite the proceedings the bankrupt may be surprised by being faced with future legal action on debts that he thought would be wiped out by bankruptcy. (2) He will no longer be able to obtain credit from some banks, merchants, finance companies and other credit grantors. His credit on major obligations is likely to be determined by the amount of real security that he can thereafter offer. Many applications for credit ask "have you ever been a bankrupt". A debtor under Chapter XIII is not a bankrupt and can answer "no". (3) Some types of future employment may not be open to him, or he may be prejudiced in obtaining certain jobs or positions. Many employers are concerned with an employee's ability to handle his personal affairs, including family finances. This is why employment applications often require statements as to indebtedness and whether the applicant has been a bankrupt. (4) The bankruptcy may be a continuing matter of embarrassment to the family and relatives for many look upon it as a failure to live up to moral obligations. (5) At least some neighbors, friends and fellow employees are likely to look upon the action as a blot on the character of the debtor. (6) There is likely to be a loss of some self-respect, for only a very callous person can approach straight bankruptcy without feeling that he has let someone down—and in some it creates the feeling of hiding in the closet.

It is conceded, of course, that some straight bankruptcies are inevitably necessary. Many wage earners are confronted with factual situations which preclude the use of Chapter XIII. But the experience of the districts in which Chapter XIII has been accepted proves that nearly all wage earners can and should file under that Chapter. If they had, the bankruptcy statistics for a recent year show, the creditors would have received payments aggregating $177,515,000.00, whereas in 1961 they actually received $5,150,000.00, a startling difference of $112,365,000.00. It is clear we are not dealing with trifling sums or trifling problems when we compare Chapter XIII and straight-bankruptcy results.

This appeal, therefore, is addressed to all creditors, employers, debtors, and debtors' attorneys. The people of the United States have nothing to lose and much to gain if there is more and more use of Chapter XIII in appropriate cases. And Chapter XIII will work if all understand the problems of the harassed debtor as he seeks to pursue the Chapter XIII route. The cooperation of every one involved will result, we are convinced, in making the use of Chapter XIII the rule and bankruptcy the exception.

Denver, April 10, 1963.

BENJAMIN C. HILLIARD, Jr.
WILLSON HURT

S. 3626—INTRODUCTION OF A BILL TO AUTHORIZE THE ICC TO ESTABLISH THROUGH ROUTES AND JOINT RATES

Mr. MOSS. Mr. President, I introduce a bill to authorize the Interstate Commerce Commission, after investigation and hearing, to require the establishment of through routes and joint rates between motor common carriers of property, and between such carriers and common carriers by rail, express, and water, and for other purposes.

There is presently pending before the Commerce Committee, S. 2245, a bill introduced at the request of the Interstate Commerce Commission, which has the same objective as my bill. However, my bill differs in that it contains certain standards or safeguards to prevent undue burdens upon the carriers who may be required by the ICC to establish through routes and joint rates. These standards are that the duty of the carriers to establish such routes and rates is limited to instances where there has been a reasonable request therefore; that the carrier with whom another carrier is required to interchange traffic is and remains financially responsible; and that the rate or charge fixed by the Commission is just and reasonable with reference to the facts and circumstances attending the service to which the rate or charge is applicable.

This bill gives the Commission the power it seeks in appropriate cases while at the same time it protects the rights of persons affected thereby.

This bill may not be the only or even the best solution, but it should be considered at the same time as hearings are held on S. 2245.

The PRESIDING OFFICER (Mr. CRANSTON). The bill will be received and appropriately referred.

The bill (S. 3626) to authorize the Interstate Commerce Commission, after investigation and hearing, to require the establishment of through routes and joint rates between the motor common carriers of property, and between such carriers and common carriers by rail, express, and water, and for other purposes introduced by Mr. Moss, was received, read twice by its title, and referred to the Committee on Commerce.

S. 3628—INTRODUCTION OF A BILL TO AUTHORIZE AN INCREASE IN THE RESOURCES OF THE INTERNATIONAL MONETARY FUND AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Mr. FULBRIGHT. Mr. President, by request, I introduce, for appropriate reference, a bill to authorize an increase in the resources of the International Monetary Fund and the International Bank for Reconstruction and Development, and for other purposes.

The bill has been requested by the Secretary of the Treasury and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Secretary dated March 17, 1970, to the Vice President.

The PRESIDING OFFICER (Mr. GRAVEL). The bill will be received and appropriately referred; and, without objection, the bill and letter will be printed in the RECORD.

The bill (S. 3628) to authorize an increase in the resources of the International Monetary Fund and the International Bank for Reconstruction and Development and for other purposes, introduced by Mr. FULBRIGHT, by request, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

S. 3628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286–286k–2) is amended by adding at the end thereof the following new sections:

"SEC. 22. (a) The United States Governor of the Fund is authorized to consent to an increase of $1,540,000,000 in the quota of the United States in the Fund.

"(b) In order to pay the increase in the United States quota in the Fund provided for in this section, there is hereby authorized to be appropriated $1,540,000,000 to remain available until expended.

"SEC. 23. (a) The United States Governor of the Bank is authorized—

"(1) to vote for an increase of $3,000,000,000 in the authorized capital stock of the Bank, and

"(2) if such increases become effective, to subscribe on behalf of the United States to 2,461 additional shares of the capital stock of the Bank.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated $246,100,000 to remain available until expended."

SEC. 2. Section 6 of the Special Drawing Rights Act (22 U.S.C. 286q) is amended to read as follows:

"Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States vote to allocate in each basic period Special Drawing Rights under article XXIV, sections 2 and 3, of the Articles of Agreement of the Fund so that allocations to the United States in that period exceed an amount equal to the United States quota in the Fund as authorized under the Bretton Woods Agreements Act of 1945, as amended."

The letter, presented by Mr. FULBRIGHT, is as follows:

THE SECRETARY OF THE TREASURY,
Washington, March 17, 1970.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill, "To authorize an increase in the resources of the International Monetary Fund and the International Bank for Reconstruction and Development, and for other purposes," in order to allow the United States to participate with other members of the International Monetary Fund and the World Bank in an increase in the resources of these two institutions.

The International Monetary Fund and the International Bank for Reconstruction and Development (the World Bank) are outstandingly successful international organizations. The Fund is the principal instrument of international monetary cooperation and has contributed immeasurably to the maintenance of a strong international monetary system that is so essential to a prosperous world economy. The World Bank conducts the joint efforts of over a hundred nations in the task of promoting economic development. As of December 31, 1969, the Bank had made 651 loans in 88 countries totaling over $13.4 billion. The Bank has achieved a high reputation for its expertise, for the quality of its judgment and for its concrete contribution to the economic growth of its less-developed members.

Proposals have now been made to increase their resources so that these institutions may continue to play an effective role in carrying out their objectives. The Fund has recently completed its five year review of the size of its members' quotas to determine whether it is able to provide adequate resources of conditional liquidity on the scale required by the growth of the world economy. In the light of this review and on the recommendation of the Executive Directors of the Fund, the Board of Governors on February 9, 1970, adopted a proposal for increases in total quotas from the current level of $21.3 billion. This $7.6 billion increase, shared in by members in varying degrees taking into account changes in their relative economic positions, will provide a sufficient growth in conditional liquidity to accommodate rapidly expanding world trade and payments.

An increase of 29.8 percent is proposed in the United States quota, raising it from $5,160 million to $6,700 million. Of this amount, 25 percent is equivalent to a general increase and 4.8 percent is equivalent to a selective increase for the United States, taking account of our economic growth during the past five years relative to that of other countires. A large number of other Fund members will also be receiving special increases. The relatively large special increases for Canada, France, Germany, Italy and Japan are particularly welcome since these countries have experienced rapid economic growth and are now in a better position to contribute proportionately more to the resources of the Fund.

Since the establishment of the Bank and the Fund, it has been a general principle that countries receiving special increases in their Fund quotas increase their subscription to the capital of the Bank by a corresponding amount. The basic reason for following the principle of parallel contributions is that a selective increase in a Fund member's quota is generally considered to be a reflection of an increase in that member's overall economic strength. It has been the judgment of both institutions that this overall increase in economic strength should permit a country to add to the resources of the Bank. While the United States has not previously had a selective increase in its Fund quota, and thus has not had an opportunity to accept a special increase in the Bank, the United States has strongly supported the policy of parallel contributions and this policy has resulted in a fairer sharing of contributions to the capital of the Bank.

It is anticipated that the countries which are eligible for Fund quota increases in excess of 25 percent will subscribe to additional Bank shares corresponding to the special increase they consent to in the Fund. If all member countries participate fully, the Bank, in accordance with the terms of the proposed resolution, will be authorized to accept special subscriptions from 75 members totaling $2,222.0 million. As a result of the increase in the United States Fund quota, an increased subscription of Bank capital is proposed for the United States in the amount of $246,100,000. If this increase is accepted it would bring the present United States Bank subscription of $6,350 million to a total of $6,596.1 million.

The Bank does not presently have sufficient authorized capital for the proposed special increases in subscriptions. In order to accommodate the increases in subscriptions which have been recommended by the Executive Directors of the Bank, and to have available sufficient unsubscribed capital (approximately $1.6 billion) for future individual increases and for subscriptions for new members, the Executive Directors have also submitted a resolution to the Board of Governors of the Bank which would increase the authorized capital stock of the Bank by $3 billion.

The enclosed draft bill would authorize the United States Governor of the Fund to consent to a $1,540 million increase in our Fund quota, and authorize the United States Governor of the Bank (1) to vote for the $3 billion increase in the capital stock of the Bank, and (2) subscribe to 2,461 additional shares of the Bank's capital. The proposed legislation would also authorize the appropriation of $1,540 million for payment of the United States increase in Fund quota and $246.1 million for payment of the Bank subscription. The Fund subscription is payable 25 percent in gold and the remainder in the form of a dollar letter of credit. Only 10 percent of the Bank subscription must be paid in, with the remaining 90 percent callable to meet obligations of the Bank.

The draft bill also provides authority for the United States to vote for allocations of Special Drawing Rights (SDRs) to the United States in any future basic period in an amount equal to the proposed new United States quota—$6,700 million. This follows the precedent of existing legislation which bases the limit on United States authority to vote for SDR allocations to the United States upon the size of the U.S. quota in the Fund. It was expected that this limit would have to be increased from time to time. The proposed new limit would set the new U.S. quota or any increased U.S. quota subsequently approved by Congress as the amount of SDR allocations to the United States which the United States Governor of the Fund could vote to create in any basic allocation period. A vote for any additional amount would require Congressional authorization.

The Bank and the Fund were created in 1945 at the initiative of the United States and since that time the United States has strongly supported their activities. Congress has indicated its continued support by authorizing increases in the United States subscriptions in the Fund and Bank in 1959

and an increase in the United States quota in the Fund in 1965. Two years ago Congress approved United States participation in the IMF's Special Drawing Rights facility.

The Fund and Bank have been of great benefit to the world economy and to the United States. The increase in resources proposed in the legislation transmitted herewith will make a significant contribution to their continued ability to carry out their assigned tasks.

Action by Congress is needed in particular so that the United States may increase its quota before the next allocation of Special Drawing Rights in January 1971. Otherwise, the United States will be allocated $130 million less SDRs than it would receive if its new quota were in effect. Moreover, as a practical matter, the increase in Bank subscriptions cannot go into effect until the United States votes on the proposed $3 billion increase in capital stock because a 75 percent weighted majority is required and the United States has almost 25 percent of the vote. Therefore, Congressional action is needed in order to allow other countries to subscribe and provide the Bank with needed resources.

For these reasons, I urge that the legislation to increase United States participation in the Fund and Bank receive prompt and favorable consideration from the Congress.

Enclosed is a report of the National Advisory Council on International Monetary and Financial Policies which strongly endorses the proposed increases in quotas and subscriptions, including those for the United States, and sets forth the details of both the Fund and Bank subscription increases.

It will be appreciated if you would lay the proposed bill before the Senate. A similar proposed bill has been transmitted to the House of Representatives.

The Department has been advised by the Bureau of the Budget that the proposed legislation is in accord with the program of the President.

Sincerely yours,

DAVID M. KENNEDY.

S. 3629—INTRODUCTION OF A BILL TO AMEND THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Mr. PROUTY. Mr. President, I introduce a bill to amend the Longshoremen and Harbor Workers' Compensation Act and ask that it be appropriately referred. This bill implements the proposals made in this area by the administration which are encompassed in a message transmitted to the President of the Senate by the Secretary of Labor.

My remarks will be brief, as I intend to place a full explanation of this proposed legislation in the RECORD.

Most longshoremen today, Mr. President, average around $200 a week in wages, and an increase in the compensation payable to them for work-connected disabilities is long overdue.

Our Labor Committee has had this matter under consideration since 1967 but no legislation has been enacted. We all are aware of the inflationary aspects of our economy and the increases in the cost of living which have occurred since 1967.

These amendments do many things. Most importantly perhaps is the fact that they raise minimum compensation payments from $18 to $35 per week and maximum payments from $70 to $119 per week, while also raising the limit on total payments for total or partial disability from $24,000 to $40,800.

Other important changes which would result from these amendments, Mr. President, include increasing the death benefits payable, liberalizing the statute of limitations, eliminating the waiting period for payment of compensation, and expanding the definition of disfigurement. Another important amendment, particularly to me, as ranking minority member of our Education Subcommittee is the change in the definition of "eligible child" to include "student" in order to permit children who are surviving dependents to continue to receive benefits after reaching 18 years of age as long as they are in a student status.

I also point out that another change made by these amendments should encourage the employment of handicapped individuals as a result of clarifying in the law conditions under which an employer provides compensation for disability caused by subsequent injuries.

In my opinion, Mr. President, this is basically excellent legislation and legislation which the longshoremen of this Nation deserve to have enacted during this session of Congress.

However, I do reserve the right to offer any amendments to this bill which I feel can improve it even further. In this connection, I note that the bill provides that the costs of administration, including administration of the safety program, are to be financed by assessments upon carriers and self-insurers. The International Longshoremen's Association and the International Longshoremen and Warehousemen's Union and the industry all opposed a similar provision during the last Congress, and I can see no valid reason at the present time for changing the historical practice of having these expenses paid by the Federal Government.

Mr. President, I ask unanimous consent that the bill, together with an explanatory statement and a section-by-section analysis be printed in the RECORD.

The PRESIDING OFFICER (Mr. GRAVEL). The bill will be received and appropriately referred; and, without objection, the bill, statement, and analysis will be printed in the RECORD.

The bill (S. 3629) to amend the Longshoremen's and Harbor Workers' Compensation Act to improve its benefits, and for other purposes, introduced by Mr. PROUTY, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3629

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

DEFINITIONS

SEC. 1. (a) Section 2(4) of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, as amended), is amended to read as follows:

"(4) The term 'employer' means an employer any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any drydock), and includes any vessel as defined herein."

(b) Section 2 of such Act is amended by renumbering paragraph (19) as (20), and adding a new paragraph (19) to read as follows:

"(19) The term 'vessel' means any vessel upon which or in connection with which any person entitled to benefits under this Act suffers injury or death arising out of or in the course of his employment, and said vessel's owner, owner pro hac vice, agent, operator, charterer or bare boat charterer, master, officer or crew member."

LIABILITY FOR COMPENSATION

SEC. 2. Section 4(a) of such Act is amended to read as follows:

"Every employer shall be liable for and shall secure the payment to his employees of the compensation payable under sections 7, 8, and 9 of this Act: Except, That a vessel shall be liable for and shall secure the payment of compensation only if another employer of the employee entitled to benefits hereunder does not secure the payment of such compensation. Where one or another employer, as defined herein, has secured compensation, such compensation shall be the exclusive remedy against any employer. In the case of an employer who is a subcontractor, the contractor shall be liable for and shall secure the payment of such compensation to employees of the subcontractor unless the subcontractor has secured such payment."

TIME FOR COMMENCEMENT OF COMPENSATION

SEC. 3. Section 6(a) of such Act is amended by striking "more than twenty-eight days" and substituting "more than twenty-one days."

INCREASES IN MAXIMUM AND MINIMUM LIMITS OF DISABILITY COMPENSATION AND ALLOWANCE

SEC. 4. (a) Section 6(b) of such Act is amended to read as follows:

"Compensation for disability, except as provided in section 14 hereof, shall not exceed $119 a week and compensation for total disability shall not be less than $35 per week: *Provided, however,* That if the employee's average weekly wages, as computed under section 10, are less than $35 per week, he shall receive as compensation for total disability his average weekly wages."

(b) Section 14(m) of such Act, except as provided in section 14 hereof, is amended by striking "$24,000" and substituting "$40,800."

DISFIGUREMENTS

SEC. 5. Section 8(c) of such Act is amended to read as follows:

"(20) Disfigurement: Proper and equitable compensation not to exceed $3,500, shall be awarded for serious disfigurement: (1) of the face, head, or neck; or (2) of other areas normally exposed while employed and which do handicap the employee in securing or maintaining employment."

INJURY FOLLOWING PREVIOUS IMPAIRMENT

SEC. 6 (a) Section 8(f)(1) of such Act is amended to read as follows:

"(f) Injury increasing disability: If an employee receives an injury which of itself would cause only permanent partial disability, but which combined with a previous disability does in fact cause permanent total disability or death, in addition to compensation for temporary total or temporary partial disability or both, the employer shall:

"(A) if the injury results in a disability which would entitle the employee to compensation for scheduled injuries under subdivision (c)(1) through (20) of this section, provide compensation as prescribed therein or for 104 weeks whichever is greater, or

"(B) if the injury results in a disability which would entitle the employee to compensation under subdivision (c)(21) of this section or death, provide compensation for 104 weeks only. After cessation of the payments for the period of weeks provided for

herein, the employee or his survivor entitled to benefits shall be paid the remainder of the compensation that would be due for permanent total disability or for death out of the special fund established in Section 44."

(b) Section 8(f) of such Act is further amended by striking paragraph (2).

STUDENT BENEFITS

SEC. 7. (a) Section 2 of such Act is further amended as follows:

(1) In paragraph (14) insert "(1)" in the fourth sentence between "are" and "under"; delete the period after "disability" at the end of the sentence; and add ", or (2) are students as defined in paragraph (21) of this section."

(2) Add a new paragraph (21) to read as follows:

"(21) The term 'student' means a person regularly pursuing a full-time course of study or training at an institution which is—

"(A) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or

"(B) a school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body, or

"(C) a school or college or university not so accredited but whose credits are accepted, or transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or

"(D) an additional type of educational or training institution as defined by the Secretary,

but not after he reaches the age of twenty-three or has completed four years of education beyond the high school level, except that, where his twenty-third birthday occurs during a semester or other enrollment period, he shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the deputy commissioner that he has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during peiods of reasonable duration which, in the judgment of the deputy commissioner, he is prevented by factors beyond his control from pursuing his education. A child shall not be deemed to be a student under this Act during a period of service in the Armed Forces of the United States or while receiving educational or training benefits under any other program authorized by the Congress of the United States."

(b) Section 8(d) of such Act is amended by striking the words "under the age of eighteen years" in paragraphs (1) and (4) thereof.

INCREASE IN DEATH BENEFITS

SEC. 8. (a) Sections 9 (b) and (c) of such Act are amended by striking "35" wherever it appears, and substituting "45".

(b) Section 9(d) of such Act is amended by striking out "15" and substituting "20".

(c) Section 9(e) of such Act is amended to read as follows:

"In computing death benefits, except as provided in section 14 hereof, the average weekly wages of the deceased shall be considered to have been not more than $178.50, nor less than $52.50, but the total weekly compensation shall not exceed the weekly wages of the deceased."

(d) Section 9(g) of such Act is amended by striking the comma after "may" and the words "at his option or upon the application of the insurance carrier shall" and "one-half of".

DEFENSE BASE ACT DEATH BENEFITS TO ALIEN AND NONNATIONAL SURVIVORS

SEC. 9. Section 2(b) of the Defense Base Act (55 Stat. 622), as amended, is amended by striking the comma after "may" and the words "at his option or upon the application of the insurance carrier shall" and "one-half of".

TIME FOR NOTICE AND CLAIMS

SEC. 10. (a) Section 12(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within sixty days after the date fo such injury or death, or sixty days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury occurred and (2) to the employer."

(b) Section 13(a) of such Act is amended to read as follows:

"(a) Except as otherwise provided in this section, the right to compensation for disability or death under this Act shall be barred unless a claim therefor is filed within one year after the injury or death. If payment of compensation has been made without an award on account of such injury or death a claim may be filed within one year after the date of the last payment. Such claim shall be filed with the deputy commissioner in the compensation district in which such injury or such death occurred. The time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment."

SPECIAL FUND

SEC. 11. (a) Section 8(d) of such Act is amended to read as follows:

"Any compensation to which any claimant would be entitled under subdivision (c) excepting subdivision (c–21) upon his death if there is no surviving wife, dependent husband, or child, shall be payable into the special fund established under Section 44(a) of this Act. Where there are survivors if death arises from causes other than the injury such compensation shall be payable to or for the benefit of the persons following:"

(b) Section 44(c)(1) of such Act is amended by striking out "$1,000" and substtiuting "$20,000".

ADMINISTRATION EXPENSES

SEC. 12. Section 45 of such Act is amended by adding the following new subsections:

"(c) At the end of each fiscal year the Secretary shall determine the cost of the administration of this Act, including the cost of administering section 41. The cost of administration shall include any expenses to be insured or which will accrue during such fiscal year.

"(d) The total cost so determined shall be prorated among the carriers and self-insurers authorized to insure under section 32 of this Act. The assessment basis in respect to an insurance carrier shall be the gross premiums collected by the carrier for risks covered by this Act during the preceding fiscal year. The assessment basis in respect to a self-insurer shall be the amount of premium, as determined by the Secretary, which such self-insurer would have had to pay during the fiscal year if he had accrued his compensation liability under this Act by insurance, such premium to be determined without regard to merit or experience rating.

"(e) The Secretary shall assess each carrier and self-insurer for its pro rata share of the total amount of the administration costs of this Act in the fiscal year as determined under this section, and shall give written notice by certified or registered mail to each carrier or self-insurer of the assessment against it.

(f) Each assessment shall be paid upon receipt of notice provided for in subsection (e) within such time as the Secretary shall prescribe in regulations made under this section.

"(g) All assessments under this section, when collected, shall be deposited in the Treasury of the United States as a separate fund. There is hereby authorized to be made available for expenditure from the fund such amounts as the Congress may deem appropriate for the necessary expenses of the Secretary of Labor for the performance of his functions under the Act.

"(h) The Secretary shall have authority to make such regulations as he deems necessary or appropriate to carry out the purposes of this section, including, but not limited to, provisions for the making and preservation of appropriate records, the inspection of such records, and the submission by carriers and self-insurers of reports prescribed by the Secretary.

"(i) In the event of failure by any carrier or self-insurer to pay the assessments referred to in subsection (g) of this section, to make and preserve records in the form and manner required by the Secretary, or to file a report in the form and manner required by him, or a denial of the right of the Secretary to inspect records required by regulations issued under this section, the Secretary may suspend or revoke the authorization of a carrier to insure compensation or a self-insurer to act as a self-insurer under this Act.

"(j) The provisions of this section shall apply to extensions of this Act in—

"(1) the Defense Base Act, as amended, approved August 16, 1941 (55 Stat. 622);

"(2) section 4(c) of the Outer Continental Shelf Lands Act, approved August 7, 1953 (67 Stat. 463);

"(3) section 2 of the Act of June 19, 1952, as amended, entitled 'An Act to confirm the status of certain civilian employees of nonappropriated fund instrumentalities under the Armed Forces with respect to laws administered by the Civil Service Commission, and for other purposes' (66 Stat. 139);

and such extensions as may be made from time to time to provide compensation for disability or death resulting from injury occurring to persons engaged in private employment, other than extensions in which it is provided that liability for such compensation will be assumed by the United States Government or its instrumentalities. The Secretary shall treat the administration of extensions to which this section applies as a part of the administration of this Act in computing assessments due."

APPROPRIATION

SEC. 13. Section 46 of such Act is amended to read as follows:

"(a) There is authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated for the fiscal year beginning July 1, 1970, sums necessary for administration of the Act pending receipt of assessments as authorized under section 45 hereof.

"(b) There are authorized to be appropriated in succeeding years sums which may be necessary to administer this Act including sums required whenever sufficient assessments are not collected and made available to the Secretary of Labor as provided by this Act.

"(c) There are also authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, for the current fiscal year and for succeeding fiscal years

to be deposited in the special fund established under section 44 of this Act, supplementary funds as may be necessary to meet the obligations incurred under the authority of that section."

DISTRICT OF COLUMBIA WORKMEN'S COMPENSATION ACT

SEC. 14. Section 1 of the Act of May 17, 1928, as amended (45 Stat. 600), extending the Longshoremen's and Harbor Worker's Compensation Act to the District of Columbia, amended to read as follows:

"(a) The provisions of the Longshoremen's and Harbor Worker's Compensation Act and all amendments thereto, except as indicated in subsections (b), (c) and (d) hereof, shall apply in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, irrespective of the place where the injury or death occurs, except that in applying such provisions the term 'employer' shall be held to mean every person carrying out any employment in the District of Columbia, and the term 'employee' shall be held to mean every employee of any such person.

"(b) Compensation for disability and for death benefits in the District of Columbia shall not exceed $85 a week.

"(c) The total money allowance payable to an employee in the District of Columbia under section 14(m) of the Longshoremen's and Harbor Workers' Compensation Act shall in no event exceed the aggregate of $29,160.

"(d) In computing death benefits in the District of Columbia the average weekly wages of the deceased shall be considered to have been no more than $127.50."

TECHNICAL AMENDMENT

SEC. 15. Section 3(a)(1) of such Act is amended by striking out the word "nor" and substituting the word "or".

SEC. 16. Section 47 of such Act is repealed and sections 48, 49, and 50 are renumbered, 47, 48, and 49 respectively.

EFFECTIVE DATE

SEC. 17. (a) The amendments made by sections 1 and 2 shall become effective thirty days after enactment.

(b) The amendments made by sections 3, 4, 5, 6, 7, 8, 9, 10, 11 and 14 shall become effective six (6) months after the date of enactment and said amendments shall relate only to injuries and deaths occurring after the effective date.

(c) The amendments made by section 12 shall become effective July 1, 1970.

(d) The amendments made by section 13 shall become effective on the date of enactment.

The statement and analysis, presented by Mr. PROUTY, are as follows:

STATEMENT IN EXPLANATION OF A BILL TO AMEND THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

INTRODUCTION

The purpose of this bill is to improve the Longshoremen's and Harbor Workers' Compensation Act by increasing benefits, liberalizing certain provisions of the Act, and removing the dual liability of stevedore and ship repair contractors for employment injuries to employees covered by the Act. At the present time, these employers are liable for compensation required by the Act and may also be liable for reimbursement to shipowners of amounts paid in damages by the shipowners to the same employees for the same injuries.

A comparatively small number of employees now recover substantial damages for their employment injuries from shipowners which must be ultimately paid by the Longshore Act employer, while the benefits under the Act, which the great majority of employees depend on for income when disabled are inadequate and out of date. The proposal combines provisions to break the circular liability chain and significantly improve benefits.

CIRCULAR LIABILITY CHAIN—LONGSHOREMEN VERSUS SHIPOWNERS VERSUS STEVEDORES

The initial point for consideration in the present circular liability chain which exists with respect to the Longshore Act is that the Act explicitly states that the liability of the employer for damages for injury or death resulting from employment of employees covered by it shall be *exclusive*.

The Longshore Act covers approximately 266,000 longshoremen and harbor workers. Of this number, 14,464 received workmen's compensation at some time during fiscal year 1968. In that same fiscal year, 1,320 cases were filed by Longshore Act employees in the U.S. district courts against third-party shipowners for damages for employment injuries.

Beginning in 1946 the courts established the principle that a shipowner owes an absolute warranty for seaworthiness to Longshore Act employees. This warranty has no relation to negligence and, under the decisions, makes a shipowner a virtual insurer for any employment injury which befalls a longshoreman, ship repairman or harbor worker aboard ship.

Under existing principles also formulated by the courts and first stated in 1955, the Longshore Act employer is liable to reimburse the shipowner for recoveries by Longshore Act employees for injuries for which the employer stands primarily liable under the Act. Since election between receiving compensation from an employer and bringing suits against a shipowner for the same injury is not required, the same employees are involved in an unknown number of both claim and litigation cases. Recoveries made by employees against shipowners, however, are offset against compensation payments under the Act. The courts in 1963 began applying the new principle that a shipowner employing longshoremen directly to unload his ship (acting as his own stevedore), is subject to damage suits by the longshoremen for employment injury, despite the fact that the shipowner is an employer under the Longshore Act.

The provisions of this bill relating to the circular and enhanced liability of Longshore Act employers are intended to reinstate the exclusive liability principle of the Act.

INCREASE OF PRESENT MAXIMUM AND MINIMUM COMPENSATION

The existing minimum disability compensation payment of $18 weekly was established in 1956 and the existing maximum payment of $70 weekly was established in 1961. In the interim since 1961 to June 1969, the average weekly wage in ship and boat building and repair has increased by 35%.

We estimate that in 1970 most longshoremen will be earning nearly $200 a week. The base rate under union contracts will be $4.60 an hour in all ports except San Francisco and the Great Lakes. The base rate in San Francisco will average $4.81 an hour for a standard 8 hour day (including a guarantee of 2 hours overtime daily). In the Great Lakes the basic rate will be $4.02 an hour, increasing to $4.71 an hour in 1971. The 1970 rates for the West Coast become effective in June 1970, for the East and Gulf Coasts in October 1970, and April for the Great Lakes.

In 1961, when the present $70 weekly maximum was put into effect, the average earnings of a longshoreman working a 40 hour week, handling general cargo, were $129.60. In 1970, the comparable figure will be $192.60 an increase of 49%. The weekly earnings in 1970, again assuming a 40-hour week and using the general cargo rate, will be $184.00 in most East and Gulf Coast ports and $160.80 on the Great Lakes. These earnings represent increases over 1961 of more than 50%. It should be noted, however, that these calculations are made on basic general cargo rates. Most workers will earn considerably more because of penalty cargo rate paid for handling certain types of cargo and for different working conditions.

In view of the above facts, an increase in the maximum compensation under the Longshore Act of $119 a week is recommended.

Since wages in the District of Columbia, to which the Longshore Act applies, average approximately $132 a week, a lower maximum of $85 is set for employment injuries in that jurisdiction and a proportionate overall maximum increase for temporary total disability to $29,160.

The minimum compensation would also be increased from $18 to $35 weekly to provide a totally disabled employee with sufficient funds to meet the cost of minimum subsistence. Employees whose wages do not exceed the new minimum are entitled to their entire wages free of the Act's percentage limitation otherwise applicable. With today's living costs it is evident that employees making less than $35 weekly would not be able to subsist on 66⅔ percent of their earnings.

The Act presently provides that temporary total disability benefits may not exceed $24,000. An increase in this overall maximum proportionate to the increase in the weekly maximum is provided. The increase would be to $40,800 except in the District of Columbia.

INCREASE IN DEATH BENEFIT PERCENTAGES AND AUTHORIZATION OF STUDENT BENEFITS

The percentage of an employee's wage which may be drawn by a widow is increased from 35% to 45%, and of surviving grandchildren and sisters and brothers eligible for benefits, from 15% to 20%.

Further, surviving children in a student status, as defined by the bill, would be authorized to continue to receive benefits after reaching 18 years of age.

DISFIGUREMENT

The lump sum payment of $3,500 is extended to be paid for disfigurement of the neck, as well as of the face and head, and also of other normally exposed areas which would affect employability.

REDUCTION IN LENGTH OF DISABILITY BEFORE ELIMINATION OF WAITING PERIOD AND EXTENSION NOTICE AND CLAIM TIME

Since 1956 the Act has provided that there must be a three-day waiting period unless the disability continues for at least 28 days. The bill reduces the period to 21 days, after which compensation is payable for the waiting period. This improvement is in line with modern workmen's compensation law trends.

The Act now provides that notice of injury or death shall be given within 30 days and claim for compensation or death shall be filed within one year after the injury or death. These time limits do not take into consideration the later development of latent disability from a relatively minor accident, or disease causally related to the employment. The time for giving notice of injury and filing claim for compensation or death is, therefore, extended to 60 days after the employee or the beneficiary is aware, or in the exercise of reasonable diligence should have been aware, of a relationship between the disabling conditions or the death and the employment.

SPECIAL FUNDS

Two special funds are established under the Act. One, is for employees covered by the Longshore Act and its extensions; and the other, for workers in the District of Columbia. The funds provide continuing compensation for permanently disabled workers, or their survivors, when so-called second

injuries are suffered by employees with existing physical impairments. The special fund payments begin when payments attributable to the second injury have been completed by the employer or insurance carrier who is liable.

The funds also provide compensation payments when an employer becomes insolvent, and for expenses of vocational rehabilitation when necessary in certain cases, including a living allowance not to exceed $25 a week.

Financing of the funds is provided by fines and penalties collected under the Act, interest, and sums of $1,000 paid into the fund in nonsurvivor death cases. The Longshore Act fund is now in a precarious state. Annual disbursements are in excess of annual income and the outstanding liabilities against the fund exceed the amounts it contains.

In order to finance the Longshore special funds adequately, the bill requires that employers or insurance carriers in cases where an employee suffering employment injury dies and there is no eligible beneficiary pay into the funds any amounts remaining unpaid under a schedule award. It also increases from $1,000 to $20,000 the amount which must be contributed by employers or carriers into the funds in all cases where an employee dies from an employment injury and there is no eligible beneficiary. At present compensation levels, the average compensation paid in fatal cases under the Longshore Act is $35,000. The contribution of $20,000, therefore, where the potential liability is so much greater appears reasonable.

Provision is made also for an appropriation when necessary to supplement the special fund.

ADMINISTRATION EXPENSES

In line with the policy of defraying the cost of Government programs related to particular industries by charges on the industries, the bill also authorizes financing of the cost of the Act's administration, including the safety program conducted pursuant to section 41, by a pro rata assessment made by the Secretary upon carriers and self-insurers upon the basis of gross premiums paid to the carriers or the amounts self-insurers would have paid if they purchased insurance. Procedures for making the assessment are provided. Authorization is made for appropriation from Congress until the assessments are collected and when funds are not otherwise available.

In view of the length of time since improvements have been made in the compensation program under the Longshore Act early action is sought to provide income maintenance for injured employees within its terms in keeping with wages and other current economic factors.

SECTION-BY-SECTION SUMMARY OF BILL TO AMEND THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Section 1—*Definitions*—(a) Amends section 2(4) of the Act to extend the definition of "employer" to include "vessel."

(b) Amends section 2 of the Act by renumbering paragraph (20) and adding a new paragraph (19) to define "vessel."

Section 2—*Liability for Compensation*—Amends section 4 of the Act, requiring employers to secure compensation, to except vessels unless another employer of an employee entitled to benefits under the Longshore Act does not secure compensation. Provides further that when an employer, as defined under the Act, secures compensation, such compensation shall be the exclusive remedy against any employer.

Section 3—*Waiting Period*—Amends section 6(a) of the Act to permit payment of compensation without a waiting period when the disability exceeds 21 days. A three-day waiting period is now specified unless the disability exceeds 28 days.

Section 4 (a) and (b)—*Maximum and Minimum*—Amends section 6(b) of the Act to increase the maximum of $70 a week to $119 a week; the minimum from $18 to $35; and amends section 14(m) to increase the overall money limit for temporary and partial disability from $24,000 to $40,800.

Section 5—*Disfigurement*—Amends section 8(c)(20) of the Act to expand the meaning of compensable disfigurement to include, in addition to the face and head, disfigurement of neck, or of any other area normally exposed while employed which would handicap an employee in obtaining or holding employment.

Section 6—*Injury following previous impairment*—Amends section 8(f)(1) to clarify and make definite the conditions under which an employer provides compensation for disability caused by subsequent injuries and thus to encourage employment of handicapped persons.

Section 7—*Student benefits*—(a) Amends section 2(14) of the Act to add "student" to definition of eligible "child" and adds a new paragraph (21) to define "student" for the purpose of continuing benefits to certain surviving dependents while they are in school.

(b) Amends section 8(d) to allow surviving dependents to receive benefits beyond 18 years of age if in a student status.

Section 8—*Death benefits*—(a) Amends section 9 (b) and (c) of the Act to increase the death benefits to the surviving wife or dependent husband from 35 to 45 percent of the deceased employee's average wages.

(b) Amends section 9(d) to increase the death benefit for dependent grandchildren, brothers or sisters from 15 to 20 percent of such average wages.

(d) Amends section 9(e) to increase the maximum weekly wages for computation of death benefits from $105 to $178.50 and increases the minimum from $27 to $52.50.

(d) Amends section 9(g), which provides for the commutation of compensation benefits to certain aliens who are not residents of the United States or Canada. The section now requires the Secretary, upon application of an insurance company, to commute future installments of compensation to such aliens by paying one-half the commuted amount of future compensation. The amendment removes the requirement for commutation payments and permits the Secretary to commute in his discretion.

Section 9—*Defense Base Act—Benefits to Alien Survivors*—The Defense Base Act extends the benefits of the Longshoremen's and Harbor Workers' Compensation Act to employees of contractors at United States bases or on public works where such contracts are performed outside the continental United States. Section 2(b) of that Act respecting compensation payments for non-resident aliens is similar to section 9(g) of the Longshoremen's Act. This bill, therefore, amends section 2(b) of the Defense Base Act to conform to amendment to Longshore Act described in preceding section.

Section 10—*Time for Notice and Claim*—Amends section 12(a) to extend the time for giving notice of injury or death to the deputy commissioner and to the employer, from 30 days after the injury or death to 60 days after the employee or the beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment.

(b) Amends section 13(a) to defer the time for filing a claim for compensation for injury or death in latent disability cases. The Act now provides that a claim must be filed within one year after the injury or death, or if payment of compensation has been made without an award a claim may be filed within one year after the date of the last payment. The amendment provides that the time for filing claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware of the relationship between the injury or death and the employment.

Section 11—*Special Fund*—(a) Amends section 8(d) by providing for payment into the special fund, described in section 44(a) of the Act, of any disability compensation due to an employee under a scheduled award when he has no survivors.

(b) Amends section 44(c)(1) by substituting $20,000 for the $1,000 now required to be paid into the special fund by the employer or insurance carrier upon the death of an employee resulting from employment injury when there are no survivors.

Section 12—*Administration Expenses*—Amends section 45(a) to add new subsections (c) through (1) providing for the Secretary at the end of each fiscal year to assess carriers and self-insurers for cost of administration for next fiscal year.

Section 13—*Appropriation*—Amends section 46, (a) to authorize appropriation of amounts necessary for administration of Act in fiscal year beginning July 1, 1970, pending receipt of assessments authorized by section 45, (b) authorizes appropriations for administration when sufficient assessments are not collected, and (c) authorizes supplementary funds as necessary to meet obligations of special fund under section 44 of the Act.

Section 14—*D.C. Workmen's Compensation Act*—(a), (b) and (c)—Provides that the maximum compensation rate in the District of Columbia under extension of the Longshore Act in 45 Stat. 600, will be $85 a week and the overall maximum in temporary total disability cases will be $29,160.

(d) Provides the basis for computing death benefits shall be considered to be no more than $127.50.

Section 15—*Technical Amendment*—Makes grammatical change of substituting "or" for "nor" in Section 3(a)(1) of the Act.

Section 16—Repeals sections 47 "Availability of Appropriations." No longer needed.

Section 17—*Effective Date*—Provides for effective dates for different sections and that higher benefits and other related provisions shall apply only to injuries and deaths therefrom sustained after the effective date indicated.

S. 3631—INTRODUCTION OF A BILL TO ESTABLISH A NATIONAL MARINE MINERAL RESOURCES TRUST

Mr. NELSON. Mr. President, today I am introducing a bill to establish a national marine resources trust to halt further oil drilling that is destroying the ocean environment by massive oil spills.

All remaining ocean oil and other mineral deposits under Federal jurisdiction would be held in the national trust until needed and until we can avoid environmental damage from their extraction.

The present lack of knowledge about oil in the sea makes it an environmental folly to go on drilling new ocean wells until we are better prepared to cope with the dangers.

Already, untold thousands of birds have been killed, beaches blackened, and permanent threats posed to marine life because of oil disasters from Santa Barbara to the recent spills off Florida, Massachusetts, and Nova Scotia.

Now, massive oil spills, larger even than the Santa Barbara catastrophe, has been spreading from unplugged offshore wells in the Gulf of Mexico.

Because of oil and other ocean pollu-

tion, scientists are now predicting the end of all productive life in the sea in 50 years or much less. In effect, we are slamming the door on the last chance for a livable world.

Last year, the President's Panel on Oil Spills confirmed that we do not have the technology to contain the oil from a major ocean accident. Yet by 1980, in a shocking invitation for trouble, we will be drilling 3,000 to 5,000 ocean oil wells worldwide each year.

Under the bill I am introducing today, untapped ocean oil and other minerals in the Federal domain would be held in the national trust until the Secretary of the Interior, with the concurrence of the President's Council on Environmental Quality, determines that—

First, there are technological and other means adequate to prevent damage to the marine environment resulting from exploration, extraction and transportation of marine mineral resources;

Second, ecologically sensitive areas of the marine environment, such as the Santa Barbara Channel, will be identified and permanently preserved;

Third, there is a national requirement for these resources which cannot be satisfied, consistent with the requirements of national security, by any other practicable means.

Further, the legislation would provide for any areas eventually released from the national trust after meeting the above conditions that tough environmental management plans would have to be set before the areas could be leased for oil or any other purpose.

Under this section of the bill, the Secretary of the Interior, with the aid of a scientific commission, would take an inventory of the marine environment and project all our ocean needs, including recreation and fishing, 50 years into the future.

Before oil leases could be granted, public hearings would be held, and the management plans would have to be concurred in by the President's Council on Environmental Quality. Further, and importantly, leases could not be granted unless there was convincing evidence that the mineral extraction would not harm the environment.

These broad-gaged provisions would give a major new thrust environmental protection thrust to the Outer Continental Shelf Lands Act, which they would amend. For the first time, we would have an environmental management policy for our fragile ocean resources that would protect the sea from the consequences of our escalating marine activities. The sea is a vital last frontier which we can no longer afford to treat as if it were created for our limitless plunder.

Numerous Federal and scientific reports which I and my staff have consulted in preparing this legislation including reports by the President's Panel on Oil Spills; the Commission on Marine Science, Engineering and Resources; the National Council on Marine Resources and Engineering Development and the National Academy of Sciences, all give ample evidence of the inadequacies of our present ocean policies and the need to act now to establish effective new approaches.

I ask unanimous consent, that the bill I have introduced today be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. BELLMON). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3631) to amend the Outer Continental Shelf Lands Act, to establish a national marine mineral resources trust, and for other purposes, introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 3631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331–1343) is amended by the addition of the following new sections to title 43 of the United States Code:

"SEC. 1344. (a) There is established in the Department of the Interior an Advisory Committee on the Marine Environment, appointed by the Secretary of the Interior with the concurrence of the Council on Environmental Quality, comprised of eleven members who shall be qualified by training and experience to advise the Secretary of the Interior in the management and protection of the marine environment of the United States. The disciplines represented by the members of the Committee shall include, among others, marine biology and ecology, physical or chemical oceanography, marine geology, resource economics, and marine resources law. The Committee shall consult with and advise the Secretary in the discharge of his responsibilities under section 1345 and in the development of the inventories and analyses required by subsections (c) and (d) of section 1347, and shall analyze and review management plans under subsection (e) of section 1347 and the implementation and enforcement of such plans. The Committee shall conduct annual or more frequent studies of the status and quality of the Secretary's efforts undertaken to implement section 1345, investigations of the quality and the effectiveness of management plans developed under section 1348, including investigations of the effectiveness of public participation in the development of such plans, reviews of the Secretary's actions in the implementation and enforcement of management plans, and generally shall make such investigations, studies, and recommendations at such times as are required for the successful implementation and administration of the program under sections 1344–1349. The Committee shall transmit the reports of its investigations, studies, and recommendations to the Secretary and the Council on Environmental Quality, and shall make such reports available to the public. The Committee also shall transmit to the Secretary and the Chairman of the Council and make publicly available a report annually on the progress achieved during the preceding year in protecting and enhancing the marine environment together with its recommedations.

"(b) No officer or employee of the United States or of any State shall be appointed to membership on the Committee. The Committee shall be served by a permanent professional staff comprised of persons who are qualified by training and experience in the disciplines relevant to the management and protection of marine environment.

"(c) Members of the Committee shall each receive $100 per diem when engaged in the actual performance of duties of the Committee and reimbursement of travel expenses, including per diem in lieu of subsistence, as authorized in section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b–2), for persons employed intermittently.

"(d) The Committee shall appoint and fix the compensation of such personnel as it deems advisable in accordance with the civil service laws and the Classification Act of 1949, as amended. In addition, the Committee may secure temporary and intermittent services to the same extent as it authorized for the departments by section 15 of the Administrative Expenses Act of 1946 (60 Stat. 810) but at rates not to exceed $100 per diem for individuals.

"(e) As used in sections 1344–1348, the term—

"(1) 'marine environment' means the air, the waters, and the submerged lands of the Outer Continental Shelf lying seaward of the boundaries of the coastal States of the United States, and all the resources and values of such air, water, and submerged lands, and

"(2) 'Secretary' means the Secretary of the Interior.

"SEC. 1345. (a) The Secretary, in regular consultation with the Advisory Committee on the Marine Environment and in cooperation with other Federal and State agencies shall conduct—

"(1) comprehensive programs for the continuing collection and analysis of data concerning the physical systems existing in the marine environment including, but not limited to, data on tides and wind and ocean currents and geological and topographical data, and develop and refine models of such physical systems which will adequately describe the operation of such systems and also provide reliable predictions of the effects of various activities conducted in the marine environment upon such systems;

"(2) comprehensive programs for the continuing collection and analysis of data concerning the plant and animal life found in the marine environment and data concerning the sensitivity of unique as well as representative species of such life to changes in the marine environment resulting from development or use of the marine environment;

"(3) comprehensive investigations of the ecological systems of the marine environment, and develop and refine models of both unique and representative ecological systems which will adequately describe such systems and also provide reliable predictions of the effects of various activities conducted in the marine environment upon such systems;

"(4) a continuing comprehensive analysis of the several activities presently being conducted in the marine environment or likely to be conducted there in the reasonably immediate future, and present any likely future conflicts among such uses with a view to developing an understanding of the basic purposes which those activities serve and to minimizing such conflicts through development of novel and alternative means of serving those purposes;

"(5) a program for the development of baseline data concerning the marine environment, and a comprehensive monitoring program for the marine environment designed to provide immediate notice of changes in such environment;

"(6) far-reaching, long-range studies which will yield forecasts and predictions concerning the activities which may be carried out in, and the uses which may be made of, the marine environment and its resources during the period ending fifty years from the date of each such study, including analyses of the characteristics of

and means by which such activities and uses may be conducted, analyses of the likely impact of and constraints imposed by such activities and uses upon other uses of the marine environment, and the likely effects of such activities and uses upon the marine environment itself, predictions of the frequency and significance of future conflicts among uses of the marine environment and of the frequency and the magnitude of any damages to the marine environment which may result from such activities and uses, and recommendations concerning development of technology, management concepts, or other means of preventing or minimizing conflicts among uses of the marine environment and of preventing or minimizing adverse effects upon the marine environment;

"(7) studies necessary to the development of criteria and standards for the protective management of unique or unusually valuable types or species of plant and animal life, of types or species of plant and animal life which are particularly susceptible to damage or destruction from alteration of the marine environment, of areas of the marine environment which present special hazards of environmental damage or conflicts among uses, and of areas which exhibit unique or unusually valuable characteristics or values; and

"(8) continuing studies of the susceptibility of the marine environment and its resources to present any future beneficial uses for commercial and sport fisheries, production of fuel and other mineral resources, marine transportation, enjoyment of natural beauty and other nonexploitative recreational uses, scientific research, national defense, and other purposes.

"(b) The Secretary shall publish on a regular basis the reports and results of the studies and investigations and programs authorized by subsection (a) of this section.

"SEC. 1346. (a) The Secretary shall establish by regulation in the Department of the Interior an Inter-Agency Committee on Marine Resources Management to be comprised of one representative each of the Departments of Defense, State, Transportation, Health, Education, and Welfare, Housing and Urban Development, and Commerce, and the Chairman of the Atomic Energy Commission, the Director of the National Science Foundation, and the Secretary of the Smithsonian Institution. The Committee shall assist the Secretary in the development of management plans for the management and protection of the marine environment.

"(b) (i) Whenever the Secretary is advised by the Chairman of the Council on Environmental Quality, the head of any department or agency of the United States or other organization named in subsection (a) of this section, or the Governor of any coastal State of the United States, that any present or proposed use or uses of the marine environment involves a potential risk of serious environmental damage or potential risk of serious conflict with present or likely future uses of the marine environment, and (ii) whenever any submerged lands of the outer continental shelf are proposed to be offered for leasing for oil and gas or sulfur or other minerals, or (iii) whenever it appears to the Secretary that such action is desirable, he shall immediately publish notice pursuant to subsection (e) of section 1347 of his intention to develop a management plan, and shall thereafter proceed with the development of a management plan, for the area identified as being susceptible of potential environmental damage, or within which risks of conflicts among uses may occur, or the area proposed to be offered for leasing, or the area which he judges should be the subject of a management plan. The oil, gas, sulfur, and all other mineral resources of the Outer Continental Shelf which are unleased on the date of enactment of these amendments are hereby designated as the National Marine Mineral Resources Trust and shall be held in an unleased status until the Secretary, with the concurrence of the Council on Environmental Quality, determines (i) that there are technological, managerial, and other means adequate to prevent damage to the marine environment resulting from exploration, extraction and transportation of marine mineral resources in accordance with these amendments, and (ii) that ecologically sensitive areas of the marine environment will be identified and permanently preserved in accordance with these amendments, and (iii) that there is a national requirement for these resources which cannot be satisfied, consistent with the requirements of national security, by any other practicable means. In no event shall any submerged lands of the Outer Continental Shelf be leased except in strict compliance with a management plan developed, approved, and implemented in accordance with the provisions of sections 1344–1349.

"SEC. 1347. (a) The development of management plans shall be preceded by public notice given in the manner prescribed by subsection (b) of this section and shall reflect the results of the inventories and studies required by subsection (c) of this section, the analyses specified in subsection (d) of this section, and information developed in the course of consultations and public hearings pursuant to subsection (e) of this section in the manner specified in section 1348.

"(b) The notice required by subsection (b) of section 1346 of the Secretary's intention to develop a management plan for an area shall be published in the Federal Register and in a newspaper of general circulation in the general vicinity of the area for which the management plan will be developed. The notice shall indicate that a management plan will be developed for the marine environment in the area described in the notice, indicate that uses of the area involved will be affected by adoption of the management plan, describe the area for which the management plan will be developed, describe the procedural steps by which the management plan will be developed, and state that an opportunity will be extended to all interested persons to express their views and recommendations with respect to development of the management plan.

"(c) As soon as practicable after publication of the notice of intention to develop a management plan for an area of the marine environment pursuant to subsection (b) of section 1346 the Secretary shall develop an inventory of the plant and animal life and non-living resources and intangible values of the area, studies of the physical and ecological factors and systems present in the area, and an inventory of present uses and forecasts of future uses of the area.

"(d) Concurrently with development of the inventories and studies conducted under subsection (c) of this section, the Secretary shall analyze the characteristics of the plant and animal life and nonliving resources and intangible values of the area, the physical and ecological factors and systems present in the area, and the characteristics and purposes of the present and future uses of the area with a view to developing a comprehensive, detailed model or models of the area which will adequately describe the systems existing in the area and their responses to the activities presently being conducted in the area and also provide reliable predictions of the longer range effects of present uses of the area and reliable predictions of the effects of future activities upon the systems and resources existing in the area. In analyzing the present and future uses of the area, the Secretary shall develop information on the frequency and seriousness of present conflicts among uses of the area and the effects of such conflicts on the marine environment, and projections of the frequency and seriousness of future conflicts among such uses, including estimates of the probable frequency of such conflicts, and the types and degrees of seriousness of potential damage to the marine environment resulting from such conflicts. The Secretary also shall include in his analysis under this subsection an investigation of available technological, managerial, or other means of preventing or reducing the adverse impact of activities conducted in the marine environment on the marine environment and on other uses of it and shall identify present and future needs for new or improved technological or other means for preventing or reducing the adverse effects of particular types of activities on the marine environment or on other uses of the marine environment.

"(e) In conducting the inventory under subsection (c) of this section and the analyses required by subsection (d) of this section, the Secretary shall consult with the Advisory Committee on the Marine Environment established by section 1344 and shall request all interested departments and agencies of the Federal Government to prepare and submit to him written reports concerning their interests in the present and future uses of the area for which a management plan is being developed for commercial and sport fisheries, production of fuel and other mineral resources, marine transportation, enjoyment of scenic beauty and other nonexploitative recreational purposes, scientific research, national defense, and other uses, together with their recommendations with respect to the final form, content, and operation of the management plan. In developing the inventory and analyses, the Secretary shall solicit the views and recommendations of the Governor of the coastal State or States in the vicinity of the area for which a management plan is to be developed and invite the views and recommendations of industry and other interested groups and may hold public hearings in the vicinity of such area for the purpose of obtaining the views and recommendations of other interested persons.

"(f) The reports of inventory and analyses conducted pursuant to subsections (c) and (d) of this section, the reports submitted by the interested departments and agencies of the Federal Government, the submissions by the Governors of coastal States and by industry and other interested groups, and the records of any public hearings held by the Secretary shall be included in the administrative record of the proceedings for the development of the management plan and shall be public documents which shall be made available upon request and payment therefor to any interested person.

"SEC. 1348. (a) After completion of the inventory and analyses under subsections (c) and (d) of section 1347 and receipt of the views and recommendations of the Governors of coastal States, interested industry and other groups, and other interested persons under subsection (e) of section 1347, the Secretary shall make comprehensive written findings of fact and written conclusions concerning the area of the marine environment which will be subject to the management plan and shall develop a comprehensive management plan for the area of the marine environment described in the notice issued pursuant to subsection (b) of section 1346 which shall preserve the quality of the marine environment at the highest practicable level and enhance the quality of the marine environment to the highest practicable level where damage to the marine environment already has taken place, prevent or minimize the adverse effects of present and future activities in the marine en-

vironment on such environment and its resources and values, and prevent or minimize conflicts among competing uses of the marine environment.

"(b) The management plan shall identify, describe the locations of, and afford appropriate protection for plant and animal life, ecological systems, and recreational and other values which are so unique or valuable or important that they should not be exposed to the risks associated with particular uses of the marine environment and describe any areas of the marine environment which present special hazards of environmental damage or conflicts among uses or which exhibit unique or unusually valuable characteristics or values.

"(c) The management plan shall be expressed in the form of public regulations which shall be consistent with international law and agreements and which will provide a mandatory guide for the use of the land and water areas covered by it. To the maximum degree permitted by international law and agreements, it shall include such prohibitions, constraints, and conditions upon the conduct by citizens of the United States and of foreign nations of specified activities within specific areas covered by it as are appropriate to the protection of the environmental features within such areas or any other areas in which the effects of such activities within the specified areas might be manifested or are necessary to prevent or minimize conflicts among uses of such areas.

"(d) Upon completion of the management plan for an area of the marine environment, the Secretary shall submit such plan to the Advisory Committee on the Marine Environment and to the Council on Environmental Quality. Upon request of any interested party and after not less than thirty days' notice, he shall hold one or more public hearings in the general vicinity of the area covered by the management plan at which all interested parties shall be given an opportunity to express their views with respect to any matter pertaining to the management plan.

"(e) After considering the views of the Advisory Committee and the Council on Environmental Quality, and after reviewing the record of any public hearing held pursuant to subsection (d) of this secton, the Secretary shall affirm or modify, as appropriate the written findings and conclusions made pursuant to subsection (a) of section 1348, and the management plan, if necessary, and submit it together with his written findings and conclusions to the Council on Environmental Quality for its concurrence.

"(f) Upon the concurrence of the Council on Environmental Quality, the Secretary shall adopt and order the implementation of the management plan and shall publish comprehensive regulations embodying the management plan in the manner specified in section 553 of title 5 of the United States Code. No management plan shall be adopted by the Secretary unless it has been concurred in by the Council on Environmental Quality.

"(g) In making his written findings of fact and conclusions pursuant to subsection (a) of section 1348 and in the development and adoption of management plans pursuant to this section, particular activities and uses shall not be permitted in specific areas covered by the management plan except upon the Secretary's findings, supported by clear and convincing evidence, that such activities and uses can be conducted in such areas without significant risks of environmental damage or conflicts among uses. In no event shall any management plan afford a lesser degree of protection to the marine environment than that degree of protection afforded by the laws and regulations of the coastal State or States to marine areas under State jurisdiction which are situated adjacent to or in the vicinity of the area covered by such management plan.

"SEC. 1349. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 1344–1348."

SENATE JOINT RESOLUTION 184 AND SENATE JOINT RESOLUTION 185—INTRODUCTION OF JOINT RESOLUTIONS TO BEGIN COMPREHENSIVE RESEARCH INTO TWO CURRENTLY UNECONOMICAL SOURCES OF ENERGY—DIRECT SOLAR RAYS AND TIDAL MOVEMENTS

Mr. TOWER. Mr. President, I am introducing today two joint resolutions related to our Nation's current battle against the degradation of our environment. One of the aspects of environmental pollution which is not visible, and yet which is equally as dangerous as the air and water pollution which we can see and smell, is the generation of heat by fuel-burning power sources. Thermal pollution is justifiably causing concern in many areas, particularly where nuclear powerplants are increasing the temperature of bays and rivers and thus endangering the microscopic marine life upon which we ultimately depend for oxygen and part of our food supply.

It is time now to begin comprehensive research into two currently uneconomical sources of energy—direct solar rays and tidal movements. Such research can put us in a position technologically to utilize these sources to supplement fuel-burning powerplants at a future date when increasing power consumption makes the construction of solar and tidal powerplants feasible.

My joint resolutions would authorize the Secretary of the Interior to conduct initial surveys of the existing information in the fields of solar power and tidal power and to report to Congress within 2 years on the potential for their ultimate use as supplemental power sources. The March issue of Ocean Industry magazine, in which there appears a discussion of an ocean-power concept based on hydraulic transmission of wave motion from the coastal floor to fluid motors on shore, demonstrates that there is existing knowledge and experience in these fields which should be centralized and evaluated. Our Government should avail itself of existing knowledge on tidal and solar energy as part of its function as overseer of environmental quality. These two joint resolutions would provide this information for review by Congress within a relatively short time.

The PRESIDING OFFICER (Mr. ALLEN). The joint resolutions will be received and appropriately referred.

The joint resolutions, introduced by Mr. TOWER, were received, read twice by their titles, and referred to the Committee on Commerce, as follows:

S.J. Res. 184. A joint resolution to authorize the Secretary of the Interior to conduct a study of the solar rays within a view to determining the potential of such rays as an alternative source of electrical energy; and

S.J. Res. 185. A joint resolution to authorize the Secretary of the Interior to conduct a study of the tides of oceans and other bodies of water with a view to determining the potential of such tides as an alternative source of electrical energy.

ADDITIONAL COSPONSORS OF BILLS

S. 2561

Mr. HANSEN. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the name of the Senator from New York (Mr. JAVITS) be added as a cosponsor of S. 2561, to incorporate Pop Warner Little Scholars, Inc.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

S. 3072

Mr. MANSFIELD. Mr. President, on behalf of the senior Senator from Washington (Mr. MAGNUSON), I am pleased to ask unanimous consent that an additional five cosponsors be added to a bill he introduced in October of last year. The bill is the Federal Low-Emission Vehicle Procurement Act of 1969 (S. 3072) which requires the Federal Government to direct its purchasing power toward cars, trucks, and buses which produce little or no pollution. The additional cosponsors are the junior Senator from New York (Mr. GOODELL), the senior Senator from Indiana (Mr. HARTKE), the junior Senator from Rhode Island (Mr. PASTORE), the junior Senator from New Jersey (Mr. WILLIAMS), and the Senator from Montana (Mr. MANSFIELD).

The PRESIDING OFFICER (Mr. BELLMON). Without objection, it is so ordered.

S. 3466 THROUGH S. 3472

Mr. HANSEN. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that at the next printing, the name of the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of S. 3466 through S. 3472, inclusive, the environmental control legislation.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

S. 3598

Mr. AIKEN. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Colorado (Mr. DOMINICK), the Senator from Oklahoma (Mr. HARRIS), the Senator from Hawaii (Mr. INOUYE), the Senator from Indiana (Mr. HARTKE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. SMITH), the Senator from Alaska (Mr. GRAVEL), the Senator from Iowa (Mr. HUGHES), and the Senator from Maine (Mr. MUSKIE) be added as cosponsors of the bill (S. 3598) to amend section 32(c) 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.

The PRESIDING OFFICER (Mr. BELLMON). Without objection, it is so ordered.

SENATE RESOLUTION 375—RESOLUTION SUBMITTED AND AGREED TO, TO HONOR AND COMMEND CAPT. ROBERT M. WILBUR AND COPILOT JAMES E. HARTLEY FOR THEIR HEROISM

Mr. GURNEY (for himself, Mr. DOLE, Mr. GRIFFIN, Mr. BROOKE, Mr. SCHWEIKER, Mr. THURMOND, Mr. MCGEE, Mr. EAGLETON, Mr. ERVIN, Mr. SCOTT, Mr. GOLDWATER, Mr. FONG, Mr. CANNON, Mr. HANSEN, Mr. SMITH of Illinois, Mr. CASE, Mr. PACKWOOD, Mr. NELSON, Mr. BELLMON, Mr. DOMINICK, Mr. COOPER, Mr. SPONG, Mr. SAXBE, Mr. PROUTY, Mr. PEARSON, Mr. BENNETT, Mr. BIBLE, Mr. COTTON, Mr. MANSFIELD, Mr. JORDAN of Idaho, Mr. JORDAN of North Carolina, Mr. CURTIS, Mr. HRUSKA, Mr. FANNIN, Mr. BYRD of West Virginia, Mr. ALLOTT, Mr. DODD, Mr. EASTLAND, Mr. MURPHY, Mr. MUNDT, Mr. KENNEDY, Mr. RIBICOFF, Mr. HOLLINGS, and Mr. PELL) submitted a resolution (S. Res. 375) to honor and commend Capt. Robert M. Wilbur and Copilot James E. Hartley for their heroism, which was considered and agreed to.

(The remarks of Mr. GURNEY when he submitted the resolution appear later in the RECORD under the appropriate heading.)

DISPOSAL OF CORUNDUM FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 558

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (S. 3083) to authorize the disposal of corundum from the national stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF CHRYSOTILE ASBESTOS FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 559

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (S. 3087) to authorize the disposal of chrysotile asbestos from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF REFRACTORY GRADE CHROMITE FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 560

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (S. 3446) to authorize the disposal of refractory grade chromite from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF NATURAL CEYLON AMORPHOUS LUMP GRAPHITE FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 561

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (S. 3451) to authorize the disposal of natural Ceylon amorphous lump graphite from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF MOLYBDENUM FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 562

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (S. 3452) to authorize the disposal of molybdenum from the national stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF NATURAL BATTERY GRADE MANGANESE ORE FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 563

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (S. 3456) to authorize the disposal of natural battery grade manganese ore from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF SURINAM TYPE METALLURGICAL GRADE BAUXITE FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 564

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (S. 3457) to authorize the disposal of Surinam type metallurgical grade bauxite from the national stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF CADMIUM FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 565

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (H.R. 12941) to authorize the release of 4,180,000 pounds of cadmium from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF CERTAIN COBALT FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 566

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (H.R. 15021) to authorize the release of 40,200,000 pounds of cobalt from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF BISMUTH FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 567

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (H.R. 15831) to authorize the disposal of bismuth from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF CASTOR OIL FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 568

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (H.R. 15832) to authorize the disposal of castor oil from the national stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF ACID GRADE FLUORSPAR FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 569

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (H.R. 15833) to authorize the disposal of acid grade fluorspar from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF MAGNESIUM FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 570

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (H.R. 15835) to authorize the disposal of magnesium from the national stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF TYPE A, CHEMICAL GRADE MANGANESE ORE FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 571

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (H.R. 15836) to authorize the disposal of type A, chemical grade manganese ore from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF TYPE B, CHEMICAL GRADE MANGANESE ORE FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 572

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (H.R. 15837) to authorize the disposal of type B, chemical grade manganese ore from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF SHELLAC FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 573

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by

him, to the bill (H.R. 15838) to authorize the disposal of shellac from the national stockpile, which were ordered to lie on the table and to be printed.

DISPOSAL OF TUNGSTEN FROM NATIONAL STOCKPILE—AMENDMENTS

AMENDMENT NO. 574

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to the bill (H.R. 15839) to authorize the disposal of tungsten from the national stockpile and the supplemental stockpile, which were ordered to lie on the table and to be printed.

NOTICE OF HEARINGS ON OMNIBUS RIVERS AND HARBORS LEGISLATION

Mr. YOUNG of Ohio. Mr. President, I wish to announce that the Subcommittee on Flood Control, Rivers, and Harbors of the Committee on Public Works will initiate hearings on an omnibus rivers and harbors bill for 1970. The subcommittee will receive testimony on river and harbor, flood control, and other resource projects that have been investigated and recommended for construction by the Chief of Engineers, U.S. Army. The subcommittee will also consider other related river and harbor and flood control matters.

The hearings will be held on Wednesday and Thursday, April 15 and 16, 1970, and will begin at 10 a.m. in room 4200, New Senate Office Building. Additional hearings as required will be announced at a later date.

Persons desiring to testify or to submit written statements in connection with these hearings should notify Mr. Joseph F. Van Vladricken, professional staff member, Committee on Public Works, room 4204, New Senate Office Building, Washington, D.C., 225–6176.

NOTICE OF HEARINGS ON HIGH COST OF NO. 2 HOME HEATING OIL

Mr. McINTYRE. Mr. President, I wish to announce that the Subcommittee on Small Business of the Committee on Banking and Currency will hold hearings on the high cost of No. 2 home heating oil.

The hearings will be held on Monday and Tuesday, April 6 and 7, 1970, in room 5302, New Senate Office Building, and will commence at 10 a.m.

ADDITIONAL STATEMENTS OF SENATORS AS IN LEGISLATIVE SESSION

NO JETS FOR ISRAEL

Mr. SCOTT. Mr. President, I ask unanimous consent that an editorial appearing this morning in the Philadelphia Inquirer titled "No Jets for Israel" be included in this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO JETS FOR ISRAEL

Air power in the Middle East is unbalanced in favor of the Arabs against Israel, and is becoming more unbalanced every day.

While Israel is continuously losing planes by enemy attack and attrition, Egypt and Syria are receiving more and more aircraft from Soviet Russia.

A new dimension to military threat to Israel has been added by the reported deliveries by Russia of SAM–3 missiles to Egypt, complete, it is assumed, with Soviet technicians prepared to operate them.

Yet in face of this increasingly dangerous disparity, the U.S. has rejected Israel's request—"for now"—for purchase of 25 Phantom jets and 100 Skyhawks.

Almost incredibly, Secretary of State Rogers has explained this decision on the grounds that "In our judgment, Israel's air capacity is sufficient to meet its needs for the time being."

What does he mean "time being?" Is he to wait until the opening by the Arabs of a fourth-round war before the U.S. agrees to sell some planes—possibly too late to be of any help?

Hasn't the presence of the Russian missiles put an entirely new complexion on the situation and proved Israel's need now, of military planes from the only source it can possibly obtain military assistance from, the United States?

The State Department stand will not only disappoint Israel and all those who seek peace in the Middle East. It will have political and psychological effects in encouraging Arab belligerence and in giving Russia the impression that we are deserting the Israelis at a critical time.

Secretary Rogers' assurance of about $100 million in economic aid to Israel does not make up for the loss of the jets. The Nixon Administration could have agreed to economic assistance when Prime Minister Golda Meir requested it during her visit to Washington many weeks ago.

Instead the agreement has been held back until it could be used to sugar-coat the rejection of the aircraft sale. It is nothing but sugar-coating and it will leave a bitter taste in many mouths here and in Israel.

Mr. Nixon in his news conference Saturday said our goals in the Mideast are a cease-fire; reduction of the flow of arms; a political settlement; and a balance between the forces in that area.

There is nothing in Secretary Rogers' policy statement that promises the attainment of any of these goals. In fact, it makes their accomplishment more remote, and the prospects of all-out war more ominous.

CHAIRMAN BURNS SPECIFIES 3 TO 4 PERCENT MONEY SUPPLY GROWTH

Mr. PROXMIRE. Mr. President, last week the Chairman of the Federal Reserve Board, Arthur Burns, wrote me that he expects the money supply to return to a monetary growth rate of 3 to 4 percent this year. I released the letter to the press Saturday night and I ask unanimous consent that it be printed at the end of my remarks.

The letter from Chairman Burns was in response to the request of the Joint Economic Committee that the Federal Reserve Board spell out the monetary flows the country might expect in view of the President's economic report and prevailing economic conditions.

This letter is one of the frankest and most useful economic documents that has come from a Reserve Board Chairman in many years. This is by far the most specific estimate of anticipated monetary policy any Federal Reserve Chairman has ever made.

Chairman Burns qualified his 3 to 4 percent projection on the narrowly defined money supply by adding that he expects a 6 to 8 percent growth in bank credit, and he also said that such a projection is by no means the only one consistent with the GNP projection.

Chairman Burns added:

Much will depend on the public's preferences as to holdings of financial assets, on the strength of desire by banks and others to rebuild liquidity and on how aggressive banks prove to be in attempting to regain their earlier market positions.

Chairman Burns also said:

One might anticipate that interest rates would move generally downward in the year, reflecting not only relaxation of some of the pressures in the financial markets but also investor responses to reduced rates of inflation as they in fact begin to materialize.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, D.C., March 17, 1970.

HON. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: I have been giving very careful thought to your request for a specification of a series of possible alternative paths that monetary policy and financial developments might follow in 1970, contained in your letter of February 26. We certainly want to be responsive to the Congress in providing the information it needs in order to plan its domestic economic legislative program and to help it evaluate the performance of monetary policy. And yet I cannot help but be impressed by the many difficulties that surround such an exercise.

A problem in laying out alternative possible courses for monetary and financial developments in 1970 is that much will depend on the specific pattern and character of changes in the performance of the economy as it evolves. A particular dollar estimate for the total value of the national output of goods and services over an arbitrary time period such as a year does not tell us much about the expected state of the economy. How will that output be distributed over the course of the year? What will its composition be, and how will it accord with our notions of economic balance? To what extent will the estimated GNP reflect changes in the real volume of output as against markups in prices of goods and services? What new forces may emerge that will alter expectations for the economy into 1971 and beyond?

These are always important issues, and they are crucially so in the present environment, when all of us are working to reestablish the conditions necessary to a resumption of sustainable, noninflationary economic growth. Monetary policy—and public economic stabilization policy generally—will have to tread a narrow path in the months immediately ahead. We have made real progress over the last year or so in laying the base for an abatement of inflationary pressures. Excess demand has now been generally eliminated from the economy, and I am confident that inflation will gradually subside.

We must now be especially alert to signs that the process that was necessary to the elimination of excess demand pressures in the economy does not spiral on downward into significant recession tendencies, with

consequent social and economic costs. Prompt remedial action would be required should it appear that a recession is developing, with the intensity of the action scaled to the indicated magnitude of the problem. But we must also guard against actions that would contribute to an overly sharp rebound in output and spending later on. Expectations of inflation over the longer run are still widely held and business confidence appears to remain strong. If incautious public policies should precipitate a strong resurgence in demand, therefore, there could be real danger that inflationary patterns would again be set in motion.

The economic projection for 1970 prepared by the Council of Economic Advisers early this year as a basis for its annual report, as I understand it, traced a path that promised to minimize these possible difficulties. The GNP for the year was estimated in a range of $980–$990 billion, with a period of little or no real growth to be followed by resumption of a relatively moderate rate of expansion beginning in the spring. The price component of the GNP expansion was viewed as declining gradually as the year progresses, and the acceleration in demand growth in the latter part of the year was not seen as large enough to restimulate inflationary expectations. The increase in unemployment accompanying the flatter performance of the economy was expected to be moderate, on average, and recovery in the depressed housing industry was projected to be underway again before too long.

Now if it turns out that this projection is an accurate description of the course of the economy's development in 1970—and I have no basis for disputing its general outlines—then it is not too difficult to visualize how financial conditions might evolve. First, with progress occurring on the inflation front and aggregate demand well within the economy's capabilities, it would seem reasonable to assume that the monetary variables could gradually return to a more normal growth rate—say, 3–4 percent for the narrowly defined money supply and perhaps 6–8 percent for total bank credit. But while one can put such numbers on paper as reasonable expectations, these are by no means the only ones consistent with the GNP projection. Much will depend on the public's preferences as to holdings of financial assets, on the strength of desire by banks and others to rebuild liquidity, and on how aggressive banks prove to be in attempting to regain their earlier market positions.

Next, one might anticipate that interest rates would move generally downward in the year, reflecting not only relaxation of some of the pressures in the financial markets but also investor response to reduced rates of inflation as they in fact began to materialize. Rates could be expected to decline more in short-term than in long-term markets, partly because of the apparent continuing strength in demands for long-term funds. Net savings inflows to the banks and other depositary institutions should also recover as the relative attraction of high market rates to savers tended to diminish. Once again, however, these are speculations based on specific assumptions concerning the development of the economy in 1970.

Finally, it would be logical to expect on the basis of these assumptions that the total flow of credit—through institutions and markets combined—would expand somewhat from the relatively low levels reached in the second half of 1969. This would reflect mainly an increase in the availability of funds to those who were rationed out of the market in the restrictive credit environment of 1969, and also the gradual increase in savings flows consistent with expansion in current dollar GNP and aggregate incomes. A large increase in credit flows would not be expected in the short-run, however, since it takes time to get the process of credit generation going again in some sectors, such as mortgage finance.

I want to emphasize, however, that one can readily imagine important variations in this path of money and credit market developments, if the course of the economy does not evolve as specified above. The resurgence in economic activity, when it comes, could prove substantially stronger than anticipated, in which case rates of money and credit expansion would need to be restrained. Or the upturn could come more slowly and without the force anticipated, suggesting the need for additional encouragement to private spending through higher rates of expansion in the monetary factors and associated sharper short-run declines in interest rates. Total bank credit expansion could well run higher relative to growth in the money supply in these circumstances.

Economic developments in the weeks and months immediately ahead, of course, will be fundamental in shaping the course of monetary policy, including changes in interest rates and credit availability that actually emerge. Some major business indicators recently have shown recessive tendencies. If these deepen and intensify, the arguments for corrective action will become more forceful, and I would expect monetary policy to be modified accordingly. If, on the other hand, more positive signs appear on the economic scene, this will have to be taken into account in policy formulation. As I stated at the outset, the problem of economic stabilization policy for the time being is to walk the narrow path between the threats of recession, on the one hand, and restimulation of inflationary expectations, on the other.

As we move toward a more suitable economic environment once again, I would expect the monetary aggregates to resume a more normal rate of growth and interest rates to decline to more viable levels. But I cannot assure you that this will in fact develop. Patterns of economic change can readily be imagined that would call for either unusual monetary stimulus or continued monetary restraint, the results of which would be reflected not only in the rates of change in monetary aggregates but also in the level and pattern of interest rates and overall credit flows. Monetary policy is by nature one of the most adaptable instruments of economic stabilization, and it is my intention to do everything within my power to keep it flexible and responsively attuned to unexpected variations in the performance of the economy as they occur or come into prospect.

Sincerely,

ARTHUR F. BURNS.

PRAYER IN OUTER SPACE

Mr. TOWER. Mr. President, on November 4, 1969, I submitted a concurrent resolution expressing the sense of the Senate, with the House concurring, that there was no conflict between the expression of religious faith practiced by the astronauts during space explorations and freedom of speech and religion guaranteed by the first amendment to the Constitution. More than 400 citizens of the San Antonio, Tex., area have signed a petition expressing their support of the substance of this concurrent resolution. I ask unanimous consent that the petition, initiated by Mr. Charles Cude of San Antonio, be printed in the RECORD.

There being no objection, the petition was ordered to be printed in the RECORD, as follows:

Senator JOHN G. TOWER:

We the undersigned, demand our right, which is guaranteed in our Constitution, to our freedom of religious belief and our freedom to pray, when and where we wish, on earth or any other planet.

Our Country, the only true free country was founded on prayer, take this freedom away and we will have lost everything.

We are opposed to any person or persons who would take away these freedoms.

BRIGHAM YOUNG UNIVERSITY

Mr. MOSS. Mr. President, Brigham Young University is a great educational institution in my State of Utah. It has been in the news somewhat regularly for the past decade for several reasons—its tremendous student growth and superb campus in a wonderful small city of Provo nestled at the very base of the towering Wasatch Mountains, the growing distinction of its faculty and the high caliber of its student body, the continued excellence of its athletic teams—although this has some senseless and unwarranted interruption with its relationship with some of its competitors—but most of all it has been in the press because of a religious doctrine espoused by the Church of Jesus Christ of Latter-Day Saints which owns and operates the University.

This situation is often distorted and certainly is not widely understood. In an endeavor to clarify this matter and to present what I consider a rational presentation of the problems encountered at BYU, I ask unanimous consent to have printed in the RECORD an interesting and what I believe is a factually accurate article written by Mr. John Dart and published in the Los Angeles Times of March 23, 1970. I commend its reading to the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BYU—A CAMPUS OF PEACE AND PATRIOTISM

(By John Dart)

PROVO, UTAH.—Brigham Young University, in the eyes of its energetic and outspoken president, is destined to excel the likes of Harvard, Yale and Stanford.

BYU, operated by the Mormon Church, is already the nation's largest private university in fulltime day enrollment with more than 22,000 students.

When Ernest L. Wilkinson, now 70, took over as president of the 5,000-student school in 1951 the buildings and facilities on the mountain-backdrop campus were only 20% of what they are today.

BYU has yet to acquire an academic reputation comparable to the nation's major universities. Reputations of this kind are made in a university's graduate schools, and BYU began the first of its doctoral programs only in 1959.

CHURCH INFLUENCE STILL FELT

However, unlike other universities founded by churches and religious-minded persons such as John Harvard and Elihu Yale, noted Wilkinson in a speech to students recently, BYU has not thrown off the yoke of church influence in its 95-year existence.

"In altogether too many instances Harvard has become a mecca for those who are crassly materialistic—or rootlessly idealistic," said Wilkinson, who also pointed to Yale's and Stanford's secularization.

Himself a 1927 Harvard law school graduate, Wilkinson predicted:

"BYU is destined to be as peculiarly different from and to excel other universities to the same degree that the church differs from other churches and is destined to excel them.

"This premise is not a mere hypothesis; it is a fact. The Lord said that this church is 'the only true and living church upon the face of the whole earth with which I, the Lord, am well pleased' and this university is a part of the church."

Such doctrinal-based convictions are rarely presented to non-Mormon audiences, and not every Mormon would necessarily agree with that logic of inevitability.

LIKED BY CONSERVATIVES

But many non-Mormon conservatives in the country feel BYU already has a fine reputation in areas they feel really matter, and President Wilkinson could not be more pleased.

A recognition from the political right of BYU's adherence to "enduring values," said Wilkinson in an interview, "is a great opportunity for us and enhances our responsibility."

The campus' lack of protest demonstrations, beards, miniskirts, cigarets or stimulants of any kind plus evidence of patriotism and reverence have brought glowing praise from persons who view most other large campuses as havens for the immoral and politically radical.

Conservative columnists James J. Kilpatrick and Max Rafferty, California's superintendent of public instruction, in similar style came to BYU's defense in December, 1969, after Stanford University said it would schedule no further intercollegiate competition with Mormon-sponsored schools.

Stanford said it took the action because many of its black and white students found it offensive to have institutional links with a university whose sponsoring church denies the priesthood and some other church privileges to Negroes.

Wilkinson fired off a blistering reply to Stanford President Kennet Pitzer and Mormons in general cried religious discrimination, explaining as they have on numerous occasions in recent years that the church doctrine is God-given and can be changed only by God through revelation.

BYU athletic teams traveling to other Western campuses frequently encounter demonstrations against discrimination by the church. Mormons and BYU protest that they are open to Negroes and are believers in the brotherhood of man.

Although Stanford's actions and much of the protest elsewhere referred to church doctrine, BYU students, faculty and administrators have debated whether there is discrimination on campus.

Opinions were about evenly divided among 12 students in a recent random poll taken by the student newspaper.

TWO STUDENT OPINIONS

Karen McDonnel of Long Beach said she thinks BYU students "tend to be a little racially prejudiced because of the Mormon doctrine," but Vandra Paullin of Palos Verdes said, "The prejudice here at BYU is built in because we're white, not because we're Mormon."

Twenty per cent of the students are from California and 33% from Utah. More than 95% are members of the Mormon Church, or more formally the Church of Jesus Christ of Latter-day Saints. The Mormon students apply to the university through their local church officials.

Since relatively few Negroes belong to the Mormon Church there are only a handful of blacks at BYU. Thus, when students talk about discrimination they refer more to attitudes than actions.

Brigham Young University has attempted to change its image a bit lately. Last fall, BYU announced it would actively recruit Negro players for its football team and last month, defensive back Ron Knight, a transfer from Northeastern Oklahoma A&M, enrolled at the university. Knight would be the first Negro varsity football player at BYU.

Wilkinson, in an interview, said BYU will have a black faculty member this semester, Oscar Udo, a Nigerian graduate student in sociology who will be a teaching assistant.

"We have a course at this college which is not new," Wilkinson said. "We teach African history and the contributions to American history of blacks such as Booker T. Washington and those people."

Asked about black studies programs begun at other colleges, Wilkinson replied, "I feel it's probably a violation of the Civil Rights Act to have black teachers teaching black history to black students."

The university president, unsuccessful Republican candidate for U.S. senator from Utah in 1964, said that geography has shaped BYU's relationship to minority groups. "I don't think you'd find a lot of American Indians at a college in Brooklyn," he said.

300 INDIANS AT BYU

There are about 300 Indians at BYU, most of them students who have lived with white Mormon families for a while and gone to white schools in the church's expanding Indian placement program. Although church officials now want to put a ceiling on BYU enrollment at about the present level, Wilkinson said he hopes the Indian enrollment can be brought up to 1,000 students.

Wilkinson's law firm, based in Washington, D.C., handles many Indian claims against the government. One case in which he was involved for the Ute Indians resulted in four judgments totaling $31.5 million.

BYU officials point out that about 1,000 students are from foreign lands—as an indication that the university is open to students of all races and religions.

The Mormon Church has special religious interest in converting and educating American Indians, Latin Americans and Polynesians, They, according to the Book of Mormon, are "the blood of Israel," descendants of Jacob, the father of the 12 tribes of Israel. The Book of Mormon says that Lehi, a grandson of Jacob, and his party came to South America from Palestine about 600 B.C. The church believes that natives of North and South America and—for additional reasons—inhabitants of Polynesia are all related to Lehi.

HEREDITARY MEMBERS

"We have a special concern for the Israelites for in the 'last days' there will be a gathering of all tribes of Israel, including Jews," said Dr. Roy W. Doxey, assistant dean of religion at BYU. The predominant European-heritage membership of the Mormon Church can gain Israelite status after joining the church, but the native Indian, Polynesian and Latin American already has this distinction by heredity, according to church doctrine.

A topic of debate more widely discussed than race is the dress code at BYU.

Although the namesake of BYU—Mormon pioneer Brigham Young—and many succeeding Mormon Church presidents wore beards, chin whiskers are grounds for suspension or expulsion if a student refuses to shave them off.

So is the wearing of miniskirts, or tight clothing, or slacks (except on a few occasions) by girls. Young men are warned not to wear tight-fitting pants or let their hair grow down to the collar.

"One reason for this policy, apart from the virtue of modesty itself," said Wilkinson in a letter to parents, "is that our students have gained a great reputation for being clean, modestly dressed, good-looking young men and women."

He added: "Almost every week we get favorable newspaper and radio comments about our students . . . As a consequence, the appearance of even one person on our campus who deviates from our standards in dress or appearance impairs our reputation."

In registration for the spring semester "spotters" from the dean of students office talked with 80 to 90 students about their dress length or hair length. About 50 girls were stopped, compared with 250 last fall.

"I noticed a lot of girls that wore longer dresses on registration day, then were back to shorter ones the next day," say Ken Kartchner, the student body president.

Kartchner, an engineering student, has urged students to stop fighting the code and get their minds on more important things. At the same time, he has told Wilkinson privately that he opposes enforcement of dress standards—which drew a desk-pounding response from the university president, he said.

"For the minority of students who are fashion-conscious it's a problem," said Kartchner, "but for the majority of administrators it's a preoccupation." One administrator said beards were opposed because they are considered a symbol of the radical movement.

Cases of thievery and drug-taking do occur, administrators readily admit.

The social-political tensions that exist find their vent in groups like Young Democrats and Young Americans for Freedom (permission for Students for a Democratic Society chapter was refused), a weekly open forum at the student center and the 92 church wards (200–250 students each) on campus where Sunday discussions often range widely.

Another outlet are boy-girl relationships. "Each year thousands of our students find marriage partners on the campus," Wilkinson said. Early marriages are officially discouraged, but church officials obviously view BYU as one of the best places for young Mormons to meet one another.

However, many BYU men wear sideburns and hair as long as the rules will allow and many young women wear boots and skirts at various lengths above the knee.

BYU administrators are unhesitant about confirming the concept that the university is supposed to be a reflection of the Mormon Church. The church provides about 70% of its funds and tuition is $500 a year for church members and $750 a year for nonmembers.

However, Wilkinson said the various departments are not supposed to function merely as corroborators of Mormon doctrine. "We tell them they ought to teach any concept," said the president. "Undoubtedly, the anthropology department teaches the concepts of the Book of Mormon, but that's not the only one. You can't arrive at the truth by teaching only one phase of it."

Two of the touchiest subjects at BYU are evolution and birth control, said Dr. Joseph R. Murphy, zoology department chairman.

To church members who complain from time to time that the theory of organic evolution is given credibility in BYU classrooms, Dr. Murphy said he replies with letters from church authorities stating that the Mormon Church has never officially said that evolution contradicts the Bible.

The church has gone on record opposing contraceptives while leaving the ultimate responsibility for the decision up to the individual members, said Dr. Murphy.

A book used as supplementary reading in some courses is "Population, Evolution and Birth Control: A Collage of Controversial Ideas."

"Makes you feel you ought to have a plain brown wrapper on it here at BYU," quipped Dr. Murphy.

The zoologist said most faculty members feel the responsibility to give a synthesis of modern science to students.

"We give many of them an entirely dif-

ferent perspective on genetics," said Dr. Murphy. "If we tell them there is no such thing as 'Negro blood' that surprises some—forcing them to think to what extent differences are cultural rather than biological."

More than 56% of the faculty hold Ph.D.s, most of the degrees obtained from other universities because of the recent beginnings of doctoral programs at BYU.

The chemistry and chemical engineering departments are considered most likely to be rated among the nation's top dozen graduate schools in those fields in the next five to 10 years, said Dr. Chauncey Riddle, dean of the graduate school.

Outstanding faculty members include Dr. Harvey Fletcher, "father of stereophonic sound," Dr. H. Tracy Hall, the first man to produce artificial diamonds in high-pressure, high-temperature experiments, and Dr. Armin Hill, who helped the motion picture industry develop new types of light sources, including the radio frequency lamp.

Federal funds are not accepted by BYU for buildings or equipment, but grants are sought from federal agencies for research.

Even the Reserve Officer Training Corps buildings on campus were built by the university from nongovernment funds.

About 850 students are enrolled in BYU's Air Force and Army ROTC programs, making it second only to Notre Dame's 950 enrollees among private universities where the ROTC program is voluntary. The Army ROTC unit is only two years old at BYU and is expected to increase in numbers.

Neither the ROTC programs nor job recruiters from companies such as Dow Chemical Corp. have encountered any demonstrable opposition from BYU students, school officials have noted.

Wilkinson notes: "Our attitude of insisting on moral and spiritual as well as intellectual standards is admittedly contrary to the prevailing trend in a great many universities and colleges which have abandoned any attempt to supervise the moral life of their students. We feel, however, that to indulge irresponsible student conduct is to abdicate our role as educators."

CONSUMER BENEFIT

Mr. DODD. Mr. President, for many months we have been reading and hearing allegation after allegation that our Federal departments and agencies have but little regard for the consumer—that, at best, they only pay lipservice to the public interest.

While it may be true that you cannot please all of the people all of the time, there are, however, many governmental programs and decisions implemented with the consuming public in mind, decisions that often affect virtually everyone.

Unfortunately, however, not all of these decisions are as well publicized as they should be. For if they were, it is my opinion that we would not see nearly so much criticism from some of the so-called consumer advocate groups as we have seen in the past.

One such instance involves the Interstate Commerce Commission, which is charged with protecting the public interest as it pertains to surface transportation within the United States. Just last week the Supreme Court upheld the Commission on a very important case involving the shipment of furniture, a commodity which is certainly near and dear to us all.

The Commission's decision effectively blocked a carrier's attempt to cancel through-route, joint-rate tariff provisions applicable to shipments of furniture moving from central to southern States.

The decision by the Commission and by the Court was a landmark one. Yet only the authoritative Traffic World and Transportation Topics apparently saw the significance of it and reported it in depth to their readers. For information, and to assist Senators in realizing the importance of the decision in this proceeding, I commend the Traffic World article to their attention. I ask unanimous consent that the article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

SUPREME COURT UPHOLDS ICC IN BLOCKING CANCELLATION OF JOINT ROUTE-RATE SERVICES

With a one-sentence ruling, the Supreme Court of the United States has upheld the Interstate Commerce Commission's right—in certain circumstances, at least—to force motor carriers to maintain through-route-joint-rate arrangements.

The court acted February 24 by affirming a lower court decision which, in turn, sustained an ICC decision issued in No. 34815, National Furniture Traffic Conference v. Associated Truck Lines (T.W., Jan. 11, 1969, p 30).

In that decision, the ICC found a fundamental inequity in Associated's attempt to cancel through-route-joint-rate tariff provisions applicable to shipments of furniture moving from central to southern states. It ordered Associated to maintain the joint-rate provisions the carriers sought to cancel. It also warned all carriers that the ICC would automatically block any future filings similar to that made by Associated and it urged carriers who previously promulgated joint-rate restrictions to remove the restrictions promptly "without the need for further formal action" although the Commission indicated that formal action would be undertaken if necessary.

The restrictions proposed by Associated were similar or identical to restrictions successfully placed in tariffs by numerous other motor carriers. Although Associated continued to offer through-route-joint-rate service on various other commodities it proposed a tariff provision to the effect that Associated "maintains no through routes, joint rates on interchange arrangements on shipments of furniture" moving between points in Central States Territory and points in Southern territories.

The furniture traffic conference protested and, in ruling, 10 commissioners touched virtually all bases.

The majority held that Associated's rule unfairly discriminated against one type of traffic. Commissioner Tuggle agreed that unlawful discrimination was present but argued that this discrimination existed between territories and between shippers capable of using single-line service and those requiring multi-line service. Commissioner Walrath argued that the interstate commerce act does not allow the ICC to require motor carriers to maintain joint rates and through routes and contended that the majority was attempting illegally to circumvent this statutory limitation.

Associated, the American Trucking Associations and the ATA's Regular Common Carrier Conference challenged the ICC's decision in the U.S. district court for the western district of Michigan but that court upheld the ICC.

Before the Supreme Court, the motor carrier interests argued that the ICC decision "rests upon the proposition that for a motor carrier to hold out through-route-joint-rate arrangements on some authorized commodities and not on others is unlawful." This viewpoint, the carrier interests said, overlooks numerous Commission decisions authorizing railroads to establish joint rates on selected commodities and amounts to a new regulatory policy requiring motor carriers either to offer joint-rate-through-route service for all traffic or abandon completely all joint-rate-through-route service.

"This decision," said the motor carrier interests, "substantially nullifies that freedom to establish through-route-joint-rate arrangements which Congress entrusted to the managerial discretion of the carriers."

The Supreme Court, however, rejected the carrier argument and granted a motion by ICC lawyers to affirm the Michigan court's decision. The action was in No. 997, Associated Truck Lines et al. v. United States and Interstate Commerce Commission.

THE 50TH ANNIVERSARY OF THE LEAGUE OF WOMEN VOTERS

Mr. HART. Mr. President, 1970 marks among other events the 50th anniversary of the League of Women Voters.

Channel WXYZ–TV in Detroit recently had an editorial commenting on this anniversary and deservedly applauding the League for its half-century of service to citizens everywhere.

The editorial particularly marks the work of League members in the State of Michigan who have contributed so significantly to our State.

I ask unanimous consent that the telecast broadcast by WXYZ–TV on February 11 and 12 be printed in the RECORD.

There being no objection the editorial was ordered to be printed in the RECORD, as follows:

A 50TH ANNIVERSARY

The League of Women Voters celebrate their 50th anniversary this Friday, February 13th. At present, there are approximately 160-thousand League members in 13-hundred local organizations. Almost 500 women belong to the Detroit League . . . some 46-hundred are members across the state. Most of the women are college-educated, middle-class wives and mothers. The League is attempting to attract more urban black and low-income women.

The League was started in 1920 to get all Americans involved in non-partisan participation in the political process. That goal has not changed in 50 years. In the Detroit area, the League of Women Voters has successfully fought for tenants rights, better police-community relations and effective open housing laws. Its services include impartial, well-researched information on almost all candidates for office. It tells what the issues are and what the issues mean . . . and it provides courses in practical politics.

The League of Women Voters has been good for Detroit and for Michigan. It has shown time and again how citizen involvement can have a direct, beneficial influence in politics.

Channel 7 congratulates the League of Women Voters on their 50th year of exceptional service.

CRITICISM OF THE VA HOSPITAL SYSTEM

Mr. TOWER. Mr. President, there has been much criticism directed at the VA hospital system of late, some of which has been directed at our VA hospital system in the State of Texas. While I

believe that constructive criticism, in the long run can benefit the VA hospital system, and ultimately the veterans for whom the system was established, I am not convinced that placing the blame for VA problems solely on the present VA administration is fair. One must ask: "If our VA hospital system is in trouble at this time, is it possible that the deterioration of the entire system could have occurred in the relatively short span of 14 months—that period during which President Nixon has been in office?" The facts indicate otherwise.

The total Veterans' Administration medical care appropriation of fiscal year 1969 was $1,474,064,000. The expected fiscal year 1970 medical care appropriation, with supplemental increases, is $1,648,099,000 or an increase of $174,035,000.

The fiscal year 1971 budget submitted to Congress by the President included the highest appropriation request in history for VA medical care. This morning the Veterans' Administration informed me that the President and the Budget Bureau have approved a VA request for $15 million in additional funds in the fiscal 1971 budget for medical programs. This is in addition to the $1.7 billion contained in the administration's original fiscal 1971 budget request. This means that the administration is asking $228 million more for fiscal 1971 than the VA appropriation for fiscal 1969 and $69 million more than for fiscal 1970. Within these resources, the VA hopes to improve hospital staffing ratio of employees to patients and increase the number of veteran beneficiaries treated in VA hospitals and clinics over previous year levels. At this point, one very important fact should be noted: Vietnam era veterans comprise less than 10 percent of the VA's total hospital patients. Furthermore, only the sickness and disabilities of approximately one-half of the younger veterans are related to military service. The fact is that the VA, through the increased use of extended care programs which have had a significant impact in reducing VA hospital beds and average census, is currently treating more eligible veterans on both an inpatient and outpatient basis than ever.

As we are aware, President Nixon continues to do all that he can to curb an extremely serious inflation problem which he inherited from the previous administration by exercising judicious fiscal restraint and wise budgetary control. At the same time, however, the President has demonstrated his continued interest in the VA's medical care program by granting an increase of 1,500 full-time employees to the VA at a time when he was reducing employment in Government by several thousand jobs. Of those 1,500 full-time employees, 83 percent of the added positions were designated specifically for the medical program. Moreover, with the fiscal year 1971 requests, the VA medical care staff will be increased by an additional 2,150 employees hereby bringing employment in the department of medicine and surgery up to 142,152 or simply the largest work force in the department's history.

On the question of physicians, comments have been made that the VA has experienced losses among its physicians as a result of deteriorating medical care and noncompetitive salaries. Again, the latest VA reports reflect a gain of 373 more doctors—including 26 more psychiatrists—over the previous number recorded some 9 months earlier.

Mr. President, the VA, under the able guidance of Mr. Donald E. Johnson, has done an outstanding job. But we all know that anyone who choses to do so can find fault with this or any other budget which is intended to provide medical care. Every hospital director and every Government administrator is reluctant to say he has enough money. After all, what hospital in the United States, be it a VA hospital, private hospital, a community, or a State hospital, could not use additional funds or additional staff? The main point is that VA hospitals are providing quality medical care on a greater scale than ever before. This is so in spite of the severe handicap of a severe cost squeeze brought on by inflation.

Mr. President, it is my opinion that we are providing no service to our gallant veterans or to the public if we permit an erroneous conclusion to be drawn regarding the quality of care a veteran may now expect from his VA hospital. Our veterans and the thousands of dedicated physicians, nurses, and other outstanding employees who stafi VA hospitals merit our further assistance and our confidence.

VETO POWER OF U.S. ATTORNEY GENERAL

Mr. ALLEN. Mr. President, the idea that the U.S. Attorney General should have the power to veto laws duly enacted by State legislatures is one of the revolutionary principles established by a liberal majority of Congress in the Johnson administration.

The principle has been endorsed and implemented with a vengeance by the Nixon administration as an aspect of the "New Federalism" we hear so much about.

Recently, the U.S. Attorney General's veto was applied to an act of the Alabama Legislature. The legislation granted thousands of servicemen the right and opportunity to become registered voters in Alabama. The veto denies them this right.

On March 18, 1970, the distinguished attorney general of Alabama, the Honorable Macdonald Gallion, expressed himself forcefully on this development in a letter to the Honorable Jerris Leonard of the Department of Justice in a news release on the subject.

I ask unanimous consent that the letter and news release be printed in the RECORD as an illustration of "New Federalism" under the practices of this administration.

There being no objection the items were ordered to be printed in the RECORD, as follows:

GALLION BLASTS U.S. CIVIL RIGHTS CHIEF OVER ABSENTEE REGISTRATION RULING

Alabama Attorney General MacDonald Gallion accused the U.S. Justice Departments Civil Rights Chief of "having the worst case of prejudice I have ever witnessed." Gallion said Jerris Leonard showed he had no understanding of the Civil Rights Law by objecting to Alabama's new law which allows servicemen to register to vote by mail.

Under the Voting Rights Act of 1965, Gallion was required to submit any new voting legislation to the U.S. Attorney General for approval before Alabama can put such laws into effect. He certified the new Absentee Registration Law (Act 604, 1969 Session) on January 13, 1970 but the Justice Departments Civil Rights Chief struck the law down on March 13th. The basis for such decision was that Act 604 requires the applicant for registration to complete a written questionnaire which is mailed to Alabama. The Civil Rights Chief felt this would "in effect impose a literacy requirement for registration," which violates the Federal Voting Rights Act. This brought on Gallion's blast at the Justice Department.

In a reply letter, Gallion said the new law was passed to allow servicemen to register to vote by mail who would otherwise have to appear personally before the Board of Registrars.

Gallion said in his letter:

"It is passing strange that the present administration which has been trying to curry favor among the electorate in the South would interpose an objection to an Act which would have the effect of broadening the electorate and giving servicemen and others a chance to vote.

"Does the present administration wish to go on record as preventing the thousands of servicemen from Alabama from becoming registered voters? Perhaps you would prefer to send Federal Registrars to Viet Nam, Laos, Cambodia, and other places throughout the world to register all servicemen, white or black, whose homes are in Alabama.

"I suggest that common sense dictates that you should reconsider your objection to said Act No. 604."

STATE OF ALABAMA,
OFFICE OF ATTORNEY GENERAL,
Montgomery, Ala., March 18, 1970.

HON. JERRIS LEONARD,
Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C.

DEAR MR. LEONARD: Reference is made to your letter of March 13, 1970, which was in pertinent part as follows:

"This is in reference to Act Number 604 of the Legislature of the State of Alabama authorizing and providing for registration by mail of qualified electors who are members of the Armed Forces of the United States or who are employed outside the United States which was submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965.

"Act Number 604, *inter alia*, requires the applicant for absentee registration to complete a written questionnaire without assistance. It is our view that this provision in effect imposes a literacy requirement for registration and that such a requirement, if enforced, would violate the provisions of Section 4 of the Voting Rights Act of 1965. Therefore, I must on behalf of the Attorney General interpose an objection to Act Number 604."

As you are probably aware, prior to the passage of this Act, a person could only register as an elector by appearing in person before the appropriate Board of Registrars.

It is my understanding that when the Legislature of Alabama passed and the Governor of Alabama approved Act No. 604, it was with the intention of providing a means for those in the Armed Forces of the United States and others who were absent from the State to be able to register as electors without having to appear personally before the Board.

That was the sole purpose of the Act, and there was no intention to impose a literacy requirement on anyone.

It is passing strange that the present administration, which has been trying to curry favor among the electorate in the South would interpose an objection to an Act which would have the effect of broadening the electorate and giving servicemen and others a chance to vote.

Does the present administration wish to go record as preventing the thousands of servicemen from Alabama from becoming registered voters? Perhaps you would prefer to send Federal Registrars to Viet Nam, Laos, Cambodia, and other places throughout the world to register all servicemen, white or black, whose homes are in Alabama.

I suggest that common sense dictates that you should reconsider your objection to said Act No. 604.

Very truly yours,

MACDONALD GALLION,
Attorney General.

ARMS SHIPMENTS TO THE MIDEAST

Mr. MONDALE. Mr. President, I have grave doubts about the wisdom of the administration's recent decision not to sell Phantom and Skyhawk jets to Israel.

I appreciate the great dangers of an arms race in this area. The big powers must resist the temptation to exploit tensions or to seek their own spheres of influence at the expense of the stability of the Middle East.

At the same time, I do not think that stability in this case is enhanced by unilateral action by the United States with absolutely no promise of a reciprocal restraint on the part of the Soviet Union.

The Secretary of State admitted yesterday that there was no sign of willingness on the part of the Soviet Union to discuss joint limits on arms shipments to the Mideast. On the contrary, Russia has recently destabilized the situation by introducing in Egypt the advanced SA–3 missile with Soviet personnel to deploy the weapon.

Libya, as we all know, has recently contracted to buy 108 Mirage jets from France—a massive striking force which can only have Israel as the target.

Furthermore, there appears to be no breakthrough in the refusal of the Arab States to allow Israel the right of peace and nationhood. Their demand continues to be for nothing short of the extinction of Israel.

What little peace or "balance" is now being preserved in the Middle East is due to the superiority of Israeli air power. Given her absolute inferiority in terms of population and strategic position, her continued superiority in the air is essential to any reasonable concept of "balanced power."

I am glad that the administration is continuing to seek the cooperation of the Soviet Union in finding a way toward permanent peace in the Mideast. I am pleased that the administration is prepared to commit economic aid to relieve Israel of the crushing burden of her war debt. And I am at least relieved that we have promised to replace downed planes and retain the option of arms sales at a future date.

But I would urge the administration to carefully review their current assessment of the Mideast situation and, hopefully, to give Israel further support in her continuing fight for survival.

SMUT PEDDLERS: THEY PREY ON THE YOUTH OF AMERICA

Mr. DODD. Mr. President, the U.S. mails are the hub of the distribution system for the multimillion dollar pornography business in this country.

Much of the objectionable and obscene material that is mailed is unsolicited, and much of it is directed to children.

The Subcommittee on Juvenile Delinquency has been fighting the traffic in pornography for years, but it is a matter that requires constant watchfulness at all levels.

In an article on the wave of pornography flooding the mails, in the March 1970 issue of VFW, the magazine of the Veterans of Foreign Wars, Jean E. Laird says that everyone in America with a mailing address is on the pornographers' list. She states further that 80 percent of the more than 100 million items of objectionable material mailed each year ends up in the hands of children.

Mr. President, because of the concern we all feel over this continuing problem, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SMUT PEDDLERS: THEY PREY ON THE YOUTH OF AMERICA

(By Jean E. Laird)

Pornography is flooding the mails. Much of it is reaching our nation's youth. No reliable statistics on the amount of mailed obscenity exist, but postal authorities estimate over 100 million items of objectionable material are sent out each year.

The circulars, brochures, catalogues, pictures, books and records find their way to at least a million school children. And each of these youngsters may be passing the filth along to a half dozen others.

It is believed that 80% of all pornographic literature in the United States falls into the hands of children. William Foley, Vice-Chairman of the Citizens for Decent Literature, reports, "Children get this stuff accidentally or otherwise, then pass it among themselves at school and hide it in their lockers."

What can be done about the rising flood of pornography? Foley says citizens must pressure local law enforcement agencies, including prosecutors, to enforce existing obscenity laws.

The Veterans of Foreign Wars of the United States at its 70th National Convention in Philadelphia passed a resolution denouncing the sending of unsolicited obscene material through the mail and called for legislation to prevent it. This is a step towards shutting down the dealers in smut.

As a major target of mail order pornography, youngsters have sometimes found themselves deluged with offers of filth after innocently answering an ad for camera equipment, rare coins and stamps, or acne remedies.

This is how most people get on mailing lists of obscenity dealers. Within weeks after buying a European-made car, a Missouri housewife received an offer from Europe "of modern pornographic pictures—10 for $11." Postal inspectors caught one Louisville dealer who used the published names of blood donors as prospects for his material. And some producers of indecent publications reportedly go to the extent of purchasing grade and high school graduation lists in soliciting prospective customers.

Obscenity is a lucrative business. A Knoxville dealer had been in business only eight months, yet had already cleared $20,000 and had 100,000 new circulars ready for mailing before his arrest.

Still photos are the most common obscene item sent through the mails. These are not September Morn nudes or provocative pinups, but males and females in perverted poses. They frequently sell at $3 to $5 apiece, or six-for-$10.

Pornographic records, costing up to $6.95 apiece, rank second in volume. A firm that has mailed out tens of thousands of copies of a pornographic record catalogue was indicted as part of a crackdown by the Post Office. Still the help of parents to stop this deluge of obscenity is sorely needed.

A Detroit father of a teenage boy tells us he had caught his son reading obscene literature. Ads for it had been sent through the mail, and the boy ordered the material. He impressed upon his son the fact that peddlers of such filth use young persons as "suckers" for their racket, and are interested only in making a profit at the expense of the teenager's well-being. Instead of punishing the boy, he appealed to the boy's intelligence and sense of decency to rebuff the smut merchant and his wares.

When that teenager gets to the mail box before his parents do, and finds pornographic reading material what effect does this have on him? The experts say teenagers are deeply affected for either good or bad by what they read. Often reading pornography, they see something they had not known before, and try it out. This statement is backed by FBI records all over the country.

Dr. William E. Abramson, of Baltimore, Md., said the problem with such smut is that it "arouses and then miseducates." He explained that arousing curiosity is basically good: "That is what a professor does, he arouses curiosity and then he educates."

But, obscene literature warps the viewpoint of the child whose curiosity it arouses, Abramson pointed out. Overexposure to pornography without compensating education "is to leave the child hung up, and from hung-up kids come hung-up young people and hung-up married couples, and the continuation of the 30 or 40% divorce rate we have today," Abramson added.

President Nixon recently announced his intention to wage a "war on smut." He recognized the grave danger in the blatantly sexual materials, the sort of books typically delivered unsolicited in plain brown wrappers. This is the material against which the "war" is to be directed. A report in October states: "Uncle Sam's war on hard-core pornography will be stepped up this month. Of the 20 recognized hard-core pornographers in the nation, 12 have already been put under indictment. Four more will get the same treatment shortly."

As effective as the government's crackdown is trying to be, it is still being impeded by the soft penalties handed out by many judges.

Consider the case of two large-scale operators convicted in Ohio. At their arrest, a ton of obscene material was confiscated, along with numerous mailing lists. One of their mailings consisted of some 8,000 catalogues so vile that the Post Office was flooded with complaints from irate parents and even from businessmen whose secretaries open the mail.

Neither dealer had to serve a day in jail. Instead, the two were fined and placed on probation, even though an Act of Congress provides that sending obscene material through the mails may be punished by a prison term up to five years and a fine up to $5,000.

Recently, a Chicago man found his 12-year

old son reading a "sex book" under the bedcovers with a flashlight. This book was savage, perverted sex, hideously brutal and sadistically violent. In disgust, he began to ask why the sale of such books was permitted in his city. To his astonishment he found that recent Supreme Court decisons have made it difficult, if not impossible, for local communities or states to know what standards to apply to obscenity cases.

There is an apparent confusion among prosecutors and judges over the definition of pornography, to which U.S. Supreme Court decisions have certainly contributed. It seems that to halt by law materials which some consider immoral, or pornographic is to deprive those who do not consider them so of their constitutional rights.

The noted writer, James A. Michener, says: "Children under certain ages cannot buy cigarettes or whiskey. They are forbidden to drive cars, can't have guns, contract bills or get married. Yet in the most difficult areas, our nation has failed to set clear any enforceable standards to prevent the sale of sexually destructive materials to minors."

Federal, state and local laws deal with transmittal of obscene materials. But, law enforcement alone cannot effectively combat the obscene literature traffic. The full cooperation of the community is essential. Parents bear a heavy responsibility in seeing that their children are not harmed by exposure to filthy literature.

It is up to the ordinary citizen to keep his postal officials alerted. Turn over any obscene mailed material—including the envelope or wrapper—to your local postmaster or postal inspector, or send it to: Chief Postal Inspector, Washington, D.C. 20260.

You can also support stronger local and state legislation against pornography. And, don't be afraid to speak out against obscenity. According to the U.S. Supreme Court "contemporary community standards" is the all-important key to what is considered obscene.

By speaking out you will be helping to protect this nation's most precious resource—our youth.

THE SAFEGUARD ABM SYSTEM

Mr. TOWER. Mr. President, in the not too distant future, we shall be debating the necessity of proceeding with phase II of the Safeguard ABM system.

One of the very important reasons why we must approve phase II is the increasing Soviet strategic military threat. So that Senators can become familiar with the truly disturbing dimensions of this threat, I ask unanimous consent that an article in the March issue of Aviation Week, entitled "Soviets Press Strategic Military Expansion," be printed in the RECORD. I urge every Senator to consider this article carefully as he prepares for the upcoming debate.

There being no objection the article was ordered to be printed in the RECORD, as follows:

SOVIETS PRESS STRATEGIC MILITARY EXPANSION

(By Donald C. Winston)

Soviet military strength has continued to expand dramatically, despite Russia's apparently earnest participation in Strategic Arms Limitation Talks (SALT) and professed interest in easing East-West tensions.

Biggest growth by far has been in strategic nuclear forces, where the Russians have exceeded all earlier U.S. intelligence estimates and swept to a clear lead in the number of deployed, combat-ready intercontinental ballistic missiles (ICBM) with high-yield warheads.

At the same time, the Soviets have:

Continued intensive testing of new tactical fighter aircraft.

Flown a prototype Mach 2 variable-geometry medium bomber.

Sharply increased their missile submarine production to take advantage of a new, advanced underwater-launched strategic missile.

Improved their anti-ballistic missile (ABM) defense.

Tested new types of ICBM's.

According to Defense Dept. estimates, Soviet military, space and atomic energy research and development funding will reach the approximate equivalent of $14–17 billion for 1970. This compares with an expected U.S. expenditure of less than $14 billion during Fiscal 1971. Soviet research and development spending in these areas has shown a 10–13% annual growth rate in recent years, while the U.S. has remained on a relatively level plane.

Heavy Soviet research spending is seen as indicative of a desire to continue to improve military capabilities in the long run.

Only in the areas of medium-range nuclear missiles and strategic bombers have the Russians failed to make major advances.

A significant recent development is a super-heavy-lift logistic helicopter, the Mil Mi-12 Homer. The latter, informally nicknamed the "Butterfly" by its designers, has a running-takeoff payload capacity of nearly 40 tons and will serve as a logistic link between the Antonov An-22 heavy logistic transport and forward battle areas in a conventional land war.

Defense Secretary Melvin R. Laird, in his recent posture statement, declared that the Soviet Union is moving forward so rapidly in development and deployment of advanced weapon systems that by the mid-1970s they could "place us in a second-rate strategic position with regard to the future security of the Free World."

Laird asserted there was no Soviet budgetary response to last year's U.S. defense spending reductions, nor have there been any signs of Soviet military cutbacks to match announced lower U.S. spending for Fiscal 1971.

Specific Soviet weapon developments which most concern U.S. officials at this time include:

Mig–23 Foxbat Mach 3 fighter, whose formal introduction into the Soviet air force inventory is expected during 1970. The Mig–23 appears to have a dual role: pure interceptor and high-altitude missile-launching strategic strike aircraft. It has been tested with the 20-ft. Ash air-to-air missile, developed originally for use on the Tupolev Tu-28 Fiddler fighter. The Ash appears to be an interim weapon for the Foxbat, which will probably be fitted with an advanced missile. Up to four such missiles can be carried on the aircraft.

Mig–23 range is far longer than that of the Mig–21, currently the top-rated fighter in the Soviet inventory. Foxbat is believed capable of delivering a heavy nuclear payload from an altitude in excess of 60,000 ft. It is not designed for ground-attack missions, though it could be used for such a role in extreme circumstances or in a surprise attack.

Airborne warning and command system (AWACS). Soviets are now using a Tupolev Tu-114 transport in passenger configuration as the platform for AWACS testing, with a Tu-28 as the controlled fighter. Soviet AWACS capability is considered about on a par with that of the U.S.: not good enough for operations. The Russians appear to be three to five years away from perfecting an advanced system and may employ the Mig–23 as the controlled fighter, either as a substitute for or in conjunction with the Tu-28. Foxbat's range approaches that of the Fiddler.

Soviet inventory does not include downward-looking radar, and current tests show no apparent capability over land areas. However, components now under test are considered predecessors of an advanced AWACS.

Variable-geometry medium bomber based on the Tupolev Tu-22 Blinder design. Variable geometry is expected to provide the new bomber with a range up to 4,000 mi. and a dash capability in excess of Mach 2. Like the Blinder, the new aircraft, now flying in prototype form, has two rear-mounted engines and will probably carry a long-range air-to-surface missile.

MiG-21H fighter, which appears to be a Soviet answer to the lessons of the Arab-Israeli six-day war of 1967. New MiG carries a gun as well as missiles, and has improved avionics for all-weather flying. It can be configured for photo-reconnaissance.

SS–9 Scarp ICBM buildup, which has now exceeded 275, compared with earlier predictions of only 230 for this time. While Scarp can carry a single 25-megaton warhead, recent tests have involved three re-entry vehicles, with probable megatonnage ceilings of five each. Independently targeted re-entry vehicles have apparently not yet been tested, although the Soviets are believed interested in attaining this capability.

Continued deployment of the smaller SS–11 Savage ICBM and the SS–13, which has not yet been publicly displayed by the Soviets. Including Scarp, the Russians are estimated to have more than 1,100 ICBMs operational at this time, and at their current buildup rate will have more than 1,250 by mid-year, compared with 1,054 U.S. Air Force Minuteman launchers. Based on current Soviet construction activity at launch sites, the present missile buildup will continue at least through mid-1971, with a possible level of 2,500 launchers being reached by the middle of the decade. Approximately 10,000 separate warheads could be encompassed in this number, based on current efforts to upgrade the SS–9.

Apparent shipbuilding priority on Y-class ballistic missile submarines, which are approximately equivalent in size and range to the nuclear-powered U.S. Polaris submarines. The Y-class submarine is capable of carrying 16 Sawfly underwater-launched ballistic missiles, which are roughly equivalent to the Lockheed Polaris A–3 in warhead. Sawfly, replacing the earlier Serb missile, has a range of only 1,200 naut. mi., and the Soviets may be developing a multi-warhead follow-on missile equivalent to the Lockheed Poseidon.

Major submarine-producing facility is at Severodvinsk on the north coast of European Russia, near Archangelsk. Production capacity of Severodvinsk and other yards totals eight annually.

Although the Russians had only 45 nuclear submarine ballistic missile launchers available to them as of September, 1968, one year later the total had risen to approximately 110, with construction still on the increase. All of the added capacity is in Y-class submarines. At the present rate of production and deployment, the Russians are expected to have as many as 50 nuclear missile submarines operational by 1974–75, at which time they will have as many as 800 launchers. This level will be reached two years earlier than the estimates of only one year ago.

At present approximately 30 Soviet submarines have cruise missile capability, carrying the Styx missile.

Ballistic missile defense improvements, with 60 Galosh anti-ballistic missile (ABM) launchers now deployed in the Moscow area. The Moscow ABM system is described as "nearly complete" by U.S. officials, who believe that the slowdown in deployment noted a year ago may have been related to near-completion of the installation. Galosh is roughly equivalent to the U.S. McDonnell Douglas Spartan and provides only a broad area defense.

Meanwhile, tests at the Sari-Shagan impact range, near Lake Balkash in Soviet Kazakhstan, indicate the Russians are developing an improved Galosh-type ABM and are actively working to improve their radar. Second-generation ABM components so far include advanced phased-array radars but not a Martin Sprint-type short-range missile.

Introduction of the SA–5 Griffon surface-to-air missile at locations other than Tallin, Estonia. SA–5 has intercept capability to 95,000 ft. and was originally deployed at Tallin to protect the western air approaches of Leningrad. It is now deployed near the Black Sea military port of Ilichovsk and others.

Continued development of a retro-fired missile, which may take the form of a fractional orbit bombardment system (FOBS) or a depressed-trajectory ICBM. Both weapons would greatly complicate the U.S. missile defense mission. Tests at Sari-Shagan, which is the world's largest impact range, indicate the Soviets may be attempting to develop both weapon concepts separately as well as a single weapon which would involve elements of both. U.S. officials believe some FOBS-type warheads may already be deployed in existing SS–9 missile silos.

In long-range manned bombers, the Soviets have shown no evidence of new developments, and in fact appear to be planning a slight retrogression in the number of active aircraft.

At present, Russia has between 150 and 200 Tupolev Tu–20 Bear and Myasishchev M–4 Bison heavy bombers in inventory, roughly the same figure as three years ago. About 50 tankers are included in the force level. In addition, the Soviet air force has about 700 medium bombers, including the Tupolev Tu–16 Badger and the Tu–22 Blinder, as well as tankers.

Of these, only the Tu–22 supersonic bomber appears to be still in production, but few of these are expected to be added over the next few years. It is not known how many of the variable-geometry follow-on Tu–22s will be activated during the 1970s.

Similarly, no great increase has been observed in the size of the Soviet intermediate-range missile forces in recent years. Approximately 700 launchers have been deployed, most of them mobile, with the majority still located in western Russia and aimed at North Atlantic Treaty Organization nations. Large numbers of these missiles were redeployed to Soviet Central Asia, near the Chinese western border, several months after the 1968 Soviet invasion of Czechoslovakia, and they are still in the Chinese border area.

The major unknown in U.S. evaluation of Soviet military posture involves the degree of internal refinement the Russians intend to build into their deployed major weapons. U.S. officials can easily determine the number of aircraft the Soviets are flying and can count the number of missile launchers. But there is no effective way to determine the degree of technology embodied in these weapons.

In tactical air strength, the Soviets have boosted their manned interceptor inventory by 5% in the past year, largely in MiG–21s, Tu–28s and the new shortrange interceptor, Sukhoi Flagon A. U.S. officials believe that the Russians will permit their total interceptor force to decline later in the decade, as older MiG–19s and Yak–25s are phased out of the inventory to be placed by the higher-technology, newer aircraft.

Of present Soviet tactical air, approximately 40% is kept available for close air support, air strike and interdiction missions; another 40% for air defense and the remainder for reconnaissance and reconnaissance strike. A disproportionate number of obsolescent MiG–17 fighters and Ilyushin Il–28 light bombers are believed to be present in current ground attack and reconnaissance forces.

A major factor in Soviet tactical air is the relatively short range of the fighters. While the Russians place emphasis on the ability of their aircraft to operate from remote and unimproved fields, this very factor tends to lower the sortie rate which would be expected because of the difficulty in providing complex maintenance at such fields.

Russian tactical air is designed primarily for operations in Europe, where maintenance equipment and personnel could be quickly airlifted to advance fields, particularly with the use of the Mi–12 Homer heavy logistic helicopter.

In addition to the MiG–23 and the Flagon A, the Russians may be planning to introduce the variable-geometry MiG Flogger later in the decade, as well as Flagon B short takeoff and landing (STOL) fighter and an improved version of the Yakovlev Freehand vertical takeoff and landing (VTOL) fighter.

An armed helicopter so far has been missing from the Soviet Tactical air fleet, probably because counterinsurgency is not part of current Russian military doctrine. The Russians have been experimenting with guns on the Kamov Ka–25 helicopter, which is designated primarily for anti-submarine warfare.

TIGHTEN CONTROLS ON AUTHORIZATION CARDS

Mr. ERVIN. Mr. President, the reckless attitude of the National Labor Relations Board toward the use of union authorization cards was carefully documented in the recent report on the Board by the Judiciary Subcommittee on Separation of Powers.

The subcommittee, after extensive hearings and nearly 20 months of study, found that the NLRB often has distorted the intent of the Taft-Hartley Act by permitting these cards to be used in ways which destroy free employee choice.

The report also concluded that the NLRB has applied double standards toward employers and unions in its policy toward the cards, and has continued to issue bargaining orders based upon the cards even though the Board's own Chairman, Mr. Frank McCullough, has stated publicly that authorization cards are notoriously unreliable.

I was pleased this week to discover that the Wall Street Journal has taken up the fight against the NLRB in this important area. In an editorial published on March 19, 1970, the Journal urged that Congress take action to insure that the Board is more cautious in its acceptance of authorization cards at face value.

Mr. President, I ask unanimous consent that the Wall Street Journal editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CAUTION ON CARDS

Unions trying to organize employes often ask them to sign "authorization" cards. There's nothing wrong with that process alone, but serious problems can stem from the card's later use.

In many cases, of course, the cards merely serve as evidence to support a union's petition for a National Labor Relations Board election. In a secret-ballot vote the employes then may decide whether or not they want the union to represent them.

Trouble can arise, however, from the fact that the employe has already chosen the union as his representative. The organizer doesn't always make that fact clear, and incautious employes often don't bother to read what they're signing. Many sign the cards in the belief that they're merely supporting an NLRB election.

Nonetheless, the board in some cases has accepted the cards, in lieu of a vote, as binding evidence of the employes' desires. It may do so, for instance, if it decides that some alleged misconduct by the employer has made a fair vote "impossible." While it's conceivable that employer conduct could make a fair election difficult, even the result of that sort of vote could be more meaningful than the cards of employes who may not have had the slightest idea what they signed.

Problems also can arise when the union first presents the cards to the employer. In one case a union did so, arguing that they showed a majority of the employes wanted the union to represent them. After verifying the signatures, the employer agreed and signed a contract.

Only later did he learn that a number of employes thought they had only asked for a union election. Yet when he and some employes appealed to the NLRB to decertify the union, they found that they were struck.

"In a long line of precedents the board has stated that its general practice in representation cases is to presume the regularity and legality of an agreement entered into by an employer with a union . . . and to refuse to admit evidence on the question of whether or not a majority of employes had freely designated the union as their bargaining representative," the NLRB said. "The board normally refuses to receive evidence in representation cases that signatures on cards were unlawfully obtained or were otherwise invalid or fradulent."

The employer and employes can, if they choose, file unfair labor practice charges and start through the legal mill once more. A more sensible solution would be for Congress to insist that the board take a more cautious attitude toward the cards.

FORMER ASSISTANT SECRETARY OF INTERIOR CAIN RECEIVES AWARD

Mr. HART. Mr. President, it is with very great pleasure that I note for the CONGRESSIONAL RECORD that the Ecological Society of America earlier this year designated Stanley A. Cain as "Eminent Ecologist." This is one of the highest honors of the Ecological Society, and it is awarded most appropriately to Dr. Cain, former Assistant Secretary of the Interior for Fish, Wildlife, and Parks and currently professor of conservation in the School of Natural Resources at the University of Michigan.

Dr. Cain is greatly respected in Washington, in the Nation, and, indeed, worldwide. His selection for this honor will be widely acclaimed. I ask unanimous consent that the Ann Arbor news article which describes the citation be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

PROF. CAIN NAMED "EMINENT ECOLOGIST"

The designation "eminent ecologist," one of the highest honors of the Ecological Society of America, has been conferred upon University Prof. Stanley A. Cain.

Prof. Cain, who now serves as Charles Lathrop Pack professor of conservation in the U-M School of Natural Resources, recently completed three years as U.S. assistant secretary of the interior for fish, wildlife and parks.

The society acknowledged that Prof. Cain "has preceded us and led us in the development of the science of ecology." Ecology is that branch of biology concerned with the interrelationships between all organisms and their environment.

The citation reads in part:

"From his Hoosier days of wonder before the cypress swamps and ruins of New Harmony, he has always been guided by the double searchlight of scientific endeavor and social responsibility. Many of us have experienced the grave difficulty of choosing between scholarship and public works, bearing in mind that whatever message we might bring to our communities derived its value from our substance as scientists . . . Not so, it seems, for Stanley Cain in Indiana, Illinois, and Tennessee, when he gave himself so completely to the study of flora and vegetation, picking up clues from European workers then very poorly understood in America.

"He contributed more than anyone to break the embattled provincialism of the early 30s among American botanists, by restating and critically analyzing concepts of vegetation analysis. As for the science of floristics, his book 'Foundations of Plant Geography' set up a new framework for a tired discipline very badly in need of rejuvenation."

Educated at Butler University and the University of Chicago, Prof. Cain taught at Butler, Indiana University, the University of Tennessee and Cranbrook Institute of Science in Bloomfield Hills before joining the Michigan faculty in 1950.

ST. LAWRENCE SEAWAY

Mr. MONDALE. Mr. President, the Duluth News-Tribune, in an editorial published February 19, and the Faribault Daily News, in a March 6 editorial, commented on the hearings recently held on S. 3137, to make possible a toll reduction on the St. Lawrence Seaway. I was proud to introduce the bill with 14 cosponsors from both parties from all the States in the Upper Midwest.

The News-Tribune concluded that the "choice for Congress should be obvious." That is, to "drop the debt and allow the Seaway to fulfill its potential as an intra- and international waterway, creating jobs, stimulating trade and adding to the economy of the nation by providing a competitive avenue of commerce."

The Daily News pointed out that:

A significant reduction in toll rates . . . could produce an increase in traffic on the St. Lawrence Seaway.

I ask unanimous consent that the text of the editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

LIFT DEBT ON SEAWAY

By way of favorable decisions from the Interstate Commerce Commission and the U.S. Supreme Court, the federal government recently gave two major railroads permission to merge, thereby improving the railroads' competitive position.

It would seem only fair, then, for the federal government, through congressional action, to improve the competitive position of the St. Lawrence Seaway by removing from the seaway corporation the debt for construction of the Seaway.

It would seem especially fair considering that no other major waterway in the United States has to pay back the construction costs to the government.

Sen. Walter Mondale, D-Minn., (in a joint effort with senators from all the states bordering on the Great Lakes and therefore, which use the Seaway), last November introduced a bill to eliminate this debt. Tuesday, Mondale testified in support of that bill before a Senate subcommittee on the Great Lakes-St. Lawrence Seaway.

At present, the St. Lawrence Seaway Corp. is required to pay back to the federal government by 2009 the $120 million capital cost of developing the Seaway, plus interest. At the same time, the corporation has been required to pay the Seaway's maintaince costs.

Mondale has called this "government sanctioned discrimination," and he supports that contention by pointing out that the government has paid $56 million to develop and $50 million to operate and maintain the Gulf Intercoastal Waterway; has paid $62 million to develop and $11 million to operate and maintain the Mississippi River-Gulf Outlet; has paid $33 million and $37 million to maintain and operate the Houston Ship Channel, and has paid $130 million to develop and $140 million to maintain and operate the Delaware River Channel to Philadelphia.

Mondale has proposed that the government only write off the Seaway debt, making it a permanent investment in a commerical waterway. He has taken the position that the Seaway can pay its own operating and maintenance costs if not faced with repaying the development costs.

Dropping the debt for development is the only sensible alternative available to the government really, if it wants to have the Seaway at all. If the debt isn't dropped, then the Seaway must consider repayment through increased toll fees, and this surely would diminish the traffic on the Seaway, making it even less able to make repayment.

The government's choice, then, is quite simple: it can continue to demand repayment, and perhaps get some repayment before the Seaway becomes inoperable because of bankruptcy—or the government may drop the debt and allow the Seaway to fulfill its potential as an intra- and international waterway, creating jobs, stimulating trade and adding to the economy of the nation by providing a competitive avenue of commerce.

The choice for Congress should be obvious.

SEAWAY HAS DEFICIT

The St. Lawrence Seaway has been busy ever since it was completed and has recorded increases in shipping tonnage every year except on since it opened in 1959. Even so, toll collections of the St. Lawrence Seaway Development Corp, have been insufficient to meet payments on the $131.6 million debt to the U.S. Treasury for the American share (27 percent) of original seaway construction. An aide to Sen. Walter F. Mondale (D.Minn.) says that toll revenues of the corporation have paid off "hardly a nickel" of the debt, which now stands at around $150 million in principal and interest.

Mondale thus has sponsored a bill which would cancel the corporation's debt and permit all toll revenues to be used for meeting operation and maintenance costs. The senate commerce committee's sub-committee on Great Lakes-St. Lawrence Seaway transportation, of which Mondale is chairman, will open hearings on the bill on Feb. 17. If the measure should be approved, and if Canada were to adopt similar legislation, it might be possible to reduce seaway toll rates by as much as two-thirds.

Cancellation of the U.S. portion of seaway debt would be, in one view, an act of simple justice. Herbert D. Doan, chairman of the 10th anniversary seaway celebration, pointed out last Dec. 13 that "Billions of dollars have been spent in other parts of the country on waterways, and yet the Great Lakes Seaway is the only waterway in the United States which requires the payment of tolls." Doan urged that governors of the Great Lakes states "get together and exercise their considerable power" to demand federal help in operating the seaway. But Doan may have over-rated the power of the Great Lakes states. Several previous bills aimed at easing the seaway corporation's financial burden have failed to win approval in congress.

U.S. waterway shipping operators are proud of their efficiency. For a dollar, they say, a customer can send a ton of cargo 330 miles by barge, as compared with 66.7 miles by rail and 15.4 miles by truck. Although waterway shippers have brought into use towboats that can push in one load as much cargo as could be lifted by 1,500 of the largest trucks or by almost 1,000 railroad cars, the industry has not raised its rate of three-tenths of a cent per ton-mile in 20 years. A significant reduction in toll rates therefore could produce an increase in traffic on the St. Lawrence Seaway sufficient to partially offset the drop in toll revenue.

THE AMERICAN STAKE IN THE DEFENSE OF ISRAEL

Mr. DODD. Mr. President, when Prime Minister Golda Meir of Israel visited our country in February, she asked our Government to sell Israel an additional 25 F–4 Phantom jets and 100 A–4 Skyhawk jets. The administration undertook to consider the proposal.

The decision on Israel's request was announced by Secretary of State Rogers at his press conference yesterday. The Secretary said that in the judgment of the State Department, Israel's air capacity is sufficient to meet its needs for the time being, and that, in consequence, it had been decided to hold in abeyance the decision on Israel's request for additional aircraft.

I know that the administration agrees that it is in our national interest to help Israel preserve her freedom, and that the destruction of Israel by the forces that threaten her would be a moral and political disaster for the entire free world.

Many of our people are concerned over the possibility of American involvement in the Mideast conflict.

I understand and share this concern.

The Israelis, however, have demonstrated that they are more than able to take care of themselves, if they can get the weapons to equip their own forces.

The surest way to prevent American involvement, under these circumstances, is to make certain that Israel has the weapons it needs to defend itself against the possibility of renewed Arab aggression.

It is because of this that I have serious misgivings about the administration's decision to put off action on the requested sale and to make the sale contingent on future assessments of the situation.

Israel's neighbors, between them, have from three to four times the number of aircraft that the Israelis have.

Moreover, the Soviets, in addition to pumping in ever more aircraft, are now sending large numbers of SAM–3 antiaircraft missiles and thousands of Soviet military personnel to Egypt.

It has been argued that, although the Israel air force is far inferior to the Arab forces in numbers, the Israelis are so far ahead of the Arabs qualitatively

that, in actual fact, they enjoy superiority in the air.

As far as this present moment is concerned, there is something to this argument. In terms of the skill and elan and dedication of its pilots and the quality of its maintenance crews, the Israel air force is certainly one of the finest in the world.

The Arab air forces, on the other hand, although they have first-rate modern planes, perform abysmally because their pilot morale is low and their ground crews unskilled and unmotivated.

But the problem of aircraft attrition is a far more serious one for the Israelis than it is for the Arabs.

With their tiny air force of roughly 300 planes, the Israelis are flying virtually around the clock. The planes are even more overworked than the pilots, because the Israelis have two pilots for every plane.

Far more serious than their losses in battle is the day-in and day-out attriton that takes place, even with the best of maintenance, when planes are flown as hard as the Israelis fly theirs.

To give them the strength that they must have, a year from now or 2 years from now, to meet the continuing Arab buildup in military aviation, it is necessary that decisions be made today on future deliveries of aircraft to the Israelis. As a matter of fact, the experience has been that the average time lag between a contract for the sale of aircraft and actual delivery runs something like 18 months.

Secretary Rogers in his statement described the decision to hold up action on the sale of aircraft to Israel as an "interim decision"; and he said that if steps are taken to upset the current balance, the President would not hesitate to reconsider the matter.

The Secretary of State also confirmed that the United States would be granting economic aid totaling roughly $100 million to the State of Israel, including credits to cover payment on past military contracts.

The sincerity of the administration's commitment to the defense of Israelis, I believe, beyond challenge. But in the light of the facts I have here set forth, I hope that the administration will move to reassess the Mideast situation without undue delay, and that Israel will receive the planes she needs and has requested.

Mr. President, I ask unanimous consent to have printed in the RECORD a number of recent newspaper articles dealing with the continuing buildup of Soviet arms in the Arab countries.

There being no objection the items were ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Mar. 18, 1970]

NEW AIR-DEFENSE SYSTEM DELIVERED TO EGYPT—SOVIETS INCLUDE ANTIAIRCRAFT MISSILES, RADARS, COMPUTERS

(By John K. Cooley)

BEIRUT, LEBANON.—The Soviet Union has delivered a complete new air-defense system to the United Arab Republic.

It reportedly includes late-type antiaircraft missiles, radar, electronic guidance devices, computers, and Soviet technicians to man them.

Ten freighters brought the Soviet equipment to Alexandria from Yugoslav ports during the five-day period of March 12 to 16. More shipments were expected, a correspondent of the American Broadcasting Company's television news recently in Egypt reported.

Intelligence sources here said the shipments were of defensive equipment only, designed to repair Egyptian air defenses badly shattered to the Israeli air offensive that began last December.

Neither advanced jet aircraft such as the Soviet MIG–23 nor any surface-to-surface missiles were included, the sources added.

MISSILES INCLUDED

Main items in the shipments were Soviet SAM–3 missiles. These are two-stage antiaircraft weapons, probably of the type called Goa in NATO terminology. They are designed especially for use against low-flying aircraft usually unreachable with the earlier SAM–2 Guideline missile. Guidelines have been used by North Vietnam and Egypt and have been deployed in many Soviet-supplied countries for nearly 10 years.

Since the Israeli Air Force began heavy strikes inside Egypt last fall, the SAM–2's have knocked down only a few of the attacking Israeli planes, probably including one Phantom fighter bomber. Israeli fighter bombers have destroyed many SAM–2 emplacements.

Besides the SAM–3's, new factors in the latest Soviet shipments are much more sophisticated radar and computer equipment than the Soviet Union had supplied before, and the arrival of several hundred more Soviet technicians including, it was believed, firing crews supplied by the Soviet Red Army rocket-forces command.

Israeli commandos removed one complete Soviet radar set of an earlier type last December in a raid near Ras Gharib, on Egypt's Gulf of Suez coast, and flew it to Israel.

SPOKESMEN COMPLAIN

President Nasser has recently remarked that the United States had given Israel the most advanced possible electronic range finders and computers.

Egyptian spokesmen complained that it was difficult to obtain similar advanced equipment in these fields from the Soviets since Egypt had no sure knowledge of exactly what the Soviet inventory offered.

Soviet delivery of the new defensive weapons to Egypt is interpreted here as a signal from Moscow that it wants to reduce the damage done almost daily to Egypt by Israel's overwhelmingly superior Air Force.

At the same time, by holding off on deliveries of advanced jet planes or offensive missiles, Moscow is signaling Washington that it does not want to escalate the Mideast arms race in offensive weapons.

DISSUASION SEEN

This, the Soviets apparently feel, may dissuade President Nixon from granting Israel's requests for new United States Phantom and Skyhawk fighter bombers and for more than 100 large Sikorsky helicopters. Israel wants the helicopters for commando operations of the type it carried out against Syria March 16 and 17.

Washington reports said March 17 that President Nixon's decision, delayed past the March 1 deadline he had set, could be expected before the end of the current week.

The Soviet arms deliveries to Egypt through Yugoslavia were probably arranged in a series of talks since January between President Nasser, the Russian leadership and Yugoslav President Tito, who visited Egypt last month, Western diplomats believe.

FLEET REINFORCED

They were accompanied by a reinforcement of the Soviet Mediterranean fleet. One of the new units arriving in the Mediterranean from the Black Sea about March 11 was an 18,000-ton floating dock towed by three tugs. Turkish naval sources in Istanbul said it was headed for Egypt.

The dock might be intended for clearing or salvage operations in Egyptian harbors, such as Port Said, at the northern end of the blocked Suez Canal.

Or, naval expects here believed, it might serve Soviet naval units in some secluded but poorly equipped Egyptian Mediterranean port, such as Sollum near the Libyan frontier.

The total Soviet Mediterranean fleet strength increased during the two previous weeks, a NATO naval spokesman in Naples said March 17. There now were 50 to 52 ships including 11 to 13 submarines, he added. This was a total increase of 10 to 12 units during the period and is greater than Soviet strength at the same time last year.

The Soviet flotilla includes the helicopter carrier Moskva which reentered the Mediterranean Jan. 4. The Moskva also normally carries a contingent of Soviet marines.

[From the New York Times, Feb. 17, 1970]

SOVIET PROMISES "NECESSARY" HELP FOR ARAB STATES—SAYS IT WILL BOLSTER THEIR DEFENSES AGAINST ISRAEL'S "CRIMINAL" AGGRESSION—MIG–23'S MAY BE SENT—MOSCOW STATEMENT VOICES DESIRE TO HAVE A POLITICAL SETTLEMENT IN MIDEAST

(By Bernard Gwertzman)

Moscow.—The Soviet Union asserted tonight that it would supply the Arab countries with "the necessary support" to bolster their defenses against what it termed Israel's criminal policy of aggression.

A brief, but sharply worded statement issued by Tass, the Soviet press agency, combined what appeared to be a pledge of military aid to the Arabs with a reaffirmation of Soviet desires for a peaceful settlement of the Middle East crisis.

The statement was the latest in a series of public and private declarations by the Soviet Union since Premier Aleksei N. Kosygin's letter to Western leaders late last month calling for urgent diplomatic moves to end Israel's occupation of Arab territory.

Western diplomats tended to regard the Tass statement as an indication that barring a diplomatic solution, which seems unlikely at this moment, additional Soviet military aid, such as late model MIG–23 fighters, would be sent to the United Arab Republic and other Arab countries.

LANGUAGE IS VITUPERATIVE

The language of the statement was extremely vituperative against Israel, in line with occasional press articles here that compare Israel with Nazi Germany.

"The Soviet people resolutely denounce the barbarous aggressive actions of Israel," the statement said. "They express their solidarity with the Arab states fighting for their legitimate rights."

Asserting Soviet desire for a political settlement, the statement said: "The policy of the Soviet Union is aimed at establishing peace again in the Middle East, to make national strife and wars a thing of the past. And our country will not weaken its efforts in this direction."

NASSER SEEKS MIG–23'S

"But as long as the aggressor tramples underfoot the principles and goals of the United Nations Charter and decisions of that international organization on the liquidation of the consequences of Israeli aggression and the restoration of peace in the Middle East," the statement continued, "the Soviet Union will render the necessary support to the Arab states in strengthening their ability to uphold their security and their just interests."

The Soviet declaration did not specify what constituted necessary support.

President Gamal Abdel Nasser of the United

Arab Republic has indicated in recent weeks that he would like the MIG–23's to counter the United States-made Phantoms recently acquired by Israel.

On Friday, President Nasser said in an interview with James Reston of The New York Times that he was seeking MIG–23's as well as Soviet technological aid to offset Israeli air attacks but that he was hesitating about asking for Soviet pilots to fly the aircraft.

If additional military aid is sent, Soviet officials undoubtedly would justify it as necessary in light of Israel's recent activity and the failure of President Nixon to side with the Soviet Union against Israel.

Mr. Nixon's proposal, in answer to Mr. Kosygin's letter, for a total arms embargo on the Middle East, was rejected by the Soviet Union last week on the ground that it drew no distinction between "the aggressor" and the "victims of aggression."

GUERRILLIAS SEEM IGNORED

Western diplomats also noted that the pledge to aid "Arab states" seemed to rule out overt Soviet military support for the Palestine guerrilla organizations. Yasir Arafat, the head of Al Fatah, the largest guerrilla organization, is in the Soviet Union as the guest of the African-Asian Solidarity Group, a nongovernmental body.

Mr. Arafat has been ignored by the Soviet press, and it is assumed that he is not getting the degree of publicity he may have liked.

The statement took note of last week's bombing by Israeli aircraft of a scrap-metal processing plant near Cairo in which at least 70 civilians were killed.

It said that "in its desire to thwart a peaceful political settlement in the Middle East, the Israeli leadership is prepared, apparently, to trespass all limits, to resort to any atrocities, disregarding the elementary principles of humaneness and norms of international law."

"The Israeli militarists and those who put weapons into their hands are confident, it appears, that by means of blackmail and threats, by means of the notorious escalation of aggression, they will be able to make the Arab states, and primarily the neighbors of Israel, renounce their lawful interests and accept the imperialist demands," it said.

THANT TO MEET JARRING

UNITED NATIONS, N.Y.—Secretary General Thant and Dr. Gunnar V. Jarring of Sweden, his special representative, will meet in Geneva Wednesday to access their "roles in seeking to cope" with the "increasingly serious deterioration" of the Middle East situation, a United Nations spokesman today said.

Mr. Thant will stop in Geneva on his way home to Burma, where he will spend a week with his two brothers and his ailing mother.

Mr. Thant is known to be deeply concerned over the intensification of fighting in the Middle East and the absence of progress in the Big Four talks here. The talks, now about a year old, were called in the hope that the big powers could agree on an outline for a peaceful settlement which Dr. Jarring would then submit to the Arab and Israeli governments.

A six-nation United Nations investigative body, meanwhile, reported that it had heard charges that the Israelis had allegedly tortured prisoners in prisons in Nablus, Jerusalem and Gaza. The conclusions of the report were made public by the United Nations.

The group said that it had collected evidence and heard witnesses in New York, Geneva, Beirut, Damascus, Amman and Cairo but had not obtained any cooperation from Israel and had been barred from the territories held by Israeli forces.

"The evidence received was one-sided, nevertheless the group was able to make an evaluation of such evidence," the report said. The group included representatives of Austria, India, Peru, Senegal, Tanzania and Yugoslavia. It was set a year ago, by the United Nations Commission on Human Rights.

The reporter said that in addition to charge of torture, the group had heard witnesses contend that "Israeli forces had occasionally ill-treated and killed civilians without provocation."

[From the Christian Science Monitor, Jan. 3, 1970]

ARABS CHART NEW ARMS BUILDUP AGAINST ISRAEL

(By John R. Cooley)

BEIRUT, LEBANON.—President Nasser's announcement in Khartoum, Sudan, Jan. 1 that Egypt will raise a million-man army opened what may become a warlike 1970 for the Arab states.

As the Egyptian leader spoke, Palestinian guerrilla warfare was intensified against Israel and new Israeli air blows were aimed at Egypt and Jordan.

Egypt's antiaircraft defenses along the Suez Canal were reported to be virtually destroyed in some sectors. Jordan's vital East Ghor irrigation canal was knocked out by Israeli bombing Jan. 1 for the third time since last June. Israel had permitted its repair on two previous occasions in return for assurances by King Hussein of low military and guerrilla activity against nearby Israeli settlements.

At the same time Israeli Defense Minister Moshe Dayan and Information Minister Israel Galili both warned Lebanon of "consequences" of guerrilla warfare like those suffered by Egypt's Suez Canal towns and the villages of the Jordan River valley.

BLAME AND PRAISE

In his remarks in Khartoum President Nasser had the sharpest blame for the United States and the highest praise for France and the Soviet Union since the breakdown of the Arab summit conference in Rabat Dec. 24.

To observers here the tenor of his remarks suggested the start of new psychological warfare against the United States and possibly against "reactionary" Arab regimes, mainly Saudi Arabia and Kuwait as well.

President Nasser and Egyptian Foreign Minister Mahmud Riyad were in Khartoum Jan. 1 and 2 for celebrations of Sudan's 14th Independence anniversary and for talks with Maj. Gen. Gaaun el Numeiry's Sudanese regime.

Their visit followed tripartite talks in Tripoli forming an unofficial alliance with the revolutionary regimes of Libya and Sudan.

ARMED FORCES ASSESSED

President Nasser said Egypt now has 500,000 men "at the front and we are in the process of building a strong army of 1 million fighters to confront Israel and those behind Israel."

Last October the Institute of Strategic Studies in London estimated Egypt's total armed forces including mobilized reserves at 207,000. Mohammed Hasanain Haykal, editor of the newspaper Al Ahram and a close associate of President Nasser, called the institute's figures "wrong" without explaining where the errors lay.

"We confront not only Israel but the United States and the other imperialist powers as well," President Nasser added. He termed the recent U.S. proposals for Egyptian-Israeli and Jordanian-Israeli peace settlements as "suspicious schemes" in which "the U.S. goal is to enable Israel to grasp the throats of Arab states and keep control of Arab territory."

President Nasser made no reference to the recent flight of five embargoed French-made gunboats to Israel. confirming views of observers here that Cairo and most other Arab capitals do not plan to allow the incident to disturb French-Arab relations.

In Cairo Al Ahram said France had given Israel "a slap in the face" by demanding recall of Adm. Mordechai Limon, chief of the Israeli purchasing mission in Paris and by suspending two senior French officers connected with the affair.

In Tripoli, however, the official radio quoted Col. Muammar al Quaddafi, the Libyan chief of state, as expressing "fear that the gunboat incident may affect relations between France and the Arabs" because of "the concern felt by Arab public opinion."

ARMS SALES REVISED

Paris and Tripoli have been negotiating for the sale of French arms, including Mirage 5 fighter-bombers and AMZ 30 heavy tanks to Libya.

Last week the British Aircraft Corporation canceled "with regret" an antiaircraft weapons system contract worth about $240 million, negotiated by the government of King Idris. Libya had failed to meet installment payments on the contract.

Since the Rabat summit conference Libya has shown intentions of aligning its arms purchases and defense policies with those of Egypt. These apparently aim at building up large conventional forces in the northeast corner of Africa for an ultimate showdown with Israel.

Some military sources expect as a result of the U.A.R.-Libyan-Sudanese talks the strengthening of Sudanese forces along the Suez Canal front and the dispatch of the first battalion of Libyan troops to the canal.

Kuwati and Algerian forces also serve on the canal, and Algerian artillerymen and commandos have been reported active in combat there.

[From the New York Times, Mar. 19, 1970]

SOVIET TROOPS AND MISSILES REPORTED TO BE IN EGYPT

A large number of Soviet troops and modern SAM–3 antiaircraft missiles have arrived in the United Arab Republic in the last week, according to information reaching here from reliable diplomatic sources in Cairo.

The missiles, designed to cope with low-flying enemy aircraft, are rapidly being put into position at the port city of Alexandria, at an air base west of Cairo and elsewhere in Egypt, it was reported.

Soviet soldiers have been observed driving trucks bearing nine missiles on the desert highway linking Cairo with Alexandria.

For the last week, according to the diplomatic sources, the highway has been closed to foreigners at intervals, and there have been rumors that it may be closed indefinitely to Western residents in the United Arab Republic.

The number of Soviet troops arriving in Egypt with the missiles, estimated from 1,500 upward, suggested to diplomatic observers that the Russians would operate the antiaircraft weapons and the complex radar support facilities.

Concern has been voiced about Soviet reaction if Israeli aircraft attacked the new missile sites, killing or wounding Russians. The Soviet Union might then feel compelled, it has been said, to send fighter squadrons to protect the antiaircraft forces.

The SAM–3 missiles have become important to the defense of Egypt since the Israeli action, undertaken in January, involving low-level air strikes against military targets in the heart of the country.

Many of the Israeli raids have been directed against Soviet-supplied SAM–2 missiles, which are effective against high-flying aircraft to an altitude of 60,000 feet but are generally unable to bring down low-flying planes.

USED AGAINST U.S. PLANE

It was a SAM–2 missile, according to Soviet reports, that ended the espionage flight of the American pilot Francis Gary Powers on May 1, 1960, when his U–2 plane was brought down near Sverdlovsk, in the Urals.

American pilots have learned in North Vietnam how to evade the SAM–2 by low-level attacks and by the use of electronic devices that disoriented the missiles. Israeli pilots flying over Egypt have emulated the tactics developed in the Vietnam war.

The arrival of SAM-3 missiles in Egypt, however, appears to have confronted the Israeli Air Force with the risk of a greater loss rate if the raids are continued. Of the handful of Israeli planes shot down by Egyptians thus far, most have been brought down by conventional antiaircraft weapons. Only one instance has been reported in which an Israeli plane was brought down by a missile.

DECISION WAS EXPECTED

Moscow's decision to send antiaircraft missile units to Egypt became almost inevitable, according to some analysts, after Israeli air strikes in the vicinity of Cairo in January and early February.

The Egyptian Air Force, although superior to that of Israel in the number of aircraft, has suffered from a lack of pilots sufficiently trained for combat against the skilled and experienced Israelis.

Following an Israeli Air strike against a metal plant near Cairo on February 12, in which 80 civilian workers were killed, there were indications that the Cairo leadership was pressing the Soviet Union for aircraft capable of carrying out retaliatory raids against Israel.

The short range of Egypt's soviet-supplied Sukhol-7's and MIG–21's does not permit raids against Israel from Egyptian bases. All Egyptian air action has been directed, therefore, against Israeli positions in the occupied Sinai Peninsula, near the Suez Canal.

SPECULATION ABOUT MIG–23'S

There was much speculation that the Soviet Union might supply the Egyptian Air Force with MIG–23's, a powerful twin-engine fighter capable of speeds up to 1,800 miles an hour, faster even than the Phantoms being delivered to Israel by the United States.

This possibility has been challenged by some experts, who say that the MIG–23 is not in squadron service yet even in the Soviet Union.

The United Arab Republic has some TU–16 long-range bombers, but experts doubt that these relatively slow planes would be able to penetrate Israeli air defenses.

In any event, it is considered most unlikely that the Soviet Union would endorse any air strikes against targets in Israel.

The delivery of the defensive antiaircraft missiles appears to have been what Premier Aleksei N. Kosygin and other Soviet officials had in mind when they warned several weeks ago that Israeli air raids against Egypt would force Moscow to render more effective military support to the Arabs.

PROBLEMS OF RURAL AMERICA

Mr. BELLMON. Mr. President, the crisis facing the citizens of our country who reside in rural America has recently caused the information of the Rural Affairs Council by President Nixon. The February 21, 1970, issue of the Kansas Farmer contains an article written by the distinguished Senator from Kansas (Mr. DOLE), which discusses the problems of rural America and the approach of the Rural Affairs Council to solve this crisis.

Senator DOLE, who represents one of the most important agricultural States in the country, has long endeavored to improve conditions in rural America. Prior to his election to the Senate, he served with distinction as a member of the House Committee on Agriculture. He has sponsored and cosponsored many bills aimed at solving and preventing problems of farmers and rural people. Rural America has no more understanding or loyal friends than the junior Senator from Kansas.

I ask unanimous consent that the article written by Senator DOLE be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

THE RURAL AFFAIRS COUNCIL: A NEW APPROACH TO THE CRISIS IN RURAL AMERICA

(By Senator BOB DOLE)

Every day we hear of the crisis in our cities. Crime escalates, complexities of everyday affairs multiply and the quality of life in general continues to decline. No one disputes the severity and crucial nature of the urban situation, but there is another and equally important crisis in this country: the declining economy and eroded vitality of rural America.

On November 13, 1969, President Nixon created the Rural Affairs Council, a cabinet-level organization concerned particularly with encouraging the creation of new jobs in rural America, training people to fill those jobs and generally improving living conditions there.

In announcing the formation of the Rural Affairs Council, the President said: "We are a nation of cities, to be sure, but we are also a nation of small towns and villages, farms and forests mines and ranches, mountains and rivers and lakes. The people who live in rural America have urgent problems which deserve our attention. More importantly, they represent a great resource upon which all of us can draw."

America has always drawn upon both the natural and the human resources of her countryside, yet rural-to-urban migration brought about by the agricultural and industrial revolutions went far beyond any plans to cope with such mass relocations of people. In the cities, problems of overcrowding and strained facilities developed, and the countryside groped to adjust to the loss of jobs and the subsequent deterioration of services and institutions.

Several facts underscore the importance of the challenge we face.

60 percent of the Nation's substandard housing is in rural America.

More than 3 million rural Americans have not completed 5 years of school.

A third of our rural communities with a population of over 1,000 have no public sewage facilities.

Nearly half of the poverty-stricken of this country reside in rural America.

The improvement of the quality of living in rural America is vital to those who live there today, and to the millions more who will be born before the end of the Twentieth Century. The population of our country is likely to grow by 50 percent in the next 30 years, and the location of these next hundred million Americans is a tremendously important question for our society.

After an era in which people have moved steadily from the countryside to large and crowded cities, we must now encourage a more even distribution of population. The cities have become almost uninhabitable, but rural America has not been given the support and direction needed to offer a viable alternative to the technological and industrial concentrations of urban centers. The existence of such an alternative is important today, but it will reach critical proportions in direct relation to population increase.

The solution lies not in depopulating New York or Chicago or Detroit, but in changing rural America so Americans will have a genuine choice of where they want to live and work and raise their families. A successful program for rural America can stimulate a migration back to rural areas, remove some of the population pressure from cities, and thus improve life for all.

The membership of the Rural Affairs Council gives ample evidence of the importance attached to its mission. The broadest areas of concern and interest within the government are represented. The resources and experience of each agency or department will be available for the Council's work. The members are: the Secretaries of Agriculture, the Interior, Commerce, Health, Education and Welfare, Housing and Urban Development, Labor; the Chairman of the Council of the Council of Economic Advisors, the Director of the Bureau of the Budget and the Director of the Office of Economic Opportunity.

While giving the Council a broad mandate to assist in nonmetropolitan development, the President specifically directed it to:

Secure information on the problems confronting rural America, identify their causes, and develop means to deal with them by using available programs or initiating new ones.

Foster effective use and coordination of federal programs in the nonmetropolitan areas in order to improve the delivery of public services to the people.

Encourage the fullest cooperation between federal, state and local governments, with special concern for local initiative and local decision-making.

Encourage the most effective role possible for voluntary organizations in dealing with rural problems.

Encourage an improved geographical distribution of the population.

The Rural Affairs Council will also receive and consider recommendations of the President's Task Force on Rural Development, which was established September 29, 1969. The Task Force is made up of people outside the government who are vitally interested in rural America. It has the responsibility of reviewing the effectiveness of present rural assistance programs and recommending what might be done in both the private and public sectors to stimulate rural development. The Task Force is intended to insure that the influence of government personnel and policies will not overwhelm the efforts to promote rural development, and to give continued emphasis to the importance of the role of the private citizen and private enterprise in developing the federal government's part in this undertaking; federal programs can be delivered effectively only when and where the people want them.

And most appropriately when the initiative for evaluating local needs, assessing local resources, planning local development and carrying out programs locally comes from outside Washington, from the states and communities which will be affected. The Task Force will be a valuable stimulant for states and localities to join the federal government and private enterprise in the job of bringing new growth and development to rural America.

Among the agencies involved at the federal level, the USDA, with its extensive field staff and traditional responsibilities in rural America, will play a leading role in rural development. Secretary Hardin has created within the department a Rural Development Committee which will coordinate programs, develop policy and maintain inter-departmental liaison for the department in this field.

Secretary Hardin has foreseen vital roles to be played by the Extension Services, the state universities and land grant colleges in helping the people develop rural America.

"Rural development begins at home," he has said. "It is the responsibility of state and local organizations, groups and leaders. They will provide the channel through which the people may improve their situations" by analyzing their local needs, assessing their local potentialities, and matching their com-

munity's potential with private and public programs at all levels of government.

Extension will be asked to bring cohesiveness into community development programs through education and to help people obtain the right kind of planning, financing and technical aid from other agencies. Each director of a state Extension Service has been asked to convene a USDA Committee for Rural Development in his state. These committees will work closely with state and local people in comprehensive planning and development and also provide technical assistance. Membership will include representatives from the Forest Service, the Soil Conservation Service, the Farmers Home Administration, the Rural Electrification Administration, the State Extension Service and anyone else whose representatives feel will contribute.

In the decade of the 70's the strength of rural America will be vital as never before to the whole nation. The quality of the American way of life depends on it. To have a healthy, growing and habitable country, we must have a nonmetropolitan alternative and solution to the uninhabitable, ungovernable city. The opportunity and potential are there. With dedication to the goal and faith in our abilities, our America, urban as well as rural, will become the place we all want it to be. The Rural Affairs Council and the concept it exemplifies are a significant and encouraging beginning.

Still, it is the people of each community who will decide the future of that community. A well-developed rural America with sufficiently good employment opportunities and living environments will be a sum of the efforts of those people, working with their governments at all levels.

THE GENOCIDE CONVENTION: MORAL LEADERSHIP, NOT MORAL EXEMPTION

Mr. PROXMIRE. Mr. President, one of the arguments that has been frequently presented against Senate ratification of the Genocide Convention is that this treaty is undesirable because it would allow our leaders and Nation as a whole to be brought up before an international tribunal on charges of genocide in connection with the war in Vietnam or the Black Panthers. I have dealt earlier with such arguments from a legal viewpoint, and demonstrated that these objections distort and gloss over many of the facts.

What particularly disturbs me at this time, however, is not simply that the facts are presented incorrectly. More fundamental is that this argument results from a kind of moral arrogance. It implies that somehow the United States should not be held accountable for the crime of genocide, but that this moral exemption is an exclusive American "privilege."

Moral arrogance and aloofness toward this hideous crime is a totally unwarranted reaction. It assumes that this country holds a monopoly on morality and that our moral posture is absolutely unimpeachable.

I am not saying that this is not a great country, and that its people are not good people. I am not saying that the United States cannot be a moral leader for the rest of the world. I am saying, however, that we are not inherently entitled to an exemption from morality.

The controversy surrounding the Army's investigations into the tragedies at Songmy is a good example of the effects of claiming this exemption from morality. When the first reports of a massacre began to come in from former servicemen, the instantaneous reaction of many Americans was, "Sheer nonsense. How could our American men ever do a horrible thing like that?" In other words, this country had a claim on morality in war.

But as the facts were compiled and evaluated, the inescapable conclusion was that a tragedy of major proportions had indeed occurred. As a result of the Army's 5-month official investigation, American boys are going to be brought to court-martial on charges of murder.

The point is not, as some have charged, that we are committing genocide in Vietnam. Rather, it is that we have no exemption from morality in war. Americans, under the battle stress and severe emotional strain of war, can react in the same way as men from other countries, when faced with the same situation.

Similarly, it would be a tragedy for us to claim a moral exemption—either through fear or arrogance—from other problems facing our country today. Some people have charged that genocide is being committed in action against the Black Panther movement in the United States. I, for one, do not believe that these charges have merit. However, it is not for me to stand here and pass on the judicial aspects of this situation. That is the function of a court of law.

And that is my point: The situation involving the Black Panthers should not and must not be used as an excuse for refusing to ratify the Genocide Convention. If we oppose this treaty out of fear, then our action lends credence to the charges of genocide. If we refuse to ratify because we claim a moral exemption from genocide, then we have not paid heed to the lessons of Songmy.

Let us resolve to face up to the problems of our country, and not use them as excuses for opposition to this treaty. If there is genocide in this Nation, and it is shown to be the case, then we cannot and must not run away from the causes of the charges.

Senate ratification of the Genocide Convention would be a symbol to the rest of the world, and more importantly to ourselves, that the United States is not afraid to face up to the problems that have brought about these charges. It would be a step toward moral leadership, and a recognition of the fact that we have no special claim on morality, no moral exemption. It would be a rededication of our efforts to protect the human rights of people in our country and throughout the world.

Let us make the Senate ratification of the Genocide Convention an exemplary exercise in American moral leadership. Refusal to ratify would only be a retreat from the battle for human rights.

NEED FOR CONSTRUCTIVE DEBATE ON FOREIGN POLICY CONTINUES

Mr. MONDALE. Mr. President, in light of growing problems and tensions around the globe, the need for responsible and constructive debate on our foreign policy continues.

Vietnam remains as frightening and as far from solution as ever. Laos and Cambodia threaten to widen the war throughout all of what used to be Indochina.

New directions are needed with respect to aid, trade, foreign troops levels, and a score of other foreign-policy matters.

The Democratic Policy Council has contributed to this discussion through a report prepared by Hon. Averell Harriman.

I ask unanimous consent that the text of the statement be printed in the RECORD.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY INTERNATIONAL AFFAIRS COMMITTEE, DEMOCRATIC POLICY COUNCIL

WASHINGTON, March 14.—On February 18, President Nixon submitted to the Congress "a first annual report on U.S. foreign policy"—a "State of the World" message. It is difficult to find in its 43,000 words much that adds to congressional or public understanding of the complex international issues we face. As a document that purports to be "a new approach to foreign policy," it lacks substance and candor in laying out the many serious issues the country faces, and it fails to offer a creative program of action to deal with them.

During his campaign, President Nixon declared he had a "plan for peace." Today American boys are still fighting and dying in Vietnam, and now after a year of heavy staff work the Nixon Administration has revealed its "New Strategy for Peace": "Peace requires partnership . . .; peace requires strength . . .; peace requires a willingness to negotiate . . .; peace, we have learned, cannot be gained by good will alone . . .; peace does not come simply with statemen's smiles." These are singularly empty phrases when compared to other statements such as President Kennedy's analysis of peace at American University in June of 1963.

The report is filled with unstinting self-praise for all kinds of "firsts," "new" departures and "innovations":

The Nixon Administration proclaims an "era of negotiations," disregarding the fact that there has been no shortage of negotiations in recent years and that there have been significant agreements achieved, including the limited test ban treaty, the outlawing of atomic weapons in outer space and nuclear non-proliferation.

Two decades after the Marshall Plan made "self-help and mutual assistance" the guiding principle, the Nixon Administration discovers "self-help" to be an essential ingredient in economic development.

A decade after President Kennedy initiated the "Alliance for Progress" we are told that the Nixon Administration is the first to decide that "partnership" should be the basis of our relations with Latin America.

More importantly, this simplistic sermonizing is accompanied by bureaucratic congestion. What is missing is an understanding that far more important than the procedures of decision-making are the decisions themselves and people who make them. A few good appointments are worth a score of committees. One wise decision is worth more than a stack of studies.

For page after page the report describes the "new" machinery which the Nixon Administration has created to handle foreign affairs: layer upon layer of "planning", "systematic review", "analysis", and "study of options"; committees within committees; panels within panels; groups within groups. What emerges is this picture: an Adminis-

tration that has confused system with substance, that has substituted institutionalized mechanics for creative action.

After dismantling the Alliance for Progress, President Nixon's phrase-makers offer "action for progress." It is clear, however, that the pious preachments of "partnership" mask a "benign neglect" for the growing crisis of democracy and development in our Hemisphere.

As to Europe and NATO the report adds rhetoric in describing a "mature partnership" but no new substance to policies long established.

To Africa the Administration offers more generalities: "Our assistance throughout the continent will be flexible and imaginative,"—without describing the actions to be taken. The message states "the hard facts must be faced." Yet, the commendable step of closing our consulate in Southern Rhodesia, the Administration delayed for more than eight months after the British urged this action be taken.

Regarding Asia, the report implies that the region's peoples shall henceforth make do with their own "wide range of energy and genius." But the claims of new constraints on our involvement in Asia are hard to square with the Vice President's scatter-shot of promises to Asian leaders he met on his trip. However, we commend the initial steps taken toward improved relations with Communist China.

We agree with the President that, "Good U.S. economic policy is good U.S. foreign policy." Unfortunately, stumbling domestic economic mismanagement and our unfolding recession will have harmful repercussions abroad, especially among the developing nations.

Foreign aid was originally launched with wide bi-partisan cooperation, and we feel strongly that it should be continued on that basis. The recent recommendations of the President's Task Force for a new approach on international development give an opportunity for renewed bi-partisan cooperation for an effective program. The emphasis on increased support for the World Bank and the regional development institutions should be particularly welcomed. The proposals for multi-year funding are also sensible. However, careful examination should be given to those administrative proposals which divide responsibility for development among several high-level bodies for what is, in fact, one overall problem.

With regard to East-West relations, the message is one of hobbled gradualism on all fronts:

The S.A.L.T. negotiations—Despite the report's acknowledgement that these are the "most important arms control negotiations this country has ever entered," the Nixon Administration shows none of the urgency demanded by the rapid and deadly developments in the continuing arms race. A leisurely "building block" approach, which seeks to preserve all options while we move in measured steps toward "comprehensive assessments," ignores the mounting pressures on both sides for the deployment of weapons whose complexity gravely complicates the prospects for rational verifiable control.

In this connection the Administration's recent announcement of the decision to deploy MIRVs in June is deeply disturbing. This decision invites reciprocal escalation instead of mutual restraint in the nuclear arms race. It will make it far more difficult to reach a meaningful agreement on S.A.L.T.

A.B.M. System—The report tells us that the National Security apparatus "analyzed our options for proceeding with ballistic defenses on four separate occasions." But this fact of repeated consideration does not excuse the conclusion that we should build a costly system which neither offers security against a Soviet attack nor is needed to deter other nuclear threats.

Chemical and Biological Warfare—We support the President's initiatives in these fields, including the elimination of biological-toxin weapons and his submission to the Senate for action on the ratification of the 1925 Geneva Protocol prohibiting the use of chemical and biological weapons.

Improved relations between East and West in Europe—The matter is shunted aside with some cautionary phrases about the complexities and dangers of negotiations.

East-West Trade—The Administration does not seem to regard expanded trade in non-strategic goods as a commercially profitable step toward better relations. Rather the report suggests that the Soviets must pay with political concessions for the right to buy from us such products already obtainable in large quantities from Western Europe and Japan. This is not merely fruitless but counter-productive.

Laos—It is is a measure of the message's comprehensiveness and candor that Laos was not mentioned and that less than three weeks later the Administration has had to make detailed statements on this critical problem.

The Vietnam War—What might have been the vehicle for constructive initiative for negotiated settlement reveals nothing new. The report refers to the Administration's desire for a "just peace"—without attempting to define that term in any meaningful fashion. It tells us again that the Nixon Administration is placing its reliance on Vietnamization of the war as a "plan for peace" whereas this program at best can only perpetuate the fighting with continued U.S. involvement. It fails to provide either a program or a final date for the withdrawal of all American troops in Vietnam.

It continues to give a veto over U.S. efforts for a negotiated settlement to the repressive minority government of President Thieu. That Government shares neither our objective of a negotiated compromise settlement nor the deepest desires of its own people for peace. In fact, the recent arrest and conviction of Deputy Tran Ngoc Chau—in flagrant disregard of constitutional safeguards and judicial procedures—is another shocking instance of the pressure to silence all South Vietnamese who want peace through a negotiated settlement.

These views on Vietnam are not partisan ones. They are shared in major respects by many responsible people of both parties.

The "State of the World" paper is more notable for what it fails to say than what it says. Apparently, the Administration is content to substitute rhetoric and bureaucracy for effective and enlightened initiative in foreign affairs.

THE TOTAL ENVIRONMENT

Mr. MUSKIE. Mr. President, the distinguished Senator from Michigan (Mr. HART) spoke on March 14 at Western Michigan University on a subject of particular concern to me: the total environment.

He warned that we must do more than clean our air and water. We must develop a reverence for our fellow man as well as for nature or we shall have a "dangerously polluted environment," he told the environmental teach-in at that campus.

His words demanding that environment—in its fullest meaning—be the national priority deserve our attention. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR PHILIP A. HART

We meet today to pay homage to the latest in-thing, and to express the hope, at least on my part, that concern for man's inhumanity to nature will not only outlast the life span of its predecessors, but also grow to include other types of pollution which degrade our environment.

Remember the 1960's, when the in-things were civil rights, the war on poverty, and, for one fleeting moment, hunger in a land of plenty?

Those were in-things concerned with pollution too—the pollution of the spirit which poverty breeds, the pollution of the mind which results from malnutrition, the pollution of self-respect which is the end product of discrimination.

We don't hear so much about those wars any more. You might, if you were a stranger to our ways, think that the relative silence signifies victory.

But the truth, of course, is that we have pulled a switch on the saying which holds, "There is no substitute for victory."

There have been no victories, only substitutes of one war for another, a switching of in-things to keep the natives occupied, if not happy.

That is not to say the much described crisis facing nature is not real, but rather to warn that there can be no lasting victory for a better environment unless we rid society of all types of pollution.

To clean the air but not to feed childen, to build waste treatment plants but not to eradicate poverty, to develop a new reverence for nature but not for our fellow man will still leave us with a dangerously polluted environment.

An Indian youth said it better. He was asked what part of Indian culture he would most like to see preserved in modern life.

He answered:

"The part of Indian culture I would like to see restored is the respect for natural resources . . . an appreciation of the sky, winds and water.

"It's an appreciation of your surroundings and the people in it.

"The most important thing is your belief in those surroundings and not using them indiscriminately, especially people. It's a good thing to think and not just follow the crowd."

Use neither people nor nature indiscriminately. That says it all. If we have too long been content to measure progress for blacks in terms of *the number* of lunch counters opened to them, *the number* of school rooms integrated, we have too long measured national progress solely in terms of gross national product numbers, ignoring the damage those numbers have done to nature.

If we have been slow to see that progress for blacks can only be measured as it can be for any man—in terms of respect and self-esteem—we have been even slower in recognizing that we are also a brother to and a part of nature.

We are learning that just as respect for a man depends on approaching him as an individual, so too must we give *individual attention* to problems affecting nature.

Traditionally Congressional response to environmental problems has been to set minimum standards to define pollution and then to provide only limited means to enforce those standards.

Even if additional means of enforcement were supplied, over-reliance on this approach raises several difficulties.

There are matters of environmental importance—such as minimums for odors, deleterious effects on wildlife, esthetics—that cannot be quantified into standards.

Equally important, minimum standards encourage a minimum rather than a maximum effort to protect nature and necessarily entail an averaging of regulation which ignores special conditions and dulls the edge of regulatory effectiveness.

This is not to suggest that minimum standards must be supplemented with an approach which gives individual attention to the problem at hand and asks what is the best feasible answer from the point of view of nature.

This week Senator McGovern and I introduced a bill which would open the courts to individual appeals on individual environmental questions.

This approach establishes the right of an individual to sue for injunctive relief against any unreasonable pollution of the environment.

It rests on these assumptions:

First, that the concerned citizens lawsuit is an effective way to attack individual environmental problems.

And second, the courts are the best instrument we have for listening to arguments, sharpening issues and making decisions which take into account non-environmental and environmental factors.

Despite what one may feel about a recent happening in Chicago, I believe that the courts can fulfill this action.

Certainly they are better equipped to make decisions affecting nature than the agencies, such as AEC, the Bureau of Public Roads, the Corps of Engineers, which are charged with promoting projects which have a high capability of polluting the environment.

But neither should this function be turned over to an organization which may be biased against any alteration of nature.

Pollution problems have been caused because man acted as if he were separate from nature and free to despoil it at will.

The challenge of the environment will not be solved by going to the other extreme and once again separating man from nature, but rather acting with the understanding that man and nature are integral, indivisible components of a system called earth.

If we understand that, then we can understand that man not only shapes his environment, but is in turn shaped by it.

In the words of James Baldwin: "It means something to live where one sees space and sky, or to live where one sees nothing but rubble or nothing but high buildings."

Let us not debate the environment and national priorities, but recognize that the environment, in its fullest meaning, is the national priority.

If we do that, if we make our concern for nature part of a larger commitment to use neither people for nature indiscriminately, then we can indeed get about ridding our environment of all the pollutions which degrade it.

THE HOUSING AND URBAN DEVELOPMENT ACT OF 1970

Mr. BROOKE. Mr. President, I am pleased to join the distinguished list of sponsors of the Housing and Urban Development Act of 1970. This piece of legislation embodies concepts which I believe must serve as the bases for constructive housing programs in the future.

Specifically, Secretary Romney's proposal seeks to streamline and consolidate FHA programs from approximately 50 in number to eight. I have long championed the need for sweeping changes in FHA programs as the means of producing a greater supply of housing, at reduced costs and with diminished bureaucratic involvement. While I have not had the opportunity to review the consolidation proposals in detail or solicit the comments of responsible organizations which are interested in this legislation, I am confident that these proposals, which will be subjected to intensive scrutiny by the Senate Banking and Currency Committee in the weeks to come, will serve to move us in the right direction.

I would inject one note of caution, however. Recent legislative changes in FHA programs have created some confusion in the housing industry. Builders and nonprofit sponsors who were familiar with such programs as 202 and 221(d)(3) found that these programs were marked for extinction. We may find similar concern expressed with respect to the elimination of present programs. We must carefully weigh these considerations against the advantages of adopting the new approaches.

I concur with the need to attract greater private sector investment in low-cost housing by eliminating unnecessary bureaucratic requirements and establishing uniform criteria for subsidized housing programs. Every effort must be made to encourage the production of housing by all elements of our economy which are capable of doing so. At the same time, bureaucratic timidity cannot be permitted to frustrate housing production during this critical period.

I am somewhat disappointed that the 1970 housing proposal failed to incorporate the recommendations of the President's Commission on Mortgage Interest Rates with respect to the ceilings on FHA and VA insured mortgages and loans. I have listened carefully to the Secretary's statements on this subject and do not find them entirely persuasive. The dual system proposed by the Commission was specifically designed to function during tight money situations and was not intended to be sheltered from the vicissitudes of the marketplace. I feel that additional discussion is required before this part of the proposal can be embraced by the committee.

The public housing provisions which appear in the proposal represent a recognition of the critical problems which are facing low-income families throughout the country. They also represent the manifestation of changes in congressional attitude on the subject of public housing. Until last year there was a certain timidity on the part of HUD officials to seek the sweeping innovations which were necessary to stem the tide of deterioration in public housing. Last year, however, Congress expressed its willingness to address these problems and HUD has seen its way clear in this housing package to meet that challenge.

While the specific provisions must be scrutinized in greater detail, I commend the Department on the development of a public housing homeownership program. I believe this proposal serves as an incentive to produce more low-income housing and to provide greater family participation in the ownership and operation of these dwellings. We must not lose sight, however, of the fact that homeownership alone is not a panacea. Homeownership must be coupled with the ability and wherewithal to maintain the structures and the opportunity to realize financial gains from the homeowner's endeavors. Thus, programs must be developed to educate new homeowners concerning maintenance and repair of their properties, as well as sanitation, recreation, and other family needs.

With respect to conventional public housing, I believe the departmental proposal represents a recodifications of provisions which I sponsored as part of the Housing and Urban Development Act of 1969. It should be pointed out, however, that the Department proposes to pay subsidies equal to the difference between a 20–25 percent tenant income formula and the operating costs of the structure; whereas, last year's legislation provided for subsidies equal to the difference between 25 percent of a family's income and operating costs. Last year's legislation did not, however, require that tenant income contributions rise to a specified level as required in the present proposal. Accordingly, it is exceedingly important to determine whether the levels set forth in the instant bill are realistic. Added emphasis must be also placed on expanding the permissible categories of operating and maintenance expenses to provide for an improved standard of living which is so vitally needed in public housing. We cannot tolerate the conditions which have been allowed to persist until now. We cannot allow additional time to pass before the needs of the poor are heeded.

In this respect, I call upon the Department to fully implement the provisions of section 212 and 213 of the Housing and Urban Development Act of 1969 which were carefully designed to prevent the condition of public housing from further deteriorating. New legislation is not needed to clarify authority which HUD already possesses.

Last year, Congress authorized $75 million in contract authority to: first, offset existing operating deficits, second, maintain adequate operating and maintenance services, and third, provide additional payments to make up the amount by which rental charges exceed 25 percent of a tenant's income. To date, HUD has failed to implement the second aspect of this subsidy program. In the past, Congress has been accused of being negligent in failing to respond to the social needs of this country. In the case of public housing the administration alone carries the responsibility of committing resources to these worthwhile needs or turning aside, while the quality of life in public housing further declines. This choice does not involve the enactment of new legislation, but rather proper implementation of existing legislation.

The proposals embodied in this bill will undoubtedly be modified during the legislative process and joined by still other proposals which are designed to improve the quantity and quality of housing throughout the Nation. I cannot overemphasize the need to address these issues at this time. Last week, the Senate Banking and Currency Committee adopted several proposals designed to provide increased money to the housing industry. This legislation will be reported

to the Senate in the near future, and I am hopeful that my colleagues will give careful consideration to the provisions contained therein. Only through a recognition by Congress and by the administration of the need to provide adequate shelter for low- and middle-income families alike will the goal of a "decent home for every American" be fulfilled.

ADDRESS BY SENATOR SPONG BEFORE VIRGINIA PUBLIC RELATIONS CONFERENCE

Mr. EAGLETON. Mr. President, last Thursday, the Senator from Virginia (Mr. SPONG) in an address to the annual Virginia Public Relations Conference at Williamsburg, brought home to his audience a point that has the hard edge of truth: that in both politics and business there is often too much emphasis on public relations, or the creation of a public "image," at the expense of the substantive matters such an image should truly reflect.

Senator SPONG said:

The problem here is not the development and use of these techniques of communication which I think are invaluable to the functioning of a modern society.

The problem lies in their overuse and in the substitute of this kind of manipulation for efforts to deal with real problems.

I ask unanimous consent that Senator SPONG's address be printed in the RECORD.

There being no objection the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SEN. WILLIAM B. SPONG, JR.

In an age that fairly glitters with accomplishments in the field of mass communications, it is ironic that we should be threatened by something called a communication gap. Yet, it is a very real problem and one which I believe could be a major force shaping the political climate in the 1970's.

In a sense, I suppose we are the victims of our own success. There may be an analogy in the story of a small-town boy who goes away to college to master the fine art of the English language only to find when he gets home that he has lost the art of communicating with his parents and friends.

The problem of the communication gap is a good deal more complicated than that, of course, but in some respects it is the same. We have so perfected the art and techniques of reaching mass audiences with appeals that can be tailored to produce almost any desired effect, that we have made a genuine dialogue with our audience not impossible but very close to redundant.

Why should an individual or a company risk the uncertain outcome of a two-way exchange when he can be sure of achieving his objective through the gentle persuasion of one-way mass communication? Why should a political candidate bother with debates on the issues when he can get by on the strength of his rhetoric and his image properly packaged in a sufficient number of five-minute time spots?

The problem here is not the development and use of these techniques of communication which I think are invaluable to the functioning of a modern society. The problem lies in their overuse and in the substitute of this kind of manipulation for efforts to deal with real problems.

We know, of course, that this approach can be highly effective at least over a limited period of time. Customers can be persuaded to continue to buy products which they know to be inferior in quality, overpriced and even dangerous to their health or safety on the basis of an irrelevant appeal to their sexual or social status. And we know now that political candidates can be sold to the public in much the same manner as a new brand of toothpaste.

But wide-spread, this practice cannot be sustained for long without fearful cost to the integrity of our institutions and to public confidence in them. There are many signs today that this confidence is already in a serious state of erosion. The demand for more and more consumer legislation is one example and one which you in public relations and advertising must be acutely conscious of.

There was a time when the consumer could live with a "buyer beware" marketplace for he could hope to keep the situation in balance with his freedom of choice. But in today's mass-production economy where purchases are enticed by a billion-dollar advertising industry and where a consumer's complaints are as often as not relegated to a computer, there is a critical need to even up the odds.

It may seem like a small thing in an economy that produces 10 million cars a year that it is a rare man who buys a new automobile that has no defects in it the day he takes delivery. Rarer still is the man who is able to get prompt and satisfactory repair of the problems.

These are small things perhaps, but multiplied by countless other experiences with indifferent service, shoddy merchandise and threats to safety, they add up to a sizeable part of what the individual thinks of as the quality of his life.

It is a curious thing that dissatisfied though he may be, a consumer will often continue to purchase the same products—such is the power of mass communication. At the same time, however, he is demanding the intervention of government on an ever increasing scale to provide him with the basic protections and guarantees he is unable to win for himself in the marketplace. Such is the extent of his frustration and disillusionment with the reality he finds behind the facade.

Over the past eight years, Congress has been actively concerned with this problem.

In the field of product safety, it has enacted the National Motor Vehicle and Traffic Safety Act of 1966, the Child Protection Act of 1969, the Natural Gas Pipeline Safety Act, the Radiation Control for Health and Safety Act and the Flammable Fabrics Act.

To assure the consumer's right to honest, factual information the Congress enacted the Cigarette Labeling Act, the Fair Packaging and Labeling Act and the Truth-in-Lending Act.

This session there are at least a dozen more bills pending concerned with everything from product reliability and deceptive sales practices to the threat of insecticides to our environment and food supply.

In many of these areas, governmental action appears necessary. But, in the last analysis, consumer protection will depend on industry and business recognizing their responsibility to those they serve. And this, in turn, will depend in large measure upon opening up the channels of communication with their customers—listening to their complaints and their needs, and trying to do something about it.

I am far from suggesting that this problem of the communication gap is confined to the business world. If anything, there may be an even more serious problem in government.

It is said that we are experiencing a new politics of public relations today, one in which rhetoric is more highly valued than performance, and where the politics of our problems receive greater attention than the problems themselves. I believe there is truth to that. Certainly I cannot remember a time in my public life when public trust and confidence in government has been so low.

To a large extent, I believe that this unhealthy trend in politics and government is directly related to the availability and the willingness of some to misuse the modern techniques of the mass media. I think many of our young people are more aware of this sham than their more jaded parents and we ought to listen when they tell us the king is wearing no clothes.

More important than the manifestations we see on the surface, I believe there is growing public disenchantment with all aspects of American society which goes unexpressed. But it is there and it is working to weaken the fabric of our national life.

In my judgment, we face no challenge so urgent as stemming this erosion of public confidence. And there is no group better situated to contribute to this goal than you of the Public relations field.

VOTING RIGHTS IN WHEELER COUNTY, OREG.

Mr. HATFIELD. Mr. President, during the voting rights debate, the Senator from Kentucky (Mr. COOPER) included in the list of counties affected by his amendment a county in Oregon: Wheeler County.

Senators will recall that soon after, I telephoned the county clerk, Arlene Stegner, and found that Wheeler County would not be affected. I reported that on the floor of the Senate.

I ask unanimous consent to have printed in the RECORD two editorials and news articles from the Portland Oregonian and Oregon Journal, and a March 11, 1970, UPI dispatch by Clarence Zaitz which amplify the Wheeler County situation.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Oregonian, Mar. 14, 1970]

WHEELER REDEEMED

Oregon's Sen. Mark Hatfield was quick on his feet the other day in the U.S. Senate when Wheeler County was named as one of the few counties in the north that would be subject to an amendment to the Voting Rights bill applying to those counties in which fewer than half those of voting age cast ballots in the 1968 general election.

He stepped off the floor to get the word by telephone from County Clerk Arlene Stegner in Fossil that it wasn't so, and he promptly so reported to the Senate.

Wheeler County did not shirk the polls in 1968. A total of 776, or more than 71 per cent, voted out of the 954 registered. If one calculates that about two-thirds the total population is 21 or over, that is about 65 per cent of the voting age population, well above the 50 per cent of the Voting Rights law standards.

The Senate sponsors of the bill got their figures from the Justice Department. Its data on Wheeler County population must be out of date. As recently as 1950, more than 3,300 residents lived there. Now there are only about 1,800, so proportions have changed.

It is not often that a congressman's telephone call can do so much directly for so many. And he didn't even have to drop in a dime to get the operator.

[From the Oregon Journal, Mar. 12, 1970]

HATFIELD "CLEARS" WHEELER'S NAME

(By Tom Stimmel)

WASHINGTON, D.C.—Sen. Mark Hatfield cleared the good name of Wheeler County during a crucial hour in the Senate voting rights debate.

Wheeler was named as one of the counties outside the South which would be subject to

Justice Department control should an amendment to the voting bill become law.

The idea is to insure all citizens their right to register and vote. It has been applied since 1965 in seven Southern states. But the amendment would include other counties, including three in New York where fewer than half the potential voters were registered or voted in 1968.

Hatfield was astounded that Wheeler, Oregon's tiniest county, was among those accused. He stepped off the Senate floor to call county clerk Arlene Stegner at the court house in Fossil.

"Why, no," Mrs. Stegner insisted. She said there are 1,800 people in all of Wheeler County, 953 registered in 1968, and 776 voted. That's 72 per cent.

"We always have a good turnout," she told the Senator after she recovered from the shock of receiving his call.

Hatfield happily reported this to the Senate. The amendment sponsors said they were sorry. The information, they said, came from the Justice Department.

EFFECT IN OREGON RESENTED

(By Clarence Zaitz)

FOSSIL, OREG.—Mrs. Arlene Stegner doesn't think this sparsely-populated county needs any federal help in registering voters.

"I think it's a bunch of bunk," declared the outspoken Wheeler County clerk.

She was referring to Senate approval Tuesday of an amendment to the 1965 voting rights act. The measure would bring a number of areas in the north under the act's automatic coverage formula.

Included would be Wheeler County—the only county in Oregon—because its registration of voters is less than 50 per cent of those eligible.

The county has a population of 1,880. Mrs. Stegner said at last count she had 918 registered voters.

"I talked to Senator Mark Hatfield yesterday about it," said Mrs. Stegner, "and we can't figure out where they got those figures."

The last school census in the county indicated slightly more than 500 children between the ages of 4 and 19. That would leave at most 1,300 persons old enough to vote.

In the last general election 762 Wheeler County voters cast ballots for presidential candidates.

"We had a turnout of 81.4 per cent of the registered voters," Mrs. Stegner said.

She was aghast that federal officials thought there was any imbalance of voter registration. "We have a dozen registrars scattered among the five precincts of the county," she explained.

"It just isn't right . . . I know of no reason . . ." Mrs. Stegner just couldn't believe that her county would be lumped in with some in the country where voter registration was discouraged.

"For heaven's sake," she said, "I think we have more persons registered than they do in some of the cities."

Fossil, the county seat, is also the largest city in the county, with 525 persons. The county's population has steadily declined since it reached a peak of 3,313 in 1950.

"I just don't think we deserve all this publicity," Mrs. Stegner complained.

HATFIELD DENIES CHANGE IN COUNTY VOTE STATUS

WASHINGTON.—Oregon's Wheeler County was mentioned as one of a scattering of areas which would be covered by an amendment to the 1965 Voting Rights Act, approved by the Senate. But Sen. Mark Hatfeld, R-Ore., said it was not so.

The agreement, sponsored by Sen. John Sherman Cooper, R-Ky., would have extended the provisions of the 1965 act to any state or county using a voter literacy test, if less than 50 per cent of its voting age population was registered or voted in the last presidential election.

Sen. Cooper said Justice Department figures showed that Wheeler County, with a population of 1,880, would be covered by the amendment. Parts of New York City and other scattered areas were also included.

However, Hatfield said during debate on the amendment that he had talked with the Wheeler County clerk and learned that 953 persons were registered to vote in the county and 776 voted in 1968 election—in both cases more than half of those old enough to vote.

Jack Thompson, assistant secretary of state, said in Salem Wednesday that Wheeler County would not fall under provisions of the amendment.

The county, the state's smallest in population, is located in north central Oregon.

WHEELER COUNTY'S INNOCENT

Wheeler County has been wronged!

In testimony in the Senate on voting rights legislation, Wheeler was singled out with counties in the East and South as subject to Justice Department control over voter registration.

When fewer than half of the eligible voters are registered, federal authorities may step in to assure that any citizens qualified to vote will not be prevented from registering.

And somehow Justice Department investigators put Wheeler County on the list.

Wheeler's total population is 1,880. By rule of thumb, about half of them would be of voting age. In 1968, more than 950 registered. There could not have been very many who did not.

Just the opposite from criticism leveled at it in the Senate, Wheeler is a model of full registration.

U.S. Justice Department, your reliability gap is showing.

J. WILLARD MARRIOTT AND IRA A. HUGGINS TO RECEIVE HONORARY DEGREES FROM WEBER STATE COLLEGE

Mr. MOSS. Mr. President, Weber State College has designated two prominent gentlemen to receive honorary doctor degrees during commencement exercises on June 6.

I am personally acquainted with both gentlemen and am pleased to see them receive this honor. They are: J. Willard Marriott, Sr., who is a well-known restaurant and hotel chain owner in Washington and Ira A. Huggins, an Ogden attorney.

The Ogden Standard Examiner published an article on their selections, I ask unanimous consent that the article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

ATTORNEY AND ALUMNUS WIN WEBER STATE COLLEGE HONORS

J. Willard Marriott, Sr., nationally known restaurant-chain owner, and Ira A. Huggins, Ogden attorney, were selected to receive honorary doctor degrees at Weber State College commencement exercises June 6.

Selection of the recipients was made by members of the Weber State College Institutional Council, announced Mr. O. C. Hammond, Chairman.

Mr. Marriott, a Weber alumnus and native of Weber County, has been nationally known for many years as owner of the Marriott Hot Shoppes, Inc., a restaurant chain based in Washington, D.C., but having international business dealings.

He was student president of the college class in 1923 when high school courses at Weber were discontinued. Mr. Marriott had delivered the commencement address to the Weber College graduating class in 1958.

He was chairman of inaugural arrangements for President Richard M. Nixon and has been affiliated with many national organizations and interests.

Mr. Marriott will receive an honorary Doctor of Humanities degree and Attorney Huggins an honorary Doctor of Law degree at the commencement.

Mr. Huggins' executive associations with Weber State date back to the Jr. college days when he served as a member and later chairman of the old Weber College Advisory Board.

He was appointed by the Governor in 1961 to be one of the original members of the former Weber State College Board of Trustees and had served on the Board until 1969 when it was abolished. During the past four years, he had officiated as the Board Chairman. He is now a member of the newly created Utah State Board of Higher Education. Mr. Huggins was a member of the Utah Senate in 1933 when Weber was transferred from the LDS Church to the State of Utah as a junior college.

QUALITY OF CARE IN VETERANS HOSPITALS

Mr. EAGLETON. Mr. President, recent hearings held by the Senate Subcommittee on Veterans' Affairs and a survey undertaken by the House Committee on Veterans' Affairs in preparation for its forthcoming hearings reveal a shocking deterioration in the quality of care in our veterans hospitals.

Hospital after hospital has reported that it is unable to provide the type of care our veterans deserve because it does not have the funds to hire doctors, nurses, and other health personnel, nor is it able to purchase needed equipment or remodel antiquated buildings.

I believe it is imperative that adequate funds be made available as soon as possible to insure that all American veterans have access to hospital and medical care of the highest quality. I commend Senator CRANSTON and Chairman TEAGUE for their leadership in the effort to provide these funds, and assure them they will have my support.

Mr. President, I ask unanimous consent that the news release by the House Veterans' Affairs Committee on conditions in Missouri's four VA hospitals be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

MISSOURI VA HOSPITALS UNDERFUNDED AND UNDERSTAFFED

Congressman Olin E. Teague (D.-Tex.) Chairman of the House Veterans Affairs Committee said today that Missouri VA hospitals are not receiving sufficient support to provide the kind of medical care that Missouri veterans deserve.

The House Veterans Affairs Committee Chairman said that searching in-depth hearings will get underway soon on operation of the Nation's 166 Veterans Administration hospitals. As a forerunner to the hearings, the Committee has recently undertaken an inquiry in an effort to learn whether VA hospitals are sufficiently staffed and funded to provide America's exservicemen and women with "second to none" medical care. Chairman Teague said that he was, "seriously con-

cerned about recent reports from a variety of sources indicating that many VA Hospitals were being caught in an impossible squeeze between higher medical and drug costs and rising workloads without receiving proportionally higher funding and staffing allocations." "If this is true," Teague said, "such policies, if allowed to stand will wreck the VA hospital system and undermine the veterans medical program to the point of dangerous dilution in quality."

Chairman Teague said that the Veterans Administration is attempting to provide first class medical care with an inadequate staff. Teague pointed out that the general medical community hospitals and state and local government hospitals have an average staff ratio of 2.72 employees for each patient, while the Veterans Administration has only 1.5 staff for each patient. According to Teague, the university hospitals operated in connection with medical schools are even higher, and have a staff ratio of over 3 employees for each patient. Teague has written to President Nixon and advised that he expects to seek a minimum staffing ratio for the Veterans Administration of at least two employees for each patient in most VA general medical hospitals, and a one for one ratio in psychiatric hospitals.

The Veterans Affairs Committee investigation in December 1969 of Missouri Veterans Administration hospitals revealed funding deficiencies at that time for Fiscal Year 1970 of about $1.4 million to operate over 1800 hospital beds serving approximately 637,000 Missouri veterans.

In Missouri the VA operates 4 hospitals located at Jefferson Barracks, Kansas City, Poplar Bluff, and St. Louis. The Kansas City hospital also has responsibility for providing outpatient dental services to veterans who are served by the Wadsworth, Kansas, VA hospital.

The investigation being conducted by the House Veterans Affairs Committee revealed that under the hospital staffing formula advocated by Teague, the Missouri VA hospitals are about 1,000 short of needed staff. These extra positions would cost about $9.6 million annually. A few of these positions would be difficult to fill—mostly physicians and registered nurses—but most are recruitable at present VA salary scales. The Missouri hospital directors also reported in December 1969 that the community nursing care programs were underfunded in FY 1970 by approximately $395,000. This program provides nursing care in private nursing homes at VA expense for veterans who have received maximum hospital care and who now need less expensive care in nursing homes. Additional funding allocation for the community nursing home program totalling over $73,000 was distributed to Missour' VA hospitals in January 1970, however, a sizable annual deficiency still remains in the funding of this program. Due to increased workloads for dental care, mostly created by returning Vietnam veterans, Missouri hospitals are underfunded by over $300,000 for timely treatment of these cases even though $25,500 was allocated toward this deficiency in January 1970. Overall, Missouri hospitals received approximately $673,000 in January 1970 to apply against the deficiency reported to the Committee in December of over $1.3 million.

Dr. John F. Dee, Director of the 700-bed Jefferson Barracks hospital, told the Committee in December 1969 that he lacked funding for 58 full-time permanent positions costing over $210,000 annually which had been authorized to his hospital but no funds were made available to fill them. On January 28th Dr. Dee reported to the Committee that he had received $75,000 to partially sustain current employment levels but that it would still be necessary to divert approximately $130,000 from maintenance and repair projects and equipment funds to maintain current on-duty staffing at the Jefferson Barracks hospital. In December 1969 the hospital director had reported an $80,000 deficiency for the community nursing care program at the Jefferson Barracks hospital. This program provides nursing care in private nursing homes at VA expense for veterans who have received maximum hospital care and who now need less expensive care in nursing homes. In January 1970, $23,573 in additional funding was allocated to Jefferson Barracks for this program.

Dr. Dee indicated to the Committee that there was a declining psychiatric workload at the Jefferson Barracks hospital and that it was anticipated the hospital mission would be changed from a psychiatric type hospital to a GM&S hospital. Based on the present bed capacity and other factors, if the mission of the hospital is changed from a psychiatric to a general medical and surgical hospital, over 500 additional positions would be needed at an annual cost of over $5 million to bring the Jefferson Barracks hospital staffing ratio to at least two employees to each patient as advocated by Chairman Teague.

In December 1969, Hospital Director V. J. Belda at the Kansas City, Missouri hospital reported to the Veterans Affairs Committee that he was over $281,000 short in personnel funds for FY 1970, and that it would be necessary for him to divert equipment and maintenance and repair funds of approximately $212,000 to meet this deficiency. However, on February 6, 1970, the hospital director reported that VA Central Office had made available to the Kansas City hospital over $219,000 to apply to the total deficiency reported by his station of $557,000 in December 1969. Over $34,000 will be used to meet a drug deficiency and about $4,400 will be used to pay fees for consultant physicians to augment the present hospital staff. Approximately $19,000 will be applied against the $133,000 shortage in dental care funds which are needed mostly to treat returning Vietnam veterans. About $97,000 will be used for new and replacement equipment acquisitions and maintenance and repair projects at the Kansas City hospital. Almost $45,000 will be utilized to take care of increased workloads for out-patient care services at the Kansas City hospital, and about $20,000 of the additional funds will be used to relieve the December 1969 fund shortage in the community nursing care program of over $48,000.

In December 1969, W. W. Leak, Director of the 153 bed Poplar Bluff VA Hospital, reported funding deficiencies of approximately $184,000; $127,000 of this deficiency was for hospital staffing. On January 29th the hospital director advised the Committee that he had received $29,000 in additional funding of which $23,000 would be applied against his staffing deficiency. He said, "This small increase in funds does not reduce our salary deficiency of $127,000 sufficiently to permit us to continue to operate the hospital under any type of operational curtailment plan." The hospital director pointed out that they had very little personnel turnover. Apparently the hospital is left with three options—to reduce personnel which they have been ordered not to do by VA Central Office—receive additional funds from VA Central Office—or utilize a total of $98,000 in equipment and maintenance and repair funds which have not yet been obligated to sustain on-duty personnel.

The hospital director indicated the "Immediate need for an intensive care unit" at the Poplar Bluff hospital "in order that we can provide the same quality of care to veterans as is being provided to others in the community." The Poplar Bluff hospital director indicated to the Veterans Affairs Committee that he was confident he would be given some additional funding at an early date to assist with the greatly increased outpatient workload at the hospital. He said, "The question, of course, is how much?"

After receiving aproximately $326,000 in additional funds in January 1970 from VA Central Office, Dr. Francis Dickey, Director of the St. Louis VA Hospital, indicated that the deficit reported to the Veterans Affairs Committee in December of over $630,000 would preclude further personnel reductions at the St. Louis hospital although he is operating below the hospital's year end employment figure for FY 1969 despite increased workloads. About $233,000 will be applied against the previously deficiency of $379,000 for personnel. The balance of this personnel deficiency will be made up by diverting funds from equipment and maintenance and repair budgets totalling about $111,000. Dr. Dickey stated that other "needed staffing adjustments will be made by attrition." Other funds received in January 1970 will be distributed to meet non-recurring operating expenses of about $50,000; $23,000 will be applied to a $261,000 deficiency reported in December in the community nursing care program, and $6,500 will be applied toward a $208,000 deficiency to supply dental care, mostly for Vietnam veterans who have recently been discharged from the military service.

Some curtailment of VA funding and staffing has been blamed on the "war on inflation", Teague stated. "I take the position the Vietnam veterans has contributed enough when he fights the shooting war and that he should not be expected to fight the inflation war also at the expense of his health," Teague said. "This Nation has prided itself in its service to those who have borne the burden of battle. A bi-partisan attitude has long prevailed in Congress in the funding of an adequate medical program for America's veterans, and in providing for the educational and housing needs of returning servicemen. We in Congress of both parties have always acted in the belief that the finest medical care should be made available to those who served their Country in uniform, and especially to those who returned home suffering wounds and service connected disabilities."

"I do not intend to sit idly by and allow shortsighted policies to destroy a medical program that is absolutely necessary to care for America's veterans," Teague said, "and that's why we're conducting this survey we we can make a determination if we are doing all that needs to be done to properly and promptly serve America's ex-servicemen.

THE POSTAL CRISIS

Mr. HART. Mr. President, at least, and perhaps at most, three aspects of the current postal crisis are clear.

First, postal employees have been treated badly. Their salary, particularly in big cities, and their opportunities for advancement are far short of adequate. Postal workers have good cause to complain that their grievances, long voiced through correct channels, have been neither heeded, nor, in some quarters, even heard. They have been subsidizing their fellow citizens for too long.

Second, a postal strike causes widespread hardships, hardships that while affecting much if not all of our economy, bear hardest on many of those who are paying more than their fair share of the costs of fighting inflation.

Third, both Houses of Congress last year recognized that postal employees deserved a pay raise. While, for several reasons, the House and the Senate approved different levels of increased pay, we did agree that an increase was justi-

fied, not in face of a strike, but on the merits of case.

Mr. President, that third fact is most important.

There are those who say that to approve a pay raise now, even before all striking workers have returned to the job, would be to pay blackmail.

That position ignores the fact that last year both Houses of Congress approved a pay raise when there was no pressure from a strike.

That position argues that Congress, in order to punish a few, should further delay for the many what Congress said last year they all deserved.

That position would have Congress continue to ignore its responsibility to complete action on a pay increase bill now many months old.

Mr. President, I believe, and believe strongly, that Congress should complete the job it started last year. I urge the Senate and House conferees to meet now to resolve disagreements in the two bills and to report out a pay raise bill covering at least postal workers.

Certainly serious consideration should be given to including a raise for other Federal employees, but in the interest of speed and fairness, the issue of postal reform should be separated from the question of pay.

If the President of the United States wants to veto such a bill, that is his decision, but we should not be governed by any such threat.

We should do what we think is fair, and thought fair before any strike: Take final action on postal pay.

THE 1969 ASCS PROGRAM PAYMENTS OF $25,000 OR MORE—EXCLUDING PRICE SUPPORT LOANS

Mr. WILLIAMS of Delaware. Mr. President, for many years I have been critical of the large cash payments that, under our agriculture program, are being paid to the large corporate-type farming operations.

In my opinion, if this program is to be continued, these payments should be limited not to exceed $20,000.

Today I have received a report of all cash payments in excess of $25,000 that were made in 1969 but to save space in the RECORD I have limited this report to a $60,000 minimum.

I shall ask unanimous consent that this report, listing all 1969 payments in excess of $60,000 be printed at the conclusion of my remarks.

Significantly this report shows that one company, J. G. Bosnell Co., of California, received $4,370,657.

Griffen Inc. of California, received $3,412,867.

Seven companies received in excess of $1 million each.

Fourteen companies were paid between $500,000 and $1 million each.

Fifty-four companies were paid between $250,000 and one-half million dollars each.

These are not small farmers.

The Southern National Bank of Lumberton, N.C., was paid $224,254.

The First National Bank of East North Carolina at Dunn, N.C., was paid $69,943.

The First National Bank of Dumas, Tex., was paid $69,415.

The Waccamaw Bank & Trust Co., Lumberton, N.C., was paid $58,134.

First National Bank & Trust Co., Wichita Falls, Tex., received $34,686.

The Wilbur Security Co., Wilbur, Wash., was paid $27,445.

By what line of reasoning do these banks qualify as small farmers? This is ridiculous, and Congress should correct this law and by all means induce a limit on the amount of such cash payments.

The approval of such a limitation would save the taxpayers several hundred million dollars annually.

I ask unanimous consent that this list of 1969 cash payments in excess of $60,000 be printed in the RECORD.

There being no objection the list was ordered to be printed in the RECORD, as follows:

THE 1969 ASCS PROGRAM PAYMENTS OF $25,000 OR MORE—EXCLUDING PRICE SUPPORT LOANS

Name, address, and total payments:

J. G. Boswell Co., Corcoran, Calif., $4,370,657.

Giffen Inc., Huron, Calif., $3,412,867.

South Lake Farms, Fresno, Calif., $1,807,697.

Salyer Land Co., Corcoran, Calif., $1,637,961.

Hawaiian Commercial and Sugar Company, Box 3440, Honolulu, Hawaii, $1,311,255.

U.S. Sugar Corp., Clewiston, Fla., $1,181,195.

Mt. Whitney Farms, Five Points, Calif., $1,152,294.

Kern Co. Land Co., Bakersfield, Calif., $1,080,533.

S. A. Camp Farms Co., Shafter, Calif., $928,917.

Vista Del Land Farms, Firebaugh, Calif., $778,624.

Westlake Farms, Stratford, Calif., $746,586.

Vista Del Llano Farms, Firebaugh, Calif., $731,772.

Farmers Investment Co., Sahuarita, Ariz., $673,410.

Boston Ranch Co., LeMoore, Calif., $643,006.

State of Montana, Helena, Mt., $641,341.

Bud Antle Inc., Red Rock, Ariz., $596,293.

Waialua Sugar Co., Inc., Waialua, Hawaii, $566,785.

Oahu Sugar Co., Ltd., Waipahu, Hawaii, $540,036.

South Puerto Rico Sugar Co., South Bay, Fla., $539,429.

Lihue Plantation Co., Ltd., Lihue, Hawaii, $527,688.

Telles Ranch Inc., Firebaugh, Calif., $503,285.

Lee Wilson & Co., Wilson, Ark., $500,005.

Jack Harris Inc., Coalinga, Calif., $481,237.

Ewa Sugar Co., Inc., Ewa, Hawaii, $473,470.

C. & V. Growers Inc., Maricopa, Ariz., $468,899.

Pioneer Mill Co., Ltd., Lahaina, Hawaii, $468,030.

H. B. Murphy Co., Brawley, Calif., $457,591.

Hamilton Farms, Eloy, Ariz., $436,168.

Kekaha Sugar Co., Ltd., Kekaha, Hawaii $436,060.

Kohala Sugar Co., Hawi, Hawaii, $421,292.

Youngker Farms, Buckeye, Ariz., $400,496.

Mauna Kea Sugar Co., Inc., Hilo, Hawaii, $397,837.

Vernon L. Thomas Inc., Huron, Calif., $392,790.

Red River Land Co., Stanfield, Ariz., $391,237.

Honokaa Sugar Co., Haina, Hawaii, $382,742.

Hawaiian Agricultural Co., Pahala, Hawaii, $370,389.

Airway Farms, Inc., Fresno, Calif., $368,103.

McNair Farms, Laurinburg, N.C., $366,584.

Grove Farm Co. Inc., Lihue, Hawaii, $363,999.

BKW Farms, Inc., Marana, Ariz., $359,351.

Talisman Sugar Corp., Belle Glade, Fla., $353,889.

Pepeekeo Sugar Co., Pepeekeo, Hawaii, $352,454.

Laupahoehoe Sugar Co., Papaaloa, Hawaii, $346,738.

John D. Singh, Casa Grande, Ariz., $345,064.

Tx Dept of Corr, Sugarland, Tx., $343,654.

AK Chin Farms, Maricopa, Az., $336,796.

Barkley Co of Az., Somerton, Ariz., $332,142.

The South Coast Corp., Houma, La., $331,331.

Tom J. Moore, Navasota, Tx., $325,886.

Hamakua Mill Co., Paauilo, Hi, $322,450.

J. K. Griffith, Rt. 2, Morton, Tx, $322,355.

Hutchinson Sugar Co., Ltd., Naalehu, Hi, $319,610.

W. B. Camp & Sons, PO Bx 2028, Bakersfield, Ca., $319,552.

Puna Sugar Co. Ltd., Keaau, Hi, $316,649.

McBryde Sugar Co., Ltd., Eleele, Hi, $315,704.

Wilco Produce, Box 1179, Blythe, Ca., $314,402.

Timco, 5720 S. Washoe, Mendota, Ca., $313,112.

H. H. Moore and Sons, Box 7, Navasota, Tx., $310,414.

Baughman Farms Inc., Liberal, Ks., $310,255.

Wailuku Sugar Co., Wailuku, Hi., $309,788.

Olokele Sugar Co., Ltd, Kaumakani, Hi., $304,240.

Gila River Farms, Box 397, Sacaton, Az., $303,898.

Newhall Land & Farming, 10302 Ave 7½, Firbgh, Ca., $299,641.

Gilkey Farms Inc., PO Box 426, Corcoran, Ca., $295,415.

B. V. Fms & Miller & Lux, 550 Kearney, S. Francisco, Ca., $292,961.

Bogle Farms Inc., Box 485, Chandler, Az., $286,715.

Goodyear Farms, Litchfield Park, Az., $282,417.

J. G. Stone Land Co., Box 146, Stratford, Ca., $273,699.

Raymond Thomas Inc., 25810 Avenue 11, Madera, Ca., $272,280.

John B. McKee, Jr., Friars Point, Ms., $271,743.

Arizona Farming Co., Box 907, Eloy, Az., $269,198.

Joe Mendiburu, Bx 5096, Oildale, Ca., $263,343.

F. J. McCarthy & Sons, Box 1138, Tulare, Ca., $262,890.

Riverview Farm & Cattle, 500 N. Broadway, Blythe, Ca., $262,114.

Santiaga Ranch, RR 3, Bx 893, Bakersfield, Ca., $256,016.

Houchin Bros. Farming, Bx 493, Buttonwillow, Ca., $250,579.

Potter Bros. Inc., Box 349, Arcola, Ms., $248,244.

Kirby Hughes, 7200 San Anna, Tucson, Az., $245,643.

W. J. Deal, Box 427, Mendota, Ca., $244,755.

Gragnani Bros., P.O. Box 128 A, Tranquillity, Ca., $242,080.

Bruce Church Inc., P.O. Box 1009, Yuma, Az., $241,031.

W. T. Golston Farms, Box 698, Stanfield, Az., $239,469.

W. E. Young & W. E. Young, Jr., Box 267, Calipatria, Ca., $238,428.

West Haven Farming Co., 24487 Road 140, Tulare, Ca., $238,201.

Howe Lumber Company, Inc., Wabash, Ar., $237,251.
Schramm Ranches Inc., Box 487, San Joaquin, Ca., $235,345.
Paauhau Sugar Co., Ltd., Paauhau, Hi., $229,966.
Giumarra Vineyard Corp., Bakersfield, Calif., $227,539.
Ridgeside Farms, Bakersfield, Calif., $226,709.
Irvine Co., El Centro, Calif., $226,574.
C. J. Vignolo, Shafter, Calif., $225,797.
Ben Simmons, Parker, Ariz., $225,151.
Southern National Bank, Lumberton, N.C., $224,254.
Worsham Bros., Pecos, Tex., $222,487.
Hill Farms, Hart, Tex., $221,359.
R. A. Pickens & Son Co., Pickens, Ark., $221,325.
Roy Flowers, Mattson, Miss., $221,228.
Elmore Co., Brawley, Calif., $219,917.
Southdown, Inc., New Orleans, La., $218,-144.
J. E. O'Neill, Inc., Fresno, Calif., $216,610.
David A. Shumway, Queen Creek, Ariz., $215,684.
Kahuku Plantation Co., Kahuku, Hawaii, $215,256.
L–4 Ranches, Inc., Queen Creek, Ariz., $213,273.
Jack Elmore, Brawley, Calif., $213,052.
Twin Farms, Buttonwillow, Calif., $212,687.
M. J. & R. S. Allen, Coalinga, Calif., $209,-819.
Mazzie Farms, Arvin, Calif., $207,146.
Sinclair Ranches, Calipatria, Calif., $206,202.
Clarence Matheson, Mendota, Calif., $205,755.
Florida Sugar Corp., Belle Grade, Fla., $202,669.
Sherrill-LaFollette, Phoenix, Ariz., $202,602.
Crowe Farms, Arcola, Miss., $202,041.
Campbell Farming, Hardin, Mont., $201,260.
Taft McGee, Hereford, Texas, $200,309.
Three Way Land Co., DeKalb, Tex., $198,879.
Borba Bros., Riverdale, Calif., $196,986.
Pantherburn Co., Pantherburn, Miss., $194,960.
J. W. Olberg & Son, Yuma, Ariz., $194,624.
Topanga Caine Farm, Lake Cormorant, Miss., $193,671.
John A. Wheeler, Lorenzo, Tex., $193,645.
Coury Bros., Mesa, Ariz., $193,196.
Coberly-West Co., Los Angeles, Calif., $192,043.
Nichols Farms, Hanford, Calif., $190,944.
Rancho Tierra Prieta, Eloy, Ariz., $187,815.
Bill Hilburn, Bowie, Ariz., $187,574.
R. A. Ingram, Leland, Miss., $186,397.
R. A. Rowan & Co, Stratford, Calif, $186,216.
W. R. Mayes, Mayesville, S.C., $185,089.
William C. Maloney, Itta Bena, Miss., $184,630.
Emma Lawrence, Hobbs, New Mex., $184,580.
John J. and Ola V. Lord, Tucson, Ariz., $184,118.
Gay and Robinson, Makaweli, Hi., $183,-941.
I. F. Lee, Hale Center, Tex., $183,638.
Sam Hamburg Farms, Los Banos, Calif., $183,380.
D. M. Bryant Jr., Pond, Calif., $182,994.
M. and I. Farms, Delano, Calif., $181,701.
Halsell Cattle Co., Kansas City, Mo., $180,-907.
Buckhorn Planting Co., Greenwood, Ms., $180,440.
John Garrett and Sons, Clovis, NM., $179,598.
Boyett Farming, Corcoran, Ca., $179,401.
Coit Ranch Inc., Mendota, Ca., $178,949.
Community Gin, Scottsdale, Az., $178,790.
Roberts Farms Inc., Porterville, Ca., $178,-408.
Marion Harris, Tulare, Ca., $175,380.
Wolfsen Land and Cattle, Los Banos, Ca., $175,123.
Trail Lake Plantation, Tralake, Ms., $174,-602.
Russell Bros Rches Inc., Calipatria, Ca., $173,255.
Winston Farms, Parker, Az., $172,391.
Jimmy Cluck, Hart, Tx., $172,359.
Ercell Givens, Abernathy, Tx., $172,152.
George Yarbrough, Sicily Island, La., $171,967.
State of Wa, Ephrata, Wa., $171,781.
Redfern Ranches Inc., Dos Palos, Ca., $171,-289.
Kenneth Lindeman, Pecos, Tex., $170,334.
James D. Russell, San Benito, Tx., $169,964.
So Pac Company, San Francisco, Ca., $167,-277.
Wesson Farms Inc., Victoria, Ar., $166,-762.
Southmountain Farms Inc., Laveen, Az., $166,696.
Thunderbird Farms, Phoenix, Az., $166,-248.
George B. Willoughby, El Centro, Ca., $165,-889.
Fowler E. McDaniel, Tulia, Tx., $165,831.
John Kai, Marana, Az., $165,552.
Kilauea Sugar Co. Ltd., Kilauea Hi., $162,-761.
S. K. Ranch, Visalia, Ca., $162,648.
Engelman Farms, Elsa, Tex., $162,222.
Roscoe Farm Co., Scottsdale, Az., $161,122.
Em H. Mettler & Sons, Shafter, Ca., $159,-710.
Diwan Ranches Inc., Casa Grande, Az., $158,895.
E. F. Nunn and Co., Shuqualak, Ms., $158,-448.
J. H. Williams, Natchitoches, La., $158,-203.
Heidrick Farms, Inc., Woodland, Ca., $158,-112.
McKittrick Ranch Inc., Bakersfield, Ca., $157,674.
Hugh-Hudson Ranches, Calipatria, Ca., $156,662.
Reynold M. Mettler, Bakersfield, Calif., $156,566.
J. A. Roberts, Casa Grande, Ariz., $156,415.
Talla Farms, Inc., Stanfield, Ariz., $156,190.
Allen Gray Estate, Benoit, Ms., $155,976.
V. C. Britton, Co., Firebaugh, Calif., $155,-252.
F. C. Layton, Tolleson, Ariz., $155,168.
Oakhurst Co., Clarksdale, Mass., $153,734.
Comfort Farm, Inc., Dos Palos, Calif., $153,477.
Kesey Bros., Pecos, Tex., $151,294.
J. H. Benson Ranches, Inc., Brawley, Calif., $150,300.
John Fuson, Bakersfield, Calif., $149,935.
Stephen H. Elmore, Brawley, Calif., $149,-429.
Amana Society, Amana, Iowa, $149,172.
Arizona State Penal Farm, Grady, Ariz., $148,628.
Waddell Ranch Co., Waddell, Ariz., $148,-543.
C. & A. Equipment Co., Casa Grande, Ariz., $148,039.
Garrett Corp., Clovis, N. Mex., $147,319.
McQueen Smith Farms, Prattville, Ala., $147,272.
Eastland Plantation, Inc., Doddsville, Ms., $146,792.
Pilibos Bros., Inc., Fresno, Calif., $146,223.
Clarence Martin, Friona, Texas, $145,722.
Coelho Farms, Riverdale, Ca., $144,954.
Clark and Roberts, Pecos, Texas, $144,458.
Wildwood Plantation, Greenwood, Ms., $144,288.
Coyanosa Farms, Coyanosa, Tx., $143,993.
Shuklian Bros., Inc., Tulare, Ca., $143,701.
Texas Hill Farms, Yuma, Az., $143,243.
H. K. Hammett and Sons, Greenville, Ms., $143,003.
Bowles Farming Co., Los Banos, Ca., $142,-986.
Vahlsing Christina Corp., Mathis, Texas, $142,088.
Leyton Woolf, Glendale, Az., $142,061.
Krenmueller Farms, San Juan, Tex., $141,-971.
Broughton Land Co., Dayton, Wa., $141,688.
Indian Creek Planting Co., Robinsonville, Ms., $141,155.
G. W. Nickel, Jr., Wasco, Ca., $140,768.
Bill Weaver, Lamesa, Tx., $140,462.
Arena Co. of Ariz., Glendale, Az., $140,349.
Newton Brothers, Stratford, Ca., $140,048.
Hyneman Farms Inc., Trumann, Ar., $139,-709.
W. T. Waggoner Trust Est., Vernon, Tx., $139,651.
Sterling Sugars, Inc., Franklin, La., $139,-383.
Sumner Peck Ranch Inc., Mendota, Ca., $139,100.
Schwartz Farms, Inc., Stratford, Calif., $139,075.
Hammonds Ranch, Inc., Firebaugh, Calif., $138,559.
West, Inc., RR 1, Sidon, Miss., $138,022.
Tejon Ranch Co., P.O. Box 1560, Bakersfield, Calif., $137,963.
Roundaway Planting Co., Alligator, Miss., $137,286.
Bidart Bros., RR 1, Box 860, Bakersfield, Calif., $137,096.
Hugh Bennett, Star Rt. Box 450, Buckeye, Ariz., $136,801.
Isom & Isom, 110–C E Florence Blvd., Casa Grande, Ariz., $136,433.
Arthur Blohm, RR 1, Box 100, Wellton, Ariz., $135,785.
Perrin Bros., Box 1712, Hereford, Tex., $135,748.
E. Ritter and Co., Marked Tree, Ariz., $134,-432.
Highland Lake Farm, 46 Waverly Wood, Helena, Ark,, $134,351.
Harris Cattle Co., P.O. Box 167, Queen Creek, Ariz., $133,442.
Annapeg, Inc., care of Rufus Stainback, Minter City, Miss., $132,818.
H. C. Hitch, Jr., Box 1308, Guymon, Okla., $132,717.
Holland Porter, RR 2, Caldwell, Tex., $132,-441.
Wood Ranches, P.O. Box 247, Lemoore, Calif., $132,139.
A. Duda Sons., Inc., P.O. Box 257, Oviedo, Fla., $131,527.
C. T. Dearborn, P.O. Box 6055, Calipatria, Calif., $131,032.
Homer Hill, Hart, Tex., $130,979.
Abbay and Leatherman, Inc., Robinsonville, Miss., $130,562.
Murphy Jones, Nitta Yuma, Miss., $129,481.
Charles Lakin, Suite 217, Lakin Blvd., 8990 W. Dodge, Kans., $129,148.
Husbandville Plantation, care of W. T. Robertson, Holly Ridge, Miss., $129,052.
Charles Roos III, Box 501, Rio Grande City, Tex., $128,983.
Glen Holt, RR 1, Box 27H, Parker, Ariz., $128,928.
Four Fifths Plantation, RR 3, Greenwood, Miss., $128,878.
W. H. Gentry, Box 911, Hereford, Tex., $128,604.
Overmyer Farms, care of Lee Overmyer, Francesville, Ind., $128,586.
W. A. Sullivan, 2100 Wyoming, Pecos, Tex., $128,375.
Standard Oil Co., Box 5545, Oildale, Calif., $127,995.
Ed Ambrose, Rt. 1, Box 118–B, Buckeye, Ariz., $127,912.
Torrey Wood and Son, Hollandale, Miss., $127,835.
Jerry Lynn Hilburn, Box 156, Columbus, N. Mex., $127,637.
Martori Bros., P.O. Box 878, Glendale, Ariz., $127,526.
Finley Bros., Box 196, Gilbert, Ariz., $127,-087.
Clarence Robinson, P.O. Box 1064, Blythe, Calif., $127,025.
Cote Farms, Inc., St. Anne, Ill., $126,895.

Kennedy Bros., 79700 Ave. 54, Indio, Calif., $126,458.
Raymond, Schnepf, Rt. 1, Box 42, Queen Creek, Ariz., $126,123.
Kline Planting Co., Alligator, Miss., $126,-082.
Britz Chemical Co., P.O. Box 366, Five Points, Calif., $125,804.
C. L. Ranch, Dell City, Tex., $125,740.
Me. Sugar Industries, Inc., Easton, Maine, $125,606.
New Hope Sugar Co., Palm Beach, Fla., $124,968.
James E. and John Garrett, Clovis N. Mex., $124,899.
Su. Cane Farms Co., Palm Beach, Fla., $124,556.
Duncan Farms, Inc., Inverness, Miss., $124,350.
Billups Pltn. Inc., Indianola, Miss., $124,118.
Closter Farms, Inc., Belle Glade, Fla., $124,069.
G. L. Willis, Jr., Dimmit, Tx.,$123,572.
Glen Miller, Colfax, Wa., $123,532.
Asbury Wright, Pinehurst, Ga., $123,156.
Voth Farms, Inc., Wasco, Ca., $122,779
Est. Geo. C. Chance, Bryan, Tx., $122,724.
Schuh Bros., Chowchilla, Ca., $122,642.
John A. Abbott, Harlingen, Tx., $122,397.
W. T. Touchberry, Glen Allan, Ms., $122,327.
J. E. Mayes, Mayesville, S.C., $122,198.
King & Anderson, Inc., Clarksdale, Ms., $122,117.
Jr. & J. W. Cullison, Wellton, Az., $122,053.
John Norton Farms, Blythe, Ca., $121,803.
Ryan Bros., Mendota, Ca., $121,525.
Rabb Bros., San Joaquin Ca., 121,431.
J. Levington Est. Inc., Ruleville, Ms., $121,349.
R. T. Hoover Farms, Fabens, Tx., 121,314.
W. P. Hunter, Bell City, Mo., $121.058.
Delmer, Zweygardt, Burlington, Co., $121,057.
Donald H. Cox, Brawley, Ca., $121,047.
Oscar Mayfield & Sons, Taft, Tx., $120,887.
Kelly R. Mahan, Drew, Ms., $120,734.
Franklin Trotter, Greensville, Ms., $120,699
C. M. S. Farming Co., Phoenix, Az., $120,624.
Brazos A. Varisco, Bryan, Texas, $120,624.
Brooks Griffin, Elaine, Ar., $120,537.
Hill Farms, Inc., Indianola, Ms., $120,276.
Midway Farms, Inc., Osceola, Ar., $120,178.
The Delta Company Belzoni, Ms., $120,165.
Rodgers Bros., West Memphis, Ar., $119,806.
Claude P. Polston, Jr., Blenheim, S.C., $119,570.
Kenneth, Reynolds, Calipatria, Ca., $119,256.
Carl C. May, Helena, Ark., $119,144.
Meadowlark, Fms., Sullivan, In., $118,973.
Delmar R. Durrett, Amarillo, Tx., $118,789.
E. F. Mauldin, Town Creek, Al., $118,654.
Fifield Land Co., Brawley, Calif., $118,432.
Fred Tavoleti & Sons, Clarksdale, Ms., $118,228.
Hagan and Bruton Farm, Hollandale, Ms., $117,999.
Wheeler Farms, Bakersfield, Ca., $117,869.
Dave Mendrin & Sons, Madera, Ca., $117,539.
Belding Farms, Inc., Ft. Stockton, Tx., $117,209.
J. C. Mills, Abernathy, Tx., $117,201.
Carl E. Weller, Phoenix, Ariz., $117,180.
Griffin & Griffin, Coalinga, Ca., $116,892.
Lee Moor Farms, Clint, Tx., $116,798.
Correia Brothers, Visalia, Ca., $116,773.
Woods Co., Yuma, Az., $116,531.
The Mirasol Co., Buttonwillow, Ca., $116,516.
Greater Ariz Rch, Inc., Ariz City, Az., $116,341.
South Fork Ranch, Inc., Lemoore, Ca., $116,202.
Earl Hughes, Gadsden, Az., $115,891.
O Neill Farms, Inc., Huron, Ca., $115,724.
Roger Davidson, Marks, Ms., $115,597.
S. N. Knight Sons, Inc., Belle Glade, Fl., $115,499.

Ward Walton and Asso., Inc., Upper Sandusky, Oh., $115,235.
Peterson Farms, Corcoran, Ca., $115,130.
The Brown Farm, Schlater, Ms., $114,179.
Hubert Cheek, Jr., Bowersville, Ga., $114,065.
Lawrence E. Pence, McColl, S.C., $114,020.
Race Track Plantation, Greenwood, Ms., $113,286.
Elmer Heiskell, Dalhart, Tx., $112,990.
Basil Abate, Bremond, Tx., $112,932.
Virgil F. Marsh, Hereford, Tx., $112,404.
Lockmiller and Son, Clovis, N.M., $112,051.
O. F. Bledsoe Pltn Est., Greenwood, Ms., $111,781.
Busby Farms, Olton, Tx., $111,711.
C. & W. Ranches, Inc., Marana, Az., $111,599.
Glenn Lane, Coolidge, Az., $111,064.
Willis & Kurtz, Bakersfield, Ca., $110,574.
C. and C. Farms, Ft. Stockton, Tx., $110,372.
James H. Jones, Hearne, Tx., $110,069.
Sill Prop, Inc., Bakersfield, Ca., $109,995.
Adamek & Dessert, Seeley, Ca., $109,834.
John B. Ford, Darling, Ms., $109,773.
E. T. Jordan & Sons, Yazoo City, Ms., $109,621.
Joe I McHugh, Orrville, Al., $109,505.
Warner Reid, Tulia, Tx., $109,374.
Lakeview Pltg Co., Yazoo City, Ms., $109,338.
Milliken & Farwell, Inc., Port Allen, La., $108,907.
Carl J. Kuper, Dalhart, Tex., $108,810.
Elvin Crow, Pecos, Tex., $108,758.
Cameta Plantation, Inc., c/o Milton Kline, Anguilla, Miss., $108,294.
Davis Ranch Co., Post Office Box 55, Chandler Heights, Ariz., $108,147.
Patterson Farms, Inc., c/o G. D. Patterson, Maitland, Mo., $108,112.
Harold H. Hogue, 1415 Denrock, Dalhart, Tex., $107,964.
Fifield Farms, 229 Main Street, Brawley Calif., $107,820.
Smallwood Farms, Box 1086, Pecos, Tex., $107,664.
W. J. Scott, Route 1, Box 695A, Yuma, Ariz., $107,327.
Morrison Bros., Route 1, Box 13, Highley, Ariz., $107,184.
Armorel Planting Co., Armorel, Ariz., $107,147.
Lee Ross Hammond, 1616 East 21st, Clovis, N. Mex., $106,863.
Fridenmaker Farms, 223 South 4th Street, Phoenix, Ariz., $106,771.
McCarthy Hilderbrand Farms, Route 1, Box 246–A, Eloy, Ariz., $106,609.
Alexander Farms, Inc., 46 Waverly Wood, Helena, Ar., $106,371.
Wesley Hansen, P O Box 995, Corcoran, Ca., $106,312.
Banks & Co. Box 368, Hernando, Ms., $106,-176.
H. L. Anderson, R 1 Bx 475, Peoria, Az., $106,126.
Gladden Farms, P O Box 236, Cashion, Az., $106,057.
James E. Coleman, RR 4, Yazoo City, Ms., $106,035.
Sam Sparks, Rt 1, Santa Rosa, Tex., $105,-737.
Barham, Inc., c/o Joe Barham, Oak Ridge, La., $105,702.
C. H. Moore Trust Est., S Center St., Clinton, Ill., $105,428.
H. L. Yocum & Sons, 17801 10th Ave, Hanford, Ca., $105,332.
Carlson Brothers, RR 1, Box 568, Marion, Ark., $105,243.
Guy H. Shivers, Sr., Norwood, Ga., $105,-031.
Tracy Ranch, Inc., RR 1 Bx 177, Buttonwillow, Ca., $104,933.
George Hammond, 2829 Gidding, Clovis, N.M. $104,926.
Ben Estes Bearden, Box 387, Santa Rosa, Tex., $104,874.

715 Farms, Ltd., Box D, Pahokee, Fla., $104,864.
M. T. Hardy, Webb, Ms., $104,792.
Olive W. Garvey, Box 485, Colby, Ks., $104,788.
Empire Farms, Box 698, Eloy, Az., $104,640.
Walter J. Williams, 1223 Park Circle, Las Vegas, Nev., $104,537.
Cedarville Corp., Box 1288, Pecos, Tex., $104,447.
Geo. T. Helle, Rt. 2, Box 82–E, Mission, Tex., $104,309.
Mike P. Sturdivant, Glendora, Ms., $104,-261.
Fred Enke, 1405 N. Kadota, Casa Grande, Az., $104,222.
H. R. Watson and Sons, Tunica, Ms., $104,-202.
Eldon Blackburn, Star Route, Melrose, N.M., $104,069.
J. F. Bland, Jr., Mayesville, SC, $103,725.
Belluomini Bros., RR 1, Box 89, Buttonwillow, Ca., $103, 719.
Garden City Company, Garden City, Ks., $103,611.
John Valov, Tulare, Calif., $103,442.
J. A. Howarth, Jr., Cleveland, Ms., $103,325.
Weeth Ranches, Inc., Coalinga, Ca., $103,-085.
M. B. McFarland & Sons, McFarland, Ca., $102,872.
J. H. Sherard & Son, Sherard, Ms., $102,695.
Mitco, Inc., Crosbyton, Texas, $102,667.
G. L. Pratt, Visalia Ca., $102,554.
Gaddis Farms, Inc., Raymond Ms., $102,502.
William E. Armstrong, Lubbock, Tx., $102,-222.
Epps Plantation, Epps, La., $102,181.
McGregor Land & Livestk. Co., Hooper, Wa., $101,982.
E. L. Wallace, Woodland Ca., $101,847.
Lattner and Mills, Pecos, Tx., $101,834.
Parrott Inv. Co., Chico, Ca., $101,824.
Carl C. Bamert, Muleshoe, Tex., $101,763.
J. L. Hodges Farming Co., Buckeye Az., $101,721.
Rio Farms Inc., Edcouch, Tex., $101,580.
Baker Planting Co., Leland, Ms., $101,471.
J. C. Sides Sr., Coffeeville, Ms., $101,110.
Big Creek Farms Co., Joes, Co., $100,918.
W. D. Patterson, Rome, Ms., $100,854.
Norment Foley, Uvalde, Texas, $100,836.
J. L. Golightly, Jr., Mesa, Ariz., $100,698.
Bond Pltg. Co., Clarkedale, Ark., $100,676.
Farm Development Corp., Boise, Id., $100,-631.
Jones Farms, Stratford, Ca., $100,305.
Baretta & Little Farms, Calipatria, Ca., $100,073.
Ranches of the SW, Ft Stockton Tx. $100,025.
H. G. Carpenter, Rolling Fork, Ms., $100,000.
Egypt Planting Company, Cruger, Ms., $99,-876.
William J. Asmussen, Agar, SD., $99,815.
Abatti Bros., El Centro, Ca., $99,808.
Melcombs Ranch, Inc., San Joaquin, Ca., $99,803.
Gordon Bros., Tranquillity, Ca., $99,739.
Reetex Farms, Pecos, Tex., $99,582.
Hooper Farms Inc., Chowchilla, Ca., $99,-413.
Rossi Farms Inc., Bakersfield, Ca., $99,140.
C. C. Slaughter Farms, Morton, Tx., $98,-870.
Enrico Farms Inc., Firebaugh, Ca., $98,567.
J. D. Rankin, Canton, Ms., $98,407.
J. Boyd White, Marana, Az., $98,241.
E. W. Merritt Farms, Porterville, Ca., $98,-088.
Roebuck Plantation, Sidon, Ms., $98,039.
Cornerstone Farm & Gin. Co., Pine Bluff, Ark., $98,010.
I. D. Nunnery, Jr., Arcola, Miss., $97,963.
Wedderburn Bros., Lemoore, Calif., $97,837.
Bruce Parr, Friona, Tex., $97,668.
P. Hansen Ranch, Corcoran, Calif., $97,631.
C. B. Box Co., Midnight, Miss., $97,613.
Jack Ralston, Maricopa, Ariz., $97,491.
Sarah P. Sanders Extr., Walls, Miss., $97,472.

Jack Bros. & McBurney, Inc., Brawley, Calif., $97,245.
Charles A. Russell, Beulah, Miss., $96,743.
John W. Nigliazzo, Hearne, Tex., $96,650.
Dearborn & Maraccini, Calipatria, Calif., $96,522.
Coleman Farms, Okolona, Miss., $96,423.
Richard Gumz, North Judson, Ind., $96,238.
Bibb, Inc., Tunica, Miss., $96,092.
Linneman Ranches, Inc., Dos Palos, Calif., $95,940.
David C. McAteer, Ft. Stockton, Tex., $95,920.
Donald K. Donley, Yuma, Ariz., $95,916.
Walker Farms, Inc., Stoneville, Miss., $95,858.
Dean Pruett, Altoona Ala., $95,738.
Peter J. Robertson, Coolidge, Ariz., $95,729.
M. L. Earnheart Co., Tunica, Miss., $95,699.
Kenmar Farm, Arvin, Calif., $95,424.
White Farms & Cattle Co., Canyon, Tex., $95,383.
Bruneau Sheep Co., Grandview, Idaho, $95,372.
Vence, Corpora, Hearne, Tex., $95,331.
Hoparka Plantation, Sumner, Miss., $95,203.
James S. Garvey, Colby, Kans., $95,113.
Griset Bros., Santa Ana, Calif., $95,040.
Pacific Farms Co., Firebaugh, Calif., $94,876.
Cunningham Sheep Co., Pendleton, Oreg., $94,862.
Harold Senter, Wilson, Ark., $94,856.
Hollybrook Land Co., Inc., Lake Providence, La., $94,701.
Wm. J. Schulte, El Reno, Okla., $94,559.
Gilnockie Pltg. Co., Leland, Miss., $94,369.
Ranza Boggess, Friona, Tex., $94,120.
Dudley Pillow, Jr., Delta, La., $93,960.
Goodland Farms, Inc., Hearne, Tex., $93,909.
W. H. Haggard, Jr., Buckeye, Ariz., $93,759.
Hinkhouse Bros., Burlington Colo., $93,636.
W. A. Rountree, Dublin, Ga., $93,432.
W. W. Hill, Pecos, Tex., $93,428.
L. Z. Farms, Inc., Casa Grande, Ariz., $93,389.
Simpson & Wilson, Rio Hondo, Tex., $93,027.
Kriesant Operating Co., Inc., Mendota, Calif., $92,790.
H. & H. Farms, Inc., Bakersfield, Calif., $92,750.
E. O. Mitchell, Inc., Arvin, Ga., $92,663.
J. W. Wallace & Sons, Edinburg, Tex., $92,580.
Aden Brothers, Inc., Valley Park, Mass., $92,566.
E. C. Fedric, Glendora, Mass., $92,555.
Woodrow Lewis, Chandler, Ariz., $92,521.
Wilbur Wuertz, Casa Grande, Ariz., $92,494.
L. W. Wade Farms, Inc., Greenwood, Miss., $92,276.
B. Raymond Evans, Tulia, Tex., $92,096.
J. B. Hardwicke, Co., Ptn., McAllen, Tex., $92,093.
Winterrowd Bros., Pecos, Tex., $92,045.
Raymond O'Connel & Son, Brawley, Ga., $92,010.
Jacob S. Stephens, Buckeye, Ariz., $91,912.
Allen & Brashier, Pltg., Co., Indianola, Miss., $91,823.
John H. Spearman, Clovis, N. Mex., $91,741.
Fairfax Pltn., Tribbett, Miss., $91,641.
Anthony Denena & Son, Hearne, Tex., $91,640.
G. H. J. Farms, Ltd., Johnson, Kans., $91,596.
M. Lane, Shafter, Colo., $91,561.
Combs & Clegg Rnchs, Inc., Queen Crk., Ariz., $91,466.
E. R. McDonald & Sons, Newellton, La., $91,355.
Dulaney Bros., Shallowater, Tex., $91,353.
Ed Hall, Bouse, Ariz., $91,093.
J. G. Gourlay, Rosedale, Miss., $91,021.
Harp & Hansen, Corcoran, Ga., $90,860.
F. O. Masten, Sudan, Tex., $90,792.
Hubbard W. McDonald, McColl, S.C., $90,786.
J. & J. Ranch, Firebaugh, Colo., $90,741.
William P. Scamardo, Mumford, Tex., $90,733.
Giusti Farms, Inc., Fresno, Calif., $90,676.
A. B. Foster, Pecos, Tex., $90,550.
W. J. Chandler and Sons Moundville, Ala., $90,472.
San Juan Ranching Co., Dos Palos, Calif., $90,248.
Gilkens Farms, Inc., Edwards, Miss., $90,247.
C. B. Shields, Jr., Edcouch, Tex., $90,028.
J. F. Martin, Hereford, Tex., $90,000.
M. K. & J. F. Rieves, Jr., Marion, Ark, $89,924.
E. D. Graham, Sumner, Miss., $89,809.
C. J. Ritchie, Visalia, Calif., $89,602.
Paul Pilgrim, Shafter, Calif., $89,582.
Douglas Mallette, Indianola, Miss., $89,581.
Inco Farms, Inc., Bonsall, Calif., $89,500.
Wayne Sniffin, Firebaugh, Calif., $89,359.
Cass Edwards, II, Ft. Worth, Tex., $89,341.
Thomas L. Moran, Hartley, Tex., $89,178.
Vernon B. Clinton, Rupert, Idaho, $89,125.
Pacco Inc., Turrel, Ark., $89,120.
Deavenport Ranches, Inc., Fresno, Calif., $89,081.
G. J. Parkhill, Jr., Crosbyton, Tex., $88,994.
Sanders & Sanders, Bakersfield, Calif., $88,907.
Joe Lee McMahon, Verhalen, Tex., $88,883.
Neil Fifield Co., Brawley, Calif., $88,756.
Hardesty Bros., Buckeye, Ariz., $88,609.
Howard & Blythe Plt., Lake Cormorant, Mich., $88,188.
Dearmont Oliver, East Prairie, Mo., $88,099.
McMurchy Farms, Duncan, Ms., $88,062.
Power Ranches Inc., Higley, Az., $88,031.
Frank Robinson, Panhandle, Tex., $87,999.
Gus Pugh Sons Inc., Portland, Ar., $87,873.
D. T. Reed, Hereford, Tex., $87,677.
F. H. Hogue Prod. Co., Litchfield Park, Az., $87,638.
El Tejon Cattle Co., Bksfld., Ca., $87,373.
Beckwith Farms, Progreso, Tex., $87,160.
Post Montgomery, Levelland, Tx., $87,106.
S. E. Lowrance Ranch, Tranquillity, Ca., $87,026.
Owen Brothers, Tunica, Ms., $87,008.
Cattani Bros., Bakersfield, Ca., $87,008.
Fred Nussbaumer, Wellton, Az., $86,991.
Ruby Walker, Bentonia, Ms., $86,882.
Dossett Plantation Inc., Beulah, Ms., $86,733.
Elms Planting Corporation, Altheimer, Ark., $86,720.
Ben Wood Farms, Joiner, Ar., $86,515.
Miller Farms Company, Tulia, Tx., $86,462.
Aladdin Ranch, Fresno, Ca., $86,456.
A. Angeletti Inc., Crawfordsville, Ark., $86,363.
C. Mettler, Bakersfield, Ca., $86,349.
Ballard and Hurt, Plainview, Tex., $86,180.
M. L. Dudley & Co., Fresno, Ca., $85,959.
W. W. Clem, Pecos, Tex., $85,959.
Ruby Planting Co., Money, Ms., $85,945.
Dunn Farms, Maricopa, Az., $85,860.
John & Alex Kochergen, Fresno, Ca., $85,801.
Dan Claborn, Courtland, Al., $85,783.
P. & W., Inc. & Santa Monica Farms, Brownsville, Tex., $85,725.
Pirani & Sons, Turrell, Ar., $85,723.
Anderson Bros., Oakley, Id.. $85,706.
Sunset Rnchs, Inc., Rt. 1, Box 220, Eloy, Ar., $85,683.
Meagher Sheep Co., Box 122, Vernal Ut., $85,530.
Marshall Lands, Inc., Box 3, Charleston, Mo., $85,354.
P. S. Thompson, Box 787, Eloy, Az., $85,332.
H. S. Swayze, R.R. 2, Benton, Ms., $85,320.
Louisiana State Penitentiary Angola, La., $85,219.
Loy, Kilgore, 1721 Jefferson, Pecos, Tx., $85,190.
Stimson Veneer & Lumber Trust, Dumas, Ar,. $85,107.
Sanders Farms, R.R. 3, Bx 969, Bakersfield, Ca., $84,985.
D. E. Phillips, Lind, Wa., $84,840.
W. S. Heaton, Jr., Lyon, Ms., $84,669.
Sam & D. M. Biancucci, P.O. Box 337, Firebaugh, Ca., $84,527.
Salton Sea Farms, Box 277, Calipatria, Ca., $84,514.
Tallmadge Ranch, Inc., R.R. 1, Momence, Il., $84,498.
D. M. Brown, 921 W. Northern Ave., Phoenix, Az., $84,495.
Hobson, Gary, Schlater, Ms., $84,441.
Little Panther Plantation, Leland, Ms., $84,440.
Penny Ranch, Burlington Co., $84,436.
J. F. Twist Plantation, Twist, Ar., $84,404.
M. Curti & Sons, P.O. Box 158, Waukena, Ca., $84,335.
D. H. Dew, Jr., Eden, Ms., $84,334.
D. E. Reynolds, Jr., Glendora, Ms., $84,139.
Paul Battle, Jr., R.R. 1, Box 180, Tunica, Ms., $84,069.
Wallace Bales, 401 N. 6th Ave., Buckeye, Az., $84,061.
Albemarle Corporation, Box 215, Courtland, Al., $84,045.
Lee J. Fazzino, R.R. 1, Box 259, Bryan, Texas, $83,963.
Morgan Shillington Farms Co., Box 535, Rupert, Id., $83,732.
J. L. Hill & Co., Webb, Ms., $83,689.
Wolf Island Farms, Wolf Island, Mo., $83,489.
Rogers Farming Co., P.O. Box 348, Pville, Ca., $83,385.
Miller Lumber Co., Marianna, Ar., $83,365.
Martin Talla, Box 668, Stanfield, Az., $83,364.
Travis H. Jones 609 Ironwood Dr., Buckeye, Az., $83,266.
C. Elton Green, Star Route, Clovis, N.M., $83,262.
W. L. Corcoran, R.R. 2, Eufaula, Al., $83,235.
Daniel D. McDaniel, R.R. 3, Cameron, Tx., $83,120.
Fredlo Farms, P.O. Box 174, Arvin, Ca., $83,058.
Hugh Stephens, Box 186, New Albany, Ms., $82,850.
Phil Taber, Box 296, Casa Grande, Az., $82,827.
Jerry Skelton, Collierville, Tenn., $82,779.
White Face Farms, Inc., Levelland, Tex., $82,705.
Wilson Company, Inc., Ogden, Utah, $82,688.
Duane Ellsworth, Chandler, Ariz., $82,649.
Rowe and Turnbough, Box 1, Toyahvale, Tex., $82,628.
J. F. Higgins Farms, Inc., Schuyler, Ne., $82,593.
Call-Tenn L & C Co., Box EE, Calipatria, Ca., $82,587.
Lewis Barksdale, Jr., Rt. 1, Duncan, Ms., $82,527.
Antongiovanni & Jarrard, 1318 Baldwin Rd., Bakfld, Ca., $82,512.
H. L. Holland, Box 1598, Coolidge, Az., $82,486.
Riggan Planting Co., 501 N. Missouri, West Mphs., Ar., $82,339.
Scott & Knappenberger, Blythe, Ca., $82,316.
Independent Gin Co., Grande, Az., $82,261.
Coleman Planting Co., Yazoo City, Ms., $82,248.
J. P. Terrell and Son, Navasota, Texas, $82,203.
Mauldin Mauldin, Yuma, Az., $82,175.
Texas Dept. of Corr., Sugarland, Tx., $82,155.
R. C. Godwin Farms, Inc., Hereford, Tx., $82,140.
DW & BH Malcolm, Gostwick, Ga., $82,026.
Redd Ranches, Lasal, Ut., $82,084.
Schoeneck Farms, Inc., Macungie, Pa., $81,747.
A. E. Panetta Farms, Tipton, Ca., $81,707.
Elwood Elkins, Dekalb, Tx., $81,675.
Payne Valley Farms, Inc., Hamburg, Ia., $81,656.

A. Wilberts Sons L/S Co., Plaquemine, La., $81, 639.
Delton Caddell, Ralls, Tx., $81,618.
Willson Farms, Inc., Fresno, Ca., $81,542.
A. W. Langenegger, Hagerman, NM., $81,531.
M. B. M. Farms, Phoenix, Az., $81,497.
Price Giffen Ranch, Firebaugh, CA., $81,482.
Anderson-Palmisano Fms., Maricopa, Az., $81,427.
Parsons Ranch, Buttonwillow, Ca., $81,416.
Larry Chapman, Chowchilla, Ca., $81,400.
Leonard & Henry Franz, Lind, Wa., $81,156. $81, 156.
James E. Kemp, Dallas, Tx., $81,145.
Sierra Dawn Farms, Firebaugh, Ca., $80,971.
Billy Wayne Sisson, Hereford, Tx., $80,920.
Avra Land/Cattle Co. Ptnship., Tucson, Az., $80,893.
Barney-Mecham, Queen Creek, Az., $80,775.
William Hardison, Palo Verde, Az., $80,742.
C. Ray Robinson, Elroy, Az., $80,720.
O. F. Gremaud, Perryville, Mo., $80,671.
Deseret Lvst. Co., Inc., Salt Lake, Ut., $80,618.
T Cattle Co., Eagle Lake, Tx., $80,492.
Mason & Godwin, Monroe, La., $80,437.
Cerro Bros., Bakersfield, Ca., $80,431.
Rlds. Church, Indep., Mo., $80,397.
L. A. Robertson Fms., Inc., Shafter, Ca., $80,304.
Tunney Stinnett, Elaine, Ar., $80,253.
Davis & Gandy, Edinburg, Tex., $80,244.
Wesley Kroeker, Enid, Ok., $80,048.
John Garrett, Jr., Clovis, N.M., $79,893.
P. M. Commercial Corp., Bakersfield, Ca., $79,741.
Stafford Hannon, Brawley, Ca., $79,710.
W. G. Trotter and Son, Winterville, Ms., $79,619.
Martinus & Martinus, Lockwood, Ca., $79,615.
DBA D. L. Smith arms, Harlingen, Tx., $79,611.
Sweet Brothers, Widener, Ar., $79,533.
W. & Q. Farms, Inc., Calipatria, Ca., $79,530
R. W. Owen, Inc., Tunica, Ms., $79,514
C. L. & L. Farms, Stanfield, Az., $79,506.
Heirs of Jos. F. Green, Taft, Tx., $79,493.
Lynchfield Planting Company, Tchula, Ms., $79,438.
Cowan Bros., LaGrange, Tenn., $79,392.
Sunrise Dairy, Cleveland, Ms., $79,344.
Morris Stuhaan, Visalia, Ca., $79,254.
Leon C. Bramlett, Clarksdale, Ms., $79,254.
Bruins Plng. Co., Hughes, Ark., $79,176.
Garrett & Son, Clarksdale, Ms., $79,136.
W. M. Terry, Martin, S.C., $79,037.
J. E. Mayes, Mayesville, S.C., $78,979.
W. A. & T. A. Calloway, Bosco, La., $79,835.
A. A. Mabus, Philipp, Ms., $78,812.
Ben F. Bowden, Eufaula, Al., $78,657.
Joe Pugh, Bena, Ms., $78,654.
Jess Croft & Son, Idaho Falls, Id., $78,601.
C. Bruce Mace Ranch, Inc., Davis, Ca., $78,483.
John & Ray Brorman, Adrian, Tx., $78,440.
Hicks Graves, Petty, Tex., $78,284.
Wedel Farms, Wasco, Ca., $78,255.
Wagner Brothers, Inc., Lewiston, Id., $78,236.
Mission Planting Co., Ida, La., $78,144.
A. H. Wegis & Sons, Buttonwillow, Ca., $78,120.
John W. Bookout, Hartley, Texas, $78,104.
R. D. Hughes, Blytheville, Ar., $78,056.
Graydon Flowers, Mattson, Ms., $78,021.
Churchill & Thiabut, Inc., Donaldsonville, La., $78,105.
Luis Garcis/Sons, Inc., Spur, Tx., $78,005.
George B. Doshier, Vega, Tex., $77,973.
Bozeman Farms, Inc., Flora, Miss., $77,972.
Howard Hurd, 1008 E. Tate, Brownfield, Tex., $77,965.
Fox Brothers, Box 326, Lyon, Miss., $77,912.
Framack Farms, Box 1233, Amarillo, Tex., $77,904.
H. T. Dillahunty & Sons, Hughes, Ark., $77,899.
Cotton Dixie, Inc., care of J. B. Baker, Webb, Miss. $77,898.
Dan Crumpton, Jr., 924 Oakhurst, Clarksdale, Miss., $77,879.
Herbert Friemel, Rt. 1, Canyon, Tex., $77,798.
Lakeland Farms, Rt. 1, Box 380, Hollandale, Miss., $77,769.
Carr Planting Co., O. C. Carr, Jr., Clarksdale, Miss., $77,727.
Rhodell Farms, Inc., P.O. Box 638, Avondale, Ariz., $77,708.
Raymond Brown and J. M. Brown, Anguilla, Miss., $77,663.
Sutton Bros., Rt. 3, Box 769, Phoenix, Ariz., $77,650.
Stonewall Planting Co., P.O. Box 11, Thornton, Miss., $77,585.
Dale Steele, Ford, Kans., $77,573.
Horace Hutton, Rt. 1, Box A, Muleshoe, Tex., $77,499.
Palm Farms, Inc., 4016 Stockdale Highway, Bakersfield, Calif., $77,488.
Frank Bounds, 2015 Jackson, Pecos, Tex., $77,463.
S. A. Arnold, Jr., Tunica, Miss., $77,412.
H. T. Bonds, Rt. 1, Shelby, Miss., $77,318.
Frank Schuster Rt. 1, San Juan, Tex., $77,244.
Collier Bros., Inc., Box 1058, Spearman, Tex., $77,226.
Ben Riggs & Son., Rt. 2, Box 95, Chandler, Ariz., $77,175.
O. B. Nerren, Isola, Miss., $77,159.
Gordon V. Waldrop, Rt. C, Lamesa, Tex., $77,143.
Holcomb & Black, Rt. 2, Box 29C, Weslaco, Tex., $77,085.
Forrester Ranch, Inc., Box 546, Amarillo, Tex., $77,081.
M. C. Braswell Farms, Battleboro, N.C., $77,037.
Don & Vern Thiesen, Rt. 1, Box 432A, Kingsburgh, Calif., $77,011.
G. T. Hamilton, Rt. 8, Hillsboro, Ala., $76,970.
King Plantation, 1100 Poplar, Greenwood, Miss., $76,901.
Reinauer Bros., Box 1070, Hereford, Tex., $76,866.
Charles Vonderahe, Box 215, Brawley, Calif., $76,792.
T. K. Williamson, Box 931, Morton, Tex., $76,641.
Dale Elliott, Rt. 1, Clovis, N. Mex., $76,548.
C. J. Lowrance & Sons, Driver, Ark., $76,543.
Wedgworth Farms, Inc., P.O. Box 206, Belle Glade, Fla., $76,540.
Runnymede Plantation, Box 277, Itta Bena, Miss., $76,467.
Mashburn Farms, Inc., Rt. 5, Paris, Tex., $76,349.
Verney Towns, 3713 68th, Lubbock, Tex., $76,327.
C. W. Neely, Box 72, Gilbert, Ariz., $76,319.
James Blythe, Jr., Courtland, Ala., $76,192.
Standefer-Gray, Inc., Lubbock, Tex., $76,170.
Michael Giffen Ranch, Inc., Fresno, Calif., $76,142.
W. C. Huffaker, Jr., Tahoka, Tex., $76,070.
Clarence Winger & Sons, Johnson, Kans., $76,058.
James Cannon, Lockney, Tex., $75,999.
Arnold Farms, Inc., Tunica, Miss., $75,964.
Alex Curtis, Leland, Miss., $75,880.
Phelps & Palmer, Mesa, Ariz., $75,854.
Bonanza Farms, Bakersfield, Calif., $75,848.
Hoke Propst, Anson, Tex., $75,807.
L. R. Layton, Chandler, Ariz., $75,629.
J. R. Flautt & Sons, Swan Lake, Miss., $75,575.
Panola Co., Newellton, La., $75,547.
Hawk & Sperber, Holtville, Calif., $75,512.
Delta Ranches, Inc., Blythe, Calif., $75,480.
Williams & Burkhardt, Taft, Tex., $75,353.
Lone Oak Ranch, Corcoran, Calif., $75,339.
Cokers Ped. Seed Co., Hartsville, S.C., $75,293.
Dougherty Ranch, Phoenix, Ariz., $75,247.
Herbert C. Harris, Jr., Cherokee, Ala., $75,216.
Chas. Urrea & Sons, Mesa, Ariz., $75,153.
Lipe Farms, Inc., Indianola, Ms, $75,091.
Joe Reistino, Jr., Calvert, Tx, $75,088.
J. D. Smith, Littlefield, Tx, $75,078.
B. S. Baldwin & Sons, Bksfld, Ca, $75,015.
Pinal Farms, Inc., Stanfield, Az, $75,000.
R. W. Neely, Florence, Az, $74,966.
Billy Rogers Farms, South Bay, Fl, $74,950.
J. C. Mills, Abernathy, Texas, $74,944.
Jay Wilson, Casa Grande, Az, $74,939.
Davis Beauchamp, Calipatria, Ca, $74,931.
Jason H. Allen, Lubbock, Tex, $74,759.
Elmo Stephens, Plainview, Tx, $74,748.
Harry L. Laws Co., Inc., Brusly, La, $74,745.
California Sturges Ginning Co., Yuma, Az, $74,740.
M & T, Inc., Chico, Ca, $74678.
Otto Steinberg, Plainview, Tx, $74,662.
Milo Erwin, Fresno, Ca, $74,583.
R. Creecy & T. Tate, Osceola, Ar, $74,559.
Charles E. Lynch, Bville, SC, $74,522.
W. T. Millen, Muleshoe, Tx, $74,448.
Kirkland & Best, Ulmers, SC, $74,412.
Mohead Planting Company, Lula, Ms, $74,380.
La Strawberry & Vegetable Distributing Co., McAllen, Tex., $74,352.
H. H. Twiford, Alligator, Ms. $74,299.
Skousen & Hastings, Rt. 1, Box 44, Queen Creek Az., $74,253.
John C. Alford, Box 28, Petersburg, Texas, $74,190.
L. J. Barksdale, RR 1, Marks, Ms., $74,036.
Valley Onions, Inc., P.O. Box 35, McAllen, Tx., $73,994.
Henson & Sons, RR 3, Bx 920, Bakersfield, Ca., $73,936.
Raymond Beauchamp, 605 Ross Blvd., Pecos, $73,935.
Harriet Veck, PO Box 12, Animas, NM., $73,844.
Pylate Brothers, PO Box 100, Eudora, Ar., $73,775.
Grant-Vaughn Ellsworth, 2550 E. Southern Ave., Mesa, Az., $73,755.
Dave M. Thompson, Box 1027, Friona, Texas, $73,743.
Savoie Industries, Belle Rose, La., $73,709.
Carr-Mascott Pltn, Inc., RR 2, Box 161, Clarksdale, Ms., $73,612.
Ray Tribble, Money, Ms., $73,579.
E. Batsch, 18384 Ave. 200, Strathmore, Ca., $73,563.
C. H. & G. Farms, Inc., $8297 E. Sanders Ct., Fresno, Ca., $73,545.
Millhaven Co., J. K. Boddiford, Mgr., Rt. 1, Sylvania, Ga., $73,515.
Dalton R. Pittman, 4809 Camellia Ln., Shreveport, La., $73,423.
Shannon Bros., Entp., Bx. 2863 DeSota Sta., Memphis, Tn., $73,400.
Daniel Gustafson, Box 27, Lyford, Tx., $73,392.
Carl Bruegel, Bx 175, Dimmitt, Tx., $73,324.
H. L. Kenrick, Eloy, Az., $73,312.
T. V. Cardoza & Son., Tulare, Ca., $73,286.
J. Bert Williams, Farwell, Tx., $73,167.
Grady Shepard, Hale Center, Tex., $73,058.
Haas Inv., Co., Inc., Bunkie, La., $73,021.
Moore & Taylor, Waddell, Az., $72,955.
Roseta Farms, Eagle Pass, Tx., $72,940.
J. Antongiovanni & Sons, Bakersfield, Ca., $72,885.
Alex & Norman Pretzer, Eloy, Az., $72,862.
Reyher Farms, McClave, Co., $72,770.
W. W. Boswell, Jr., Corcoran, Ca., $72,610.
L. L. Lawson, Lubbock, Tx., $72,560.
Porter Land Co., Bakersfield, Ca., $72,544.
M. C. Ewing Co., Inc., Anguilla, Ms., $72,391.
Mallory Farms, Chatfield, Az., $72,361.
Charles Hill, Chandler, Az., $72,350.
Albert J. Hoelscher, Pecos, Tx., $72,270.
A. C. T. Ranches, Inc., Eloy, Az., $72,127
Richard Berry & Sons, Cutler, Ca., $72,103.
Twilight Planting Co., Glora, Ms., $72,052.
Couture Farms, Huron, Calif., $72,022.
Pappas & Co., Inc., Mendota, Ca., $71,930.

Rio Grande Equipment Company, Harlingen, Tx., $71,920.
George H. Moore, Canton, Ms., $71,908.
Roy Smith, Corpus Christi, Tx., $71,900.
Bear Kelso Plantation, Inc., Valley Park, Ms., $71,877.
Dan L. Smythe, Tribbett, Ms., $71,762.
Ralph T. Hand, Jr., Glendora, Ms., $71,706.
Snodgrass and Carlisle, Roswell, NM., $71,678.
Wood-Sanderlin Farm, Crumrod, Ar., $71,673.
Mouren Farming Co., Huron, Ca., $71,583.
Wayne Kirschenmann, Bksfld, Ca., $71,460.
W. A. Heiden & Son, Buckeye, Az., $71,428.
O. D. Bingham, Amarillo, Tx., $71,418.
G. H. Barker, Marks, Ms., $71,407.
Bouziden Bros., Alva, Ok., $71,385.
J. G. Adams and Son, Hughes, Ar., $71,384.
M. P. Moore, Senatobia, Ms., $71,365.
Dunn Farms, Yuma, Az., $71,347.
Johnson Bros. & Jones, Cambridge, Ne., $71,077.
Melvin May, Hereford, Tx., $71,032.
G. G. Passmore, Jefferson, Pecos, $70,975.
O. H. Pattison, Clovis, NM., $70,943.
Garone Brothers, Bksfld, Ca., $70,907.
Melvin McConnell Farms, Wasco, Ca., $70,898.
X. Y. Ranch Co., Granada, Co., $70,841.
Muldrow Farms, Brownsfield, Tx., $70,834.
P. M. B. Self Estate, Marks, Ms., $70,753.
Self & Co., Marks, Ms., $70,732.
Allen B. Helms, Clarkedale, Ark., $70,612.
Wayne Q. Winsett, Altus, Ok., $70,605.
Crouch Bros., Maricopa, Az., $70,544.
J. Kroeker Sons, Shafter, Ca., $70,513.
Gerald L. Morris, Jr., McCrory, Ar., $70,323.
Clide Barnett, Keiser, Ar., $70,300.
Stanley Asmussen, Agar, SD., $70,231.
Ed Wiest, Brawley, Ca., $70,186.
R. A. Hildebrand, Bakersfield, Ca., $70,116.
Clarence D. Carnahan, Hereford, Tx., $70,106.
T. C. Buford, Glendora, Ms., $70,098.
Bloemhof Hay Co., Buttonwillow, Ca., $70,081.
Elvis Jones, Lovington, $70,057.
W. T. Jamison, Jr., Tiptonville, Tenn., $70,047.
Double D. Ranch, Inc., Loxahatchee, Fl., $70,018.
First National Bank of ENC, Dunn, N.C., $69,943.
Gene Reeves, Americus, Ga., $69,810.
Jack Hart, Gruver, Tex., $69,777.
Carter Brothers, Rolling Fork, Ms., $69,767.
W C Skates & Son, Avon, Ms, $69,747.
D & R Farms, Rt 2 Box 167, Chandler, Az., $69,655.
Torrigiani, Bros., P O Bx 223, Buttonwillow, Ca., $69,645.
George Gabel, Rt 4, Dimmitt, Tx., $69,630.
Mike A Burkholder, Box 1562, Pecos, Texas, $69,570.
W P Scruggs Est., Doddsville, Ms., $69,490.
First National Bank, Dumas, Texas, $69,415.
W H Lovett, Dublin, Ga., $69,403.
James O Payne, Star Rt Bx 96, Wasco, Ca., $69,402.
Noel Williams, RR 1, Cordele, Ga., $69,381.
John W Dawson, RR 3, Hawkinsville, Ga., $69,299.
W H Morgan and Son Inc., 960 Weightman, Greenwood, Ms., $69,284.
H Buller Farms, 1730 Locust Ravine, Bakersfield, Ca., $69,251.
Equen Planting Co., C/O Melza Wilson, Minter City, Ms., $69,244.
King Farms, Rt 1 Box 162, Buckeye, Az., $69,191.
Angelo & Eugene Fanucchi, RR 3 Bx 1022, Bksfld, Ca., $69,159.
C O Pitrat & Sons, Rt 1 Box 12, Laveen, Az., $69,155.
McIntosh and Sons, 2034 14th St, Lewiston, Id., $69,147.
Phil Ladra, 5825 W Harmont Dr, Glendale, Az., $69,138.
F L Gerdes, Jr., Box 255, Leland, Ms., $69,113.
Joe G Fanucchi & Sons, RR 2 Bx 318, Bksfld, Ca., $69,105.
Dean Nelson, Onida, Sd., $69,078.
Garcia Farms Ptns., Rt 1 Box 75, Tolleson, Az., $69,055.
Warren Mathis, RR 1, Lockney, Tx., $69,043.
Carl V Grissom, 6863 S Plainsburg Rd, Le Grand, Ca., $69,021.
Leo Jessen, Oshkosh, Neb., $69,005.
Lake Plantation, C/O L Taylor Jr., Hughes, Ar., $68,975.
Lowrance Bros & Co., Driver, Ar., $68,966.
Sebastian Cot & Gr Corp., Box 104, Sebastian, Tex., $68,897.
Lee Wong Farms Inc., P O Box 866, Glendale, Az., $68,863.
B L Davis Ranch Inc., Adams, Or., $68,838.
J E Cunningham, Tchula, Ms., $68,827.
Dorris Jones, 506 S White, Floydada, Texas, $68,798.
Richard Swearingen, 20705 S Bishop, Riverdale, Ca., $68,760.
Warren Livestock, Box 848, Cheyenne, Wy., $68,703.
Morton, S., Inc., Drawer M. Douglas, Wy., $68,699.
Ganier Brothers, Hollandale, Ms., $68,674.
Arthur P. Gumz, North Judson In., $68,666.
George L Labar & Sons, Harlingen, Tex., $68,665.
Oaklawn Plantation, Inc., Dundee, Miss., $68,541.
R. I. Bennett, Lockney, Tex., $68,532.
Paul Spanbauer, Box 838, Burley, Id., $68,511.
Verlin O. Lasley, Stratford, Texas, $68,375.
K. V. Jordon and R. B. Coplen, Laveen, Az., $68,320.
Moore Planting Co., Inc., Cary, Ms., $68,285.
Hugh L. Gordon, Dalhart, Tx., $68,252.
J. R. Broadbent, Salt Lake City, Ut., $68,247.
T. R. and G. E. King Jr., McBee, S.C., $68,135.
Stanley Snitzer, Phoenix, Az., $68,106.
Starkey and Erwin, Avenal, Ca., $68,106.
McClellan & McClellan, Sunray, Tx., $68,102.
Lonnie R. Smith, Olton, Tx., $68,099.
D. D. McColl, St. Pauls, N.C., $68,052.
Billy Joe Waldrup, Drew, Ms., $68,026.
Buford Gladden, Casa Grande, Az., $68,011.
Triple M Planting Co., Sumner, Ms., $67,993.
Knapp Farms, Weslaco, Tex., $67,976.
Donald E. Morris, Fortescue, Mo., $67,964.
Goodman Traction Ranch, Tranquillity, Ca., $67,910.
Opal Fry & Sons, Bakersfield, Ca., $67,896.
Vincent Kovacevich, Whitesbridge, Fresno, Ca., $67,880.
Garst Company, Coon Rapids, Ia., $67,860.
J. C. Andresen, Whitesbridge, Fresno, Ca., $67,846.
Leon Marks, Clovis, N.M., $67,821.
Antongiovanni Bros., Bakersfield, Ca., $67,793.
Vernon Swearingen, Riverdale, Ca., $67,778.
J. C. Reed, Leland, Ms., $67,765.
John C. Reistino, Hearne, Tx., $67,687.
Clarement Farms, Huron, Ca., $67,658.
Levert St. John Inc., Martinville, La., $67,637.
Sugarland Ind., Inc., Sugarland, Tx., $67,591.
Dom Echeverria, Longmont, Co., $67,545.
E. H. Clarke & Co., Hughes, Ark., $67,543.
Aubrey L. Lockett, Rt. 1, Ropes, Tx., $67,510.
William M. Pitts, Indianola, Ms., $67,468.
Larry R. Scott, Arizona City, Az., $67,436.
Jimmy Millar, Morton, Tx., $67,309.
R. D. Hines, Yazoo City, Ms., $67,278.
Trans Pecos Farms Inc., Pecos, Tx., $67,269.
Jack Hale, Blytheville, Ar., $67,263.
Hanes and Demaio, Clovis, N.M., $67,240.
Barnard Bros., Bakersfield, Calif., $67,234.
Maryland Planting Co., Clarksdale, Ms. $67,154.
K. L. & D. E. Morrow Ptns., Lyford, Tx., $67,061.
Merlin Hamilton, Florence, Az., $67,044.
Fangman Farms, Inc., Friona, Texas, $67,028.
Rainbow Planting Co., Webb, Ms. $66,976.
John Gray Kelly, Fairbanks, In., $66,969.
J. N. Osterkamp Rches, Brawley, Ca., $66,957.
Paul Hays, Kress, Tx., $66,928.
Larry Woodard Farms, Inc., Lepanto, Ar., $66,879.
T. J. Wilson, Pecos, Tex., $66,866.
H. Fox Tindal, Pinewood, S.C., $66,854.
Pat Scates, Sr., Shawneetown, Il., $66,852.
J. T. John Co., Inc., Laurinburg, N.C., $66,850.
James F. Davis, Jr., Lorenzo, Tx., $66,801.
Kinard Bros., Willcox, Az., $66,745.
Wm. M. Harrison, Yuma, Az., $66,710.
A. L. Cone, Lubbock, Tx., $66,709.
A. D. Swindell, Pantego, N.C., $66,692.
Thomas L. James, Canton, Ms., $66,688.
M. H. Rich, Jr., Chatham, Ms., $66,673.
E. A. Houston, Abernathy, Tx., $66,593.
R. E. Smith & Sons, Pixley, Ca., $66,589.
Tollie Barton, Bakersfield, Ca., $66,571.
James U. Yeldell, Jr., Mer Rouge, La., $66,562.
Barling Bros., Wasco, Ca., $66,362.
H. D. Smith, Hart, Tx., $66,336.
J. Melvin Taylor, Tallassee, Al., $66,297.
Starr Produce Farm Acct., Rio Grnde City, Tx., $66,251.
J. B. Baird, Inverness, Ms., $66,242.
Heglar Ranch, Inc., Burley, Id., $66,218.
Donald Damon, Est., Warden, Wa., $66,141.
Robbins & Long, Rosedale, Ms., $66,139.
F. R. Trainor, Lambert, Ms., $66,138.
Brorman Bros., Hereford, Tx., $66,092.
W. W. & Earl Cochran, Portland, Ar., $66,092.
Vernon Denson, Hereford, Tx., $66,071.
Western Vly Ranches, Inc., Los Banos, Ca., $66,055.
Quien Sabe Farms, Hereford, Tx., $66,021.
J. H. Farms, Coolidge, Az., $65,993.
R. L. Polvado, Morton, Tx., $65,976.
Ivanhoe Assoc. Inc., Natchez, Ms., $65,936.
W. C. Bradley Co., Columbus, Ga., $65,929.
Ray Scroggins, Yazoo City, Ms., $65,865.
G. E. Paxton, Tulare, Calif., $65,753.
Herbert W. Bode, San Benito, Tex., $65,744.
Chanan Singh, Rt. 2, Box 630, Grande, Az., $65,743.
Green Top Farms, Inc., Rt. 4, Richmond, Mo., $65,722.
Bryants Incorporated, Bartow, Ga., $65,717.
Three H Ranch, 1709 30th St., Bakersfield, Ca., $65,696.
R. E. Hart, Box 384, Sinton, Tex., $65,694.
Ashly Plantation, RR 2, Box 117, Tallulah, La., $65,629.
Byron Campbell EST, 795 W Rockey, Raymondville, Tx., $65,606.
Singletary Farms, 263 N Main St., Blakely, Ga., $65,605.
R. L. Calhoun, PO Box 1336, Taft, Ca., $65,585.
Johnny Deniz, 19594 Ave. 17, Madera, Ca., $65,556.
Wilbur F. Johns Farms, Box 205, Joiner, Ar., $65.510.
Sloan Osborn, Rt. 2, Friona, Texas, $65,503.
W. E. Taylor, RR 2, Box 822, Greenville, Ms., $65,496.
Davidson Bros., Box 1286, Pecos, Tex., $65,468.
Joe S. Wolf, PO. Box 591, La Feria, Tex., $65,398.
El Dorado Ranch, Inc., Box 566, Stanfield, Az., $65,389.
Warren Spikes, Hugoton, Ks., $65,383.
Morris L. Hunt, Box 862, Dumas, Tx., $65,349 .

K. K. Skousen, Rt. 1, Box 85, Chandler, Az., $65,324.
Ralph C. Dickson, Drawer KK, McCamey, Tex., $65,260.
Crosthwait Farms Inc., Osceola, Ar., $65,-244.
Rusconi Farms, PO Box 65, San Joaquin, Ca., $65,191.
Carl Schuster, Rt. 1, Box 77–A, San Juan, Tex., $65,151.
Parr Bros., Inc., 902 H St., Rupert, Id., $65,133.
Guerra Bros., Box 38, Linn, Tex., $65,133.
Pauline V. Adair, Doddsville, Ms., $65,102.
Diablo Farms, PO Box 505, Arvin, Ca., $65,062.
Pecan Grove Pltn., % George J. Rice, Indianola, Ms., $65,016.
W. J. Denton, EST, % Ruby C. Denton Exrx., Wilson, Ar., $65,005.
Tom Passmore, 1901 Jackson, Pecos, Tex., $65,000.
West AC Farms, Inc., Rt. 4, Hereford, Tx., $64,974.
Clements Corp., 1236 1St. Ntl. Pioneer Bld., Lubbock, Tx., $64,940.
J. C. Moore Mercantile Co., RR 1, Marion, Al., $64,934.
S. M. Fewell & Co., Vance, Ms., $64,925.
W. P. Haggard & Son, Rt. 1, Box 114, Laveen, Az., $64,898.
Jack Phillips, PO Box 548, Delano, Ca., $64,891.
Elbert Harp, Box 729, Abernathy, Tx., $64,-850.
M & S Rnchs., Inc., Box 546, Stanfield, Az., $64,834.
Milton Addison, 1015 E. Tate, Brownfield, Tx., $64,771.
E. E. Gasque and Son, Elloree, S.C., $64,764.
Santa Cruz Farms, Inc., Eloy, Ariz., $64,710.
Faith Pltn., Tribbitt, Ms., $64,685.
Kalcevic Farms, Inc., Aurora, Colo., $64,-624.
Clinton P. Owen, Robinsonville, Ms., $64,-614.
T. A. Densford & Son, Millington, Tenn., $64,590.
B. W. Smith, Jr., Louise, Ms., $64,566.
S. U. Smith, Louise, Ms., $64,566.
Erma Griffith, Morton, Tex., $64,527.
Melvin R. Bryce, Pima, Ariz., $64,525.
Buffalo Farms, Inc., Goodland, Tex., $64,502.
C. C. & Jack Harbison, Mercedes, Tex., $64,497.
Bill Jim Stclair, Muleshoe, Tex., $64,479.
Donald J. Wright, Dimmitt, Tex., $64,450.
Vandergrift-Wims Fms, Inc., Pahokee, Fl., $64,432.
C. J. Shannon & Sons, Tulare, Ca., $64,-420.
J. Carter Caldwell, Slaton, Tx., $64,398.
W. S. Taylor, Jr., Como, Ms., $64,381.
F. T. Leavell, Minter City, Ms., $64,367.
Roy Barefield, Alexander, Ga., $64,358.
Devin Devin & Patterson, Tulia, Tex., $64,-346.
Joe Beck Trust, Hughes, Ar., $64,313.
H. S. Mitchell, Millington, Tn., $64,297.
Arcola Planting Co., Arcola, Ms., $64,294.
Glenn Schott & Sons, Pixley, Ca., $64,249.
J. E. Polado, Morton, Tx., $64,236.
William E. Glotz, Tranquillity, Ca., $64,-072.
Schindler Brothers, Ripley, Ca., $64,059.
James W. Dixon, Friona, Tex., $64,045.
Maryland Plantation, Inc., Shelby, Ms., $63,942.
Anthony Paschel, Hereford, Tx., $63,828.
Zumbro Planting Co., Cleveland, Ms., $63,-817.
Marshall Cator, Sunray, Tex., $63,799.
Hoodco Farms, Inc., Boise, Id., $63,792.
Chase & Harmon Farms, Arvin Ca. $63,708.
John M. Welch., Indianola, Ms., $63,688.
J. L. Francis, Kress, Tex., $63,672.
James Middleton, Darlove, Ms., $63,670.
Texas Technological Research F., Pantex, Tx., $63,654.
Weeks Plantation, Inc., Clarksdale, Ms., Bonard Stice, Brownfield, Tex., $63,650.
Joe B. Mercer, Silverton, Tex., $63,649.
Schmitt Bros. Farms Ptn., Los Fresnos, Tx., $63,584.
Wheeler Robertson, Idalou, Tex., $63,507.
T. C. Clanton, Plainview, Tex., $63,423.
Pluto Planting Company, Thornton, Miss., $63,356.
Refuge Pltn., Greenville, Miss., $63,342.
Gilbreath Farm Co., Dimmitt, Tex., $63,329.
Burke Bros. & Giltz Inc., Charleston, Mo., $63,313.
A. D. Murphree, Jr., Shelby, Miss., $63,313.
Thompson Land & Live Co., Cokeville, Wyo., $63,295.
Camp & Lachenmaier, Shafter, Calif., $63,-291.
L. O. Weaks, Silverton, Tex., $63,255.
M. E. Lee, Somerton, Ariz., $63,254.
Valley Acres, Santa Rosa, Tex., $63,225.
Charles H. Mayo, Taft, Tex., $63,223.
Evans Townes Plantation, Minter City, Miss., $63,222.
Joseph A. Meyer, Adrian, Tex., $63,219.
James A. Bullard, Hereford, Tex., $63,218.
Marathon Farms, Box 206, Casa Grande, Ariz., $63,204.
John Smith, Box 57, Maricopa, Ariz., $63,-196.
R. E. and Rue Sanders, 515 S. Bernice, Spearman, Tex., $63,192.
H. B. Barker, 602 E. Lincoln, Morton, Tex., $63,134.
Kenneth Heard, Rt. 1, Littlefield, Tex., $63,062.
Jerry Block, Rt. 1, Box 422, Mission, Tex., $63,023.
Henry L. Voss, 48 W. Glenn Dr., Phoenix, Ariz., $62,998.
Valley Packing Co. of Calif., PO Box 1751, Yuma, Ariz., $62,996.
Frank & Dorothy Sturdivant, Minter City, Miss., $62,993.
D. C. Parker, RR 1, Box 254, Tunica, Miss., $62,973.
Tracy Hutchins, Rt. 2, Box 315, Casa Grande, Ariz., $62,971.
Frank Wicks, Box 246, Clovis, N. Mex., $62,964.
H. Miller Tr V Chinn, RR 3, Box 983, Bakersfield, Calif., $62,954.
W. A. Fulford, 1305 E. Buckley, Brownfield, Tex., $62,943.
Flowers Brothers, Dublin, Miss., $62,939.
Herman Koehler, Robinsonville, Minn., $62,884.
Garrard Est, % W. M. Garrard, Jr., Indianola, Miss., $62,875.
Earl S. Dobson, Rt. 1, Box 120, Chandler, Ariz., $62,873.
Kleymann Brothers, % Kleymann, Tribune, Kans., $62,865.
Barker Brothers, Soda Spring, Idaho, $62,-861.
Dessert Seed Co., Inc., PO Box 181, El Centro, Calif., $62,847.
J. W. Bryan, 1916 Jackson, Pecos, Tex., $62,-817.
Douglass & Vandiver, RR 2, Madison, Ala., $62,802.
Ben E. Pittman, Box 66, Darling, Miss., $62,774.
Broyles Pecos Farm, 509 Colpitts, Ft. Stockton, Tex., $62,769.
Batman Farms Co., Grain Valley, Mo., $62,-756.
Bell Bros., Box 335, Elsa, Tex., $62,688.
Mitchener Farms Inc., Sumner, Miss., $62,673.
N. S. Garrott & Sons, Proctor, Ark., $62,642.
Broadwell, Inc., York, Nev., $62,628.
Sam C. Jenkins, Lamesa, Tex., $62,609.
Harry Brorman, Hereford, Tex., $62,580.
M and V Farms, Ehrenberg, Ariz., $62,570.
J. A. Pickett, Morrow, La., $62,506.
Evanna Plantation, Inc., Cary, Miss., $62,494.
Dowco Land Co., Cairo, Ill., $62,492.
Robert F. Ashley, La Feria, Tex., $62,473.
John D. Hamilton, Chandler, Ariz., $62,462.
C. E. Atkinson, Bishopville, S.C., $62,450.
Thomas A. & Charles O'Neal, Blenheim, S.C., $62,424.
Carl & Paul Shannon, Visalia, Calif., $62,402.
L. C. Hewitt, Littlefield, Tex., $62,337.
S. C. Wilson & Son, C/O Shelby T. Wilson, Dundee, Miss., $62,333.
D. H. Dew Sr., Eden, Miss., $62,312.
Nash Brothers, Redstone, Mont., $62,256.
M. E. Little, RR 2, Muleshoe, Tex., $62,248.
Fuller Farms, Rt. 2, Box 52, Weslaco, Tex., $62,237.
Vernon Porter, Rt. 2, Box 203H, Dos Palos, Calif., $62,224.
Edward Ray Hooper, PO Box 316, Columbus, N.Mex., $62,219.
Robert W. Brooks, Box 431, Queen Creek, Ariz., $62,201.
Floyd Warren, Inc., Hardin, Mont., $62,080.
Trail Lake Gin Co., Billy Percy, Tralake, Miss., $62,058.
Floyd Robbs, Box 905, Willcox, Ariz., $62,-053.
S & P Farms, Inc., Box 228, Gila Bend., Ariz., $62,045.
John T. Dillard, 502 Cypress St., Leland, Miss., $62,008.
Walter B. Shaw, RR 1, Tanner, Ala., $62,003.
Menezes Bros., 6010 Ave. 184, Tulare, Calif., $61,997.
Doe Cattle & Land Company, PO Box 401, Visalia, Calif., $61,981.
Powers Company, Inc., Cary, Miss., $61,976.
Paul Morgan, 707 N. 18th, Lamesa, Tex., $61,968.
W. E. Austin, 301 Clover Dr., Indianola, Miss., $61,939.
Kempton & Snedigar, 221 E. Loma Vista, Tempe, Ariz., $61,921.
Bill White, 10769 Ave., 96, Pixley, Calif., $61,879.
Withers & Seabrook, RR 1 Box 64, Tunica, Miss., $61,846.
House & Haskell, PO Box 426, El Centro, Calif., $61,840.
Hugh M. Arant, RR 2, Ruleville, Miss., $61,839.
Joe Freitas Jr., Rt. 2 Box 89, Bakersfield, Calif., $61,836.
Z. V. Pate, Inc., Laurel Hill, N.C., $61,835.
A. R. Dillard, 217 N Texas Ave, Hereford, Tex, $61,809.
Randy Johnson, Box 610, Muleshoe, Tex., $61,783.
Yarbrough Brothers, Sicily Island, La., $61,776.
J. C., Conn., Inc,. Coalinga, Calif., $61,774.
James J. Mullis, Chester, Ga., $61,770.
C.C.G. Farms, Inc., Glendale, Ariz., $61,752.
Era Mae Barnes, Chandler, Ariz., $61,724.
Grady Easley, Calhoun City, Miss., $61,707.
J. R. Durrett Trusts, Amarillo, Tex., $61,697.
Lloyd Kontny, Goodland, Kans., $61,696.
J. Walter Hobgood, Anton, Tex., $61,671.
Tule Ranch Apts., Corcoran, Calif., $61,629.
Glen Cox, Lenorah, Tex., $61,613.
Sam Degelia, Sr., Hearne, Tex., $61,586.
James M. Hamilton, Chandler, Ariz., $61,539.
Kenneth Hitchcock, Burlington, Colo., $61,494.
Garrison Bros. & Nelson, Hereford, Tex., $61,486.
John Valpredo, Bakersfield, Calif., $61,445.
Highland Pltn., Greenville, Miss., $61,442.
R. S. Barlow, Lemoore, Calif., $61,433.
Mahan, Mahan & Radcliff, Parma, Mo., $61,432.
Billy W. Clayton, Springlake, Tex., $61,407.
Paul E. Plummer and Sons, Johnson, Kans., $61,320.
Johnson Brothers, Friars Point, Miss., $61,306.
Drew Farms, Inc., Firebaugh, Calif., $61,299.
H. C. Berry, Dexter, N. Mex., $61,264.
G. Buster Brown, Casa Grande, Ariz., $61,260.
C. H. Fletcher, Lycan, Colo., $61,153.
Jay H. Hulet, Murphy, Idaho, $61,147.
Ralph Wheeler, Edmonson, Tex., $61,141.
Hal Bogle, Dexter, N. Mex., $61,135.

Joe Friemel, Umbarger, Tex., $61,102.
K & P Farms Inc., Edison, Ca., $61,101.
Hosea Foster Estate, Canyon, Tex., $61,082.
Alazan Farms, Harlingen, Tex., $61,059.
James M. Warner, Waco, Tex., $61,046.
Otis Whitlock, Bostwick, Ga., $61,027.
Lloyd Gambrel, Ralls, Tex., $61,022.
W. D. Scarborough, Jr., Petersburg, Tex., $60,995.
Leslie H. Laffere, Fatesville, Tex., $60,945.
Jerry Cluck, Dimmitt, Tex., $60,941.
Maricopa Growers Gin, Maricopa, Ariz., $60,924.
John Trimmier, Jr., Hale Center, Tex., $60,911.
Odus Rush, McAlister, N. Mex., $60,897.
Lone Butte Ranches, Gilbert, Ariz., $60,851.
Coyne E. Killian, Lorenzo, Tex., $60,845.
A. S. Perry & Sons, Inc., Tunica, Miss., $60,771.
Svoboda & Hannah, Ogallala, Nev., $60,743.
Harry Schmidt Farms, Brawley, Calif., $60,-699.
Scopena Plantation, Bossier City, La., $60,-685.
C. E. Roemer III, Bossier City, La., $60,685.
Wayne Watkins, Cruger, Miss., $60,671.
Warren W. Sullivan, Walls, Miss., $60,655.
T. R. Joines, Abernathy, Tex., $60,647.
Tyline N. Perry, Kress, Tex., $60,619.
Frank Moore, Plainview, Tex., $60,613.
Jean D. Smith, Ralls, Tex., $60,610.
Funk Farms, Inc., Harlingen, Tex., $60,609.
E. T. Schaefer, Yazoo City, Miss., $60,602.
Jerry Falls, Webb, Miss., $60,592.
Billy Ray McInroe, Levelland, Tex., $60,590.
Seward and Harris, Midnight, Miss., $60,552.
Baconia Plantation, Inc., Cary, Miss., $60,-531.
Slaughter Hill Co., Levelland, Tex., $60,522.
Poplar Grove Pltg./Ref. Co., Pt. Allen, La., $60,518.
W. F. Ponder, Hereford, Tex., $60,468.
R. S. Reese, Westmoreland, Calif., $60,405.
Riggs Bros., Blytheville, Ark., $60,398.
J. W. Lynn Plantation, Gilliam, La., $60,368.
Robert D. Bechtel, Coolidge, Ariz., $60,352.
Thompson Farms, Inc., Decker, Ind., $60,-336.
Lloyd M. Hale, Tulia, Tex., $60,311.
Rex Neely Trust, Chandler, Ariz., $60,298.
Sundial Farming Co., Brawley, Calif., $60,-263.
Clyde Curry, Somerton, Ariz., $60,249.
L. R. Allison Co., Tornillo, Tex., $60,209.
Reuben Crosno, Selma, Calif., $60,171.
Mahalitc Bros., Eagle Lake ,Tex., $60,167.
Jones Ranches, Bowie, Ariz., $60,133.
L. R. Talley, Texico, N. Mex., $60,112.
Dick Barrett, Indianola, Miss., $60,111.
Fritz Kuhn, Jr., Centro, Calif., $60,110.
Jeanne L. James, Burlington, Colo., $60,099.
E Bar S Ranch; Mesquite, Tex. $60,072.
B. A. Holaday Co., Louise, Miss., $60,028.
Barton Ingram, Arcola, Miss., $60,022.
E. L. Goodspeed, Buttonwillow, Calif., $60,-009.

TRASH SALVAGE

Mr. BAYH. Mr. President, during these times of increasing awareness and concern over the state of our environment, a good deal of effort is underway on several fronts. The Subcommittee on Air and Water Pollution held hearings Februrary 20, 23, and 27 on S. 2005, the Resource Recovery Act of 1969, which would authorize $800 million over 5 years for Federal grants to States and municipalities for the construction of solid waste disposal plants.

During the hearings, the distinguished Senator from Missouri (Mr. EAGLETON) presented very thoughtful and constructive testimony. He said that the National Commission on Materials Policy proposed in S. 2005 should be directed to look into the effect of existing public policies, such as tax advantages and other economic incentives, on the recycling of materials. The Federal Government now offers inducements—usually in the form of tax incentives and depletion allowances—which encourage the exploitation of raw materials. He said that at a time when we are concerned about recycling the steel in junked cars, the 15-percent mineral depletion allowance reduces the cost of fresh ore, encouraging the use of ore and discouraging the use of scrap. The increase in the price of ore, resulting from the elimination of the depletion allowance, might help clear up junkyards full of old cars. He also pointed out that a 22-percent mineral depletion allowance presently decreases the price of sulfur, perhaps discouraging the recovery of sulfurous products from smokestacks.

The Senator from Missouri made a valid point in emphasizing the need to encourage the conservation of our resources by salvaging as much as possible from our wastes. It just makes good sense to me, both from the standpoint of environmental enhancement and conservation of natural resources, to establish national policies which will encourage the recycling of wastes or, at the very least, to take a long, hard look at our present policies which may actually have the effect of discouraging such practices.

I recently received a letter from a constituent in Indianapolis, Ind., Bruce Ayers, in which he expressed his concern over what he labeled a serious national crisis in the area of solid waste disposal problems. He also sent me a newsclipping from the Indianapolis News which contained an article by John Flora about a trash-salvage plan which is at present being tried in Muncie, Ind. The experiment in Muncie represents the kind of innovation which we need more of if we are to solve the vexing problem of cleaning up our environment through the reclamation of our solid wastes. I consider this effort in Muncie to be of sufficient significance to warrant the attention of Congress and the general public.

I ask unanimous consent that Mr. Ayers' letter and the article from the Indianapolis News be printed in the RECORD.

There being no objection the items were ordered to be printed in the RECORD, as follows:

INDIANAPOLIS, IND.,
March 5, 1970.

Senator BIRCH BAYH,
Old Senate Office Building,
Washington, D.C.

SENATOR BAYH: I have been reading various materials concerning our solid waste disposal problem. Until recently I did not realize it was such a serious national crisis. As of this date I have presented two speeches on our disposal problem to a class at Indiana University, and now I have become deeply concerned over it. I have enclosed an article from the Indianapolis News on how Muncie, Indiana is solving its waste problem. Of course this is not the only feasible solution. We can compress it and dump it into the ocean or use it as building material like the Japanese do; or we can build efficient incinerators that give off neither odor nor smoke. Solutions aside, we do need cures for the problem before so much of the needed life matter is locked into waste that the earth is no longer able to sustain the population living on it. Legislation would be most efficient at the federal level because then all states would be required to participate. Please, can you help us?!

Sincerely,

BRUCE E. AYERS.

TRASH SALVAGE PLAN IS TRIED IN MUNCIE
(By John Flora)

MUNCIE, IND.—Amid warnings that the world is in danger of being inundated by its own trash and garbage, Muncie has set in motion a system designed to "save" as much of the stuff as it can.

The idea is the brainchild of Ron Teal, executive vice-president of the Muncie Salvage Co., which this week began disposing of trash and garbage for the city on a temporary, day-to-day basis.

Under the agreement, the city pays $352 a day to Muncie Salvage to take the trash off its hands. City trucks haul the refuse to a processing plant on the city's Southwestside.

"This is the first plant of its kind that I know of," Teal explained above the rumble of a conveyor belt carrying refuse into a packer.

The difference is in the fact that Muncie Salvage "recycles" some of the 150 tons of trash and debris hauled in each day.

Each load is dumped in a heap on either side of a large, slow-moving conveyor in the middle of the concrete floor of the big plant.

Bulldozers shove the refuse onto a conveyor which carries it past sorters who pull out salvageable material and toss it onto another conveyor.

MAY SALVAGE 65 PERCENT

"Right now we're only salvaging paper products," Teal said, "and they amount to about 5 per cent of the total volume that comes in here.

"Eventually, we want to get this up to about 65 per cent when we start salvaging metals, wood, glass and maybe plastics."

Nonsalvageable material is carried into a packer which compresses it to a point where three unpacked truckloads will fit into one truck. From there the compacted material is loaded into Muncie Salvage trucks and carried to the firm's 1,000-acre sanitary landfill north of Muncie.

Meantime, the salvageable paper products are carried by a conveyor into a shredder which reduces everything to narrow strips. An overhead pneumatic tube carries the shredded paper to an automatic baler which compresses the paper into bales measuring 5-by-2 feet by about 30 inches.

The bales, Teal said, weigh between 805 and 1,400 pounds, depending on the type of paper. The bales are then stacked for shipment to one of nine paper mills which pay upward of $20 a ton for the paper.

"Residential trash from the city makes up only a small part of our volume," Teal said. "Most of the refuse comes from our commercial and industrial customers and a higher percentage of it is salvageable."

Sanitation Department trucks make residential pickups while Teal's trucks collect refuse from the firm's commercial and industrial customers.

SAVES TRUCKS, MANPOWER

The arrangement enables city trucks to bring most of their loads to the plant rather than drive to the sanitary landfill north of town, as before. Now, only city trucks working far Northside neighborhoods go to the landfill about 9 miles north of the city. The new method saves on gasoline, wear on trucks and man-hours.

"It remains to be seen how much we can get out of residential trash," Teal said. "We'll have to wait and see."

Recycling refuse, he said, and putting unusable material in landfills seems to be the best way of dealing with the problem.

"I don't know of any incinerators that are completely efficient and they're awfully expensive," he said.

The temporary arrangement with the city was made after Muncie Salvage's contract with the city expired and another firm, Aimco Services of Anderson, obtained a court injunction preventing action on new bids that had been sought by the city.

In earlier bidding, the city rejected bids from Muncie Salvage and Aimco because both were above the $100,000 appropriated. The court order came when a second set of bids was advertised. Aimco charged that, under the specifications, only Muncie Salvage could bid.

City sanitation officials said new bids will be sought soon.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

The PRESIDING OFFICER. Under the order of yesterday, the Chair lays before the Senate the report of the committee of conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, which the clerk will state.

The bill clerk read the report, as follows:

CONFERENCE REPORT (H. REPT. No. 91-937)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

That this Act may be cited as the "Elementary and Secondary Education Amendments of 1969"

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

SEC. 2. (a) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

(b) Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

(c) Nothing in this section shall be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to eliminate discrimination in federally-assisted programs and activities as required by title VI of the Civil Rights Act of 1964.

(d) It is the sense of the Congress that the Department of Justice and the Department of Health, Education, and Welfare should request such additional funds as may be necessary to apply the policy set forth in this section throughout the United States.

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

PART A—AMENDMENTS TO TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (EDUCATION OF DISADVANTAGED CHILDREN)

EXTENSION OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 101. (a) Section 102 of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1973".

(b) The third sentence of section 103(a)(1)(A) of such title I is amended by striking out "the fiscal year ending June 30, 1969," and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1972,".

(c) Section 121(d) of such title I is amended by striking out "each" where it appears after "$50,000,000" and by striking out "the succeeding fiscal year" and inserting in lieu thereof "for each of the succeeding fiscal years ending prior to July 1, 1973".

STUDY OF ALLOCATION OF FUNDS

SEC. 102. (a) The Commissioner of Education shall make a study of the allocation of sums appropriated for the purposes of title I of the Elementary and Secondary Education Act of 1965 and of the effectiveness of the various provisions of such title in making funds available to State and local educational agencies in order to meet the purposes of such title I. Such study shall make special reference to the distribution of funds to local educational agencies within counties, the means by which such funds may be concentrated in school attendance areas with the highest concentrations of children from low-income families, the appropriateness of the Federal percentage and the low-income factor provided for in subsection (c) of section 103 of such title I when considered in the light of the extra cost of providing compensatory education for educationally deprived children (including the means of providing services authorized by such title to such children residing in rural areas), and the use of special incentive grants to increase State and local effort for education.

(b) Not later than March 31, 1972, the Commissioner shall submit to the Congress a report on the study required by subsection (a), together with such recommendations as he may deem appropriate with respect to modification of programs under title I of the Elementary and Secondary Education Act of 1965. Notwithstanding the first sentence of section 103(d) of such title I, the Commissioner shall not use data for the purposes of section 103 of such title I from the 1970 census of the United States prior to July 1, 1972.

DESIGNATION OF RESPONSIBILITY FOR PROVISION OF SPECIAL EDUCATIONAL SERVICES FOR INSTITUTIONALIZED NEGLECTED OR DELINQUENT CHILDREN

SEC. 103. (a) Paragraph (2) of section 103(a) of title I of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following sentence: "Notwithstanding the foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation."

(b) Section 103(d) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children."

INCLUSION OF PUERTO RICO AND OTHER OUTLYING AREAS WITH RESPECT TO NEGLECTED OR DELINQUENT CHILDREN

SEC. 104. (a) Paragraph (4) of section 103(a) of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraphs (5) and (7)".

(b) The amendment made by this section shall be effective after June 30, 1970.

AMENDMENTS WITH RESPECT TO HANDICAPPED AND NEGLECTED OR DELINQUENT CHILDREN

SEC. 105. (a) Paragraph (5) of section 103(a) of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(5) In the case of a State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), the maximum grant which that agency shall be eligible to receive under this part for any fiscal year shall be an amount equal to the Federal percentage of the average per pupil expenditure in the State or, if greater, in the United States, multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. Such State agency shall use payments under this part only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children."

(b) Paragraph (7) of section 103(a) of such title I is amended by inserting after "supported by that State agency" the following: ", including schools providing education for such children under contract or other arrangement with such agency,".

(c) The amendments made by this section shall be effective after June 30, 1970.

REQUIRING GRANTS FOR MIGRATORY CHILDREN TO BE BASED ON THE NUMBER TO BE SERVED

SEC. 106. (a) The first sentence of paragraph (6) of section 103(a) of title I of the Elementary and Secondary Education Act of 1965 is, effective with the first allocation of funds pursuant to such title by the Commissioner after the date of enactment of this

Act, amended to read as follows: "A State educational agency which has submitted and had approved an application under section 105(c) for any fiscal year shall be entitled to receive a grant for that year under this part, based on the number of migratory children of migratory agriculture workers to be served, for establishing or improving programs for such children."

(b) The second sentence thereof is amended by striking "shall be" the first time it appears and inserting in lieu thereof "may be made"; and by inserting immediately before the period in such second sentence the following: ", except that if, in the case of any State, such amount exceeds the amount required under the preceding sentence and under section 105(c)(2), the Commissioner shall allocate such excess, to the extent necessary, to other States whose maximum total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States".

USE OF MOST RECENT DATA UNDER TITLE I

SEC. 107. (a) The third sentence of section 103(d) of title I of the Elementary and Secondary Education Act of 1965 is amended by inserting immediately before the period at the end thereof the following: "or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination".

(b) Section 103(e) of such title is amended by inserting the following after "during the second fiscal year preceding the fiscal year for which the computation is made": "(or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available)".

SALARY BONUSES FOR TEACHERS IN SCHOOLS WITH HIGH CONCENTRATIONS OF EDUCATIONALLY DEPRIVED CHILDREN

SEC. 108. Paragraph (1) of Section 105(a) of the Elementary and Secondary Education Act of 1965 is amended by inserting "payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this section," after "including the acquisition of equipment,".

PROHIBITION AGAINST SUPPLANTING STATE AND LOCAL FUNDS WITH FEDERAL FUNDS

SEC. 109. (a) Paragraph (3) of section 105(a) of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(3) that (A) the local educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property, (B) Federal funds made available under this title will be so used (i) as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this title, and (ii) in no case, as to supplant such funds from non-Federal sources, and (C) State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to service being provided in areas in such district which are not receiving funds under this title: Provided, That any finding of noncompliance with this clause shall not affect the payment of funds to any local educational agency until the fiscal year beginning July 1, 1972, and Provided further, That each local educational agency receiving funds under this title shall report on or before July 1, 1971, and on or before July 1 of each year thereafter with respect to its compliance with this clause;".

(b) The amendment made by subsection (a) shall be effective with respect to all applications submitted to State educational agencies after thirty days after the date of enactment of this Act. Nothing in this section shall be construed to authorize the supplanting of State and local funds with Federal funds prior to the effective date of the amendment made by this section.

APPLICATIONS TO BE MADE AVAILABLE TO PUBLIC

SEC. 110. Section 105(a) of title I of the Elementary and Secondary Education Act of 1965 is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) that the local educational agency is making the application and all pertinent documents related thereto available to parents and other members of the general public and that all evaluations and reports required under paragraph (7) shall be public information;".

AMENDMENTS WITH RESPECT TO APPLICATIONS AND ASSURANCES

SEC. 111. (a) The parenthetical phrase in clause (A) of section 106(a)(3) of title I of the Elementary and Secondary Education Act of 1965 is amended by inserting "and of research and replication studies" immediately before the closing parenthesis.

(b) Section 105(a)(7) of such title is amended by inserting "(which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives)" after "such information".

NATIONAL ADVISORY COUNCIL

SEC. 112. Section 134 of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"NATIONAL ADVISORY COUNCIL

"SEC. 134. (a) There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the 'National Council') consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

"(b) The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

"(c) The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report."

INCREASE IN LOW-INCOME FACTOR AND SPECIAL GRANTS FOR URBAN AND RURAL SCHOOLS SERVING ATTENDANCE AREAS WITH THE HIGHEST CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

SEC. 113. (a) The second sentence of subsection (c) of section 103 of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out all after "1968," and inserting in lieu thereof the following: "and for the four succeeding fiscal years they shall be 50 per centum and $3,000, respectively, and for the fiscal year ending June 30, 1973 they shall be 50 per centum and $4,000, respectively.".

(b)(1) Title I of such Act is further amended by striking out "PART A—BASIC GRANTS" where it appears before section 101 and inserting "PART A—BASIC GRANTS" before section 103.

(2) Section 101 of such title I is amended by striking out "this part" and inserting in lieu thereof "the following parts of this title".

(3) Sections 102, 105, 106, 107, and 108 of such title I are each amended by striking out "this part" and inserting in lieu thereof "this title".

(4) Sections 105, 106, 107, 108, 131, 132, 133, 134, 135, and 136 of such title I, and all references thereto, are redesignated as sections 141, 142, 143, 144, 145, 146, 147, 148, 149, and 150, respectively.

(5) Such title I is further amended by striking out the heading of part C and by inserting before the caption heading of section 141 the following:

"PART D—GENERAL PROVISIONS"

(6) Such title I is further amended by striking out all of part B thereof and inserting after section 103 the following:

"PART B—SPECIAL INCENTIVE GRANTS

"MAXIMUM ENTITLEMENT

"SEC. 121. (a) In the case of any fiscal year ending after June 30, 1969, each State shall be entitled to a special incentive grant if such State has an effort index for the second preceding fiscal year that exceeds the national effort index for such year.

"(b) The maximum amount of a special incentive grant for which a State is eligible for any fiscal year shall be determined by multiplying the amount of $1 for each 0.01 per centum by which the effort index of that State for the second preceding fiscal year exceeds the national effort index for such year times the aggregate number of children counted for the purposes of entitled local educational agencies within such State to basic grants in accordance with clauses (2), (5), (6), and (7) of section 103(a), except that no State shall be eligible to receive a special incentive grant under this part in an amount in excess of 15 per centum of the total amount available for grants under this part.

"APPLICATIONS; USE OF FUNDS

"SEC. 122. Any State desiring the special incentive grant to which it is entitled under this part for any fiscal year shall make application therefor, in accordance with the requirements set forth in section 142, to the Commissioner. Such application shall be submitted at such time and contain such information as the Commissioner shall require by regulation and shall contain a statement of such policies and procedures as will insure that funds granted to the State under this part will be (1) made available to local educational agencies within that State which

have the greatest need for assistance under this title, and (2) used, in accordance with the applicable provisions of this title, for programs and projects designed to meet the special educational needs of educationally deprived children.

"DEFINITIONS

"SEC. 123. For the purpose of this part the term 'effort index' when applied to States, means the per centum expressing the ratio of expenditures from all non-Federal sources in a State for public elementary and secondary education to the total personal income in such State, and the term 'national effort index' means the per centum expressing the ratio of such expenditures in all States to the total personal income in all States; and the term 'State' means the fifty States and the District of Columbia.

"PART C—SPECIAL GRANTS FOR URBAN AND RURAL SCHOOLS SERVING AREAS WITH THE HIGHEST CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

"ELIGIBILITY AND MAXIMUM AMOUNT OF GRANT

"SEC. 131. (a)(1) Each local educational agency which is eligible for a grant under paragraph (2) of section 103(a) shall be entitled to an additional grant under this paragraph for any fiscal year if—

"(A) the total number of children described in clause (A), (B), or (C) of section 103(a)(2) in the school district of such agency for such year amounts to at least 20 per centum of the total number of children, aged five to seventeen inclusive, in the school district of such agency for such year; or

"(B) the total number of children described in clause (A), (B), or (C) of section 103(a)(2) in the school district is at least 5,000 and amounts to at least 5 per centum of the total number of children, aged five to seventeen, inclusive, in such school district.

"(2) Each local educational agency which is eligible for a grant under paragraph (2) of section 103(a) and which (A) is not eligible for a grant under paragraph (1) of this subsection, but (B) would be eligible for a grant under such paragraph (1) if there were in the school district of such agency a relatively small increase in the number of children, aged five to seventeen, inclusive, described in clause (A), (B), or (C) of section 103(a)(2) shall be entitled to a grant under this paragraph (2) if the State educational agency of the State in which such agency is located determines (in accordance with criteria established by regulations of the Commissioner) that such agency has an urgent need for financial assistance to meet the special educational needs of the educationally deprived children in the school district of such agency.

"(b)(1) The maximum amount of any grant to any local educational agency under paragraph (1) of subsection (a) shall be—

"(A) for the fiscal year ending June 30, 1970, 30 per centum of the amount that such agency is eligible to receive for such fiscal year under paragraph (2) of section 103(a); and

"(B) for any succeeding fiscal year, 40 per centum of the amount that such agency is eligible to receive for each such succeeding fiscal year.

The aggregate of the amounts for which all local educational agencies are eligible under this paragraph for any fiscal year shall not exceed the amount determined in the following manner:

"(i) compute the total amount for which all State and local educational agencies are eligible under this title for that fiscal year;

"(ii) subtract from such total, a sum equal to the figure set forth in paragraph (3) of section 144; and

"(iii) if that portion of such total which is attributable to amounts for which local educational agencies are eligible under this paragraph constitutes more than 15 per centum of the remainder of such total, reduce such portion until it constitutes 15 per centum of such remainder, through ratable reductions of the maximum grants for which local educational agencies are eligible under this paragraph.

"(2) The maximum amount of any grant to any local educational agency under paragraph (2) of subsection (a) shall not exceed the maximum amount to which it would have been entitled if it had been eligible under paragraph (1) of such subsection. The maximum amount which shall be available to the Commissioner for grants under such paragraph (2) of subsection (a) shall be, for the fiscal year ending June 30, 1970, equal to 3 per centum of the total amount available for grants for such fiscal year under paragraph (1) of subsection (a) and, for any succeeding fiscal year, such amount shall be equal to 5 per centum of the total amount available for grants for that year under such paragraph (1).

"(c) For the purposes of this section the term 'State' means the fifty States and the District of Columbia.

"(d)(1) In making determinations under this section the Commissioner is authorized, in accordance with regulations prescribed by him, to use the most recent satisfactory data made available to him by the appropriate State educational agency. If satisfactory data for determining the number of children described in clause (A), (B) or (C) of section 103(a)(2) in a school district for the purpose of subsection (a) are not otherwise available to the Commissioner, such determination may be made on the basis of data furnished to him by a State educational agency with respect to the amount of the maximum grant under part A of this title allocated by such State agency to the local educational agency for such district in the State for the purpose of the second sentence of section 103(a)(2), for the fiscal year preceding the fiscal year for which such determination is made.

"(2) Determinations under this section may be made on the basis of data furnished in accordance with section 103(d).

"USES OF FUNDS

"SEC. 132. (a) Funds available for grants under this part shall be used solely for programs and projects designed to meet the special educational needs of educationally deprived children in preschool programs and in elementary schools serving areas with the highest concentrations of children from low-income families, except that such funds may be used for programs and projects for such children in secondary schools serving areas with the highest concentrations of children from low-income families if the local educational agency and its State educational agency determine (in according with criteria established by regulation of the Commissioner) that—

"(A) there is an urgent need for such programs and projects for such children in secondary schools in the area to be served by the local educational agency; and

"(B) there is satisfactory assurance that such programs and projects will be at least as effective in achieving the purposes of this title as the use of such funds for programs and projects for such children in elementary schools in such area.

"(b) In addition to meeting the requirements and conditions set forth in part D, applications for grants under this part shall meet such other requirements and conditions, consistent with the purposes of this title, as the Commissioner shall establish by regulation.".

(7) Section 141(a) of such title is amended by striking out "and" at the end of paragraph (10), and by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) in the case of funds received under part C of this title, the local educational agency sets forth such procedures and policies and provides such assurances as the Commissioner may require by regulation for the uses of funds available under such part C to carry out the purposes of this title, and, for any fiscal year ending after June 30, 1970, sets forth a comprehensive plan for meeting the special educational needs of children to be served under such part C including provisions for effective use of all funds available under this title and provisions setting forth specific objectives of such plan and the criteria and procedures, including objective measurements of educational achievement, that will be used to evaluate at least annually the extent to which the objectives of the plan have been met.".

(8) Section 143 of such title I is amended—

(A) by inserting before the period at the end of paragraph (2) of subsection (a) thereof "or section 131", and

(B) by striking out "sections 103 and 144" where it appears in clause (1) of subsection (b) and inserting in lieu thereof "sections 103, 131, and 144".

(9) Section 146 of such title I is amended by striking out ", 106(b), or 121(b)" and inserting in lieu thereof "or 142(b)".

(10) Section 147 of such title I is amended by striking out ", 106(b) or 121(b)" and inserting in lieu thereof "or 142(b)".

(c) Section 144 of such title is amended (A) by striking out "paragraphs (1) and (2)" in paragraph (3) and inserting in lieu thereof "paragraphs (1), (2), and (3)", (B) by redesignating such paragraph (3) as paragraph (4), and (C) by inserting before such paragraph (4) the following new paragraph:

"(3) that part of such sums for any fiscal year which is in excess of $1,396,975,000 shall be allocated on the basis of computations in accordance with remaining entitlements under section 103(a)(2), and entitlements under sections 121 and 131, as ratably reduced, but in no case shall allocations on the basis of computations in accordance with section 131 exceed 15 per centum of such excess; and".

(d) Effective for fiscal years ending after June 30, 1972, such section 144 is further amended—

(1) by inserting after the first sentence the following new sentence: "For the purposes of parts B and C of this title, in determining entitlements under such parts, the number of children described in section 103(a) shall be ascertained by using a low-income factor of (i) $2,000 when allocations are made under clause (A) of paragraph (2) in the first sentence of this section, (ii) $3,000 when allocations are made under clause (B) of such paragraph, and (iii) $4,000 when allocations are made under clause (C) of such paragraph."; and

(2) by striking out clause (B) of paragraph (2) and inserting in lieu thereof the following:

"(B) until appropriations are sufficient to satisfy all maximum grants as computed by using a low-income factor of $3,000, any amount remaining after allocations are computed pursuant to clause (A) shall be allocated by using a low-income factor of $3,000 with respect to children described in section 103(a)(2) who are not counted for purposes of clause (A); and

"(C) until appropriations are sufficient to satisfy all maximum grants as computed by using a low-income factor of $4,000, any amount remaining after allocations are computed pursuant to clauses (A) and (B) shall be allocated by using a low-income factor of $4,000 with respect to children described in section 103(a)(2) who are not counted for purposes of clause (A) or (B); and

"(D) the aggregate amount available for

grants to local educational agencies within each State shall be not less than the aggregate amount allocated to local educational agencies within such State for the fiscal year ending June 30, 1967, until the total sums available from appropriations for that fiscal year exceed $1,500,000,000 for Part A of title I; and"

(e) Except as otherwise provided, the amendments made by this section shall be effective with respect to fiscal years ending after June 30, 1969.

TECHNICAL AMENDMENT

SEC. 114. Section 107(b)(2) of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out "Wake Island,".

PART B—AMENDMENTS TO TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (LIBRARY RESOURCES, TEXTBOOKS, AND OTHER PRINTED AND PUBLISHED MATERIALS)

EXTENSION OF TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 121. (a) Section 201(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" where it appears after "1969," and by striking out "the fiscal year ending June 30, 1970" and inserting in lieu thereof "each of the fiscal years ending June 30, 1970, and June 30, 1971, $210,000,000 for the fiscal year ending June 30, 1972, and $220,000,000 for the fiscal year ending June 30, 1973".

(b) The third sentence of section 202(a)(1) of such Act is amended by striking out "the fiscal year ending June 30, 1969," and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1972,".

(c) Section 204(b) of such Act is amended by striking out "July 1, 1970" and inserting in lieu thereof "July 1, 1973".

PART C—AMENDMENTS TO TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (SUPPLEMENTARY EDUCATIONAL SERVICES AND CENTERS)

CONSOLIDATION OF CERTAIN EDUCATION PROGRAMS

SEC. 131. (a)(1) Title III of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE III—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING

"APPROPRIATIONS AUTHORIZED

"SEC. 301. (a) The Commissioner shall carry out a program for making grants for supplementary educational centers and services, to stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school educational programs to serve as models for regular school programs, and to assist the States in establishing and maintaining programs of testing and guidance and counseling.

"(b) For the purpose of making grants under this title, there is hereby authorized to be appropriated the sum of $550,000,000 for the fiscal year ending June 30, 1971, $575,000,000 for the fiscal year ending June 30, 1972, and $605,000,000 for the fiscal year ending June 30, 1973. In addition, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the succeeding fiscal years, such sums as may be necessary for the administration of State plans, the activities of advisory councils, and the evaluation and dissemination activities required under this title.

"ALLOTMENT AMONG STATES

"SEC. 302. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 3 per centum of the amount appropriated for such year for grants under this title. The Commissioner shall allot the amount appropriated pursuant to this paragraph among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition for each fiscal year ending prior to July 1, 1972, he shall allot from such amount to (A) the Secretary of the Interior the amount necessary to provide programs and prospects for the purpose of this title for individuals on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) From the sums appropriated for making grants under this title for any fiscal year pursuant to section 301(b), the Commissioner shall allot $200,000 to each State and shall allot the remainder of such sums among the States as follows:

"(A) He shall allot to each State an amount which bears the same ratio to 50 percentum of such remainder as the number of children aged five to seventeen, inclusive, in the State bears to the number of children in all the States, and

"(B) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the population of the State bears to the population of all the States.

For the purposes of this subsection, the term term "State" does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(b) The number of children aged five to seventeen, inclusive, and the total population of a State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfatcory data available to him.

"(c) The amount allotted to any State under subsection (a) for any fiscal year, which the Commissioner determines will not be required for the period for which that amount is available, shall be available for grants pursuant to section 306 in such State, and if not so needed may be reallotted or used for grants pursuant to section 306 in other States. Funds available for reallotment may be reallotted from time to time, on such dates during that period as the Commissioner may fix, among other States in proportion to the amounts originally allotted among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that period; and the total of these reductions may be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection from funds appropriated pursuant to section 301 for any fiscal year shall be deemed to be a part of the amount allotted to it under subsection (a) for that year.

"(d) The amounts made available under the first sentence of subsection (c) for any fiscal year shall remain available for grants during the next succeeding fiscal year.

"USES OF FEDERAL FUNDS

"SEC. 303. (a) It is the purpose of this title to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs formerly authorized by this title and title V–A of the National Defense Education Act of 1958, and except as expressly modified by this title, Federal funds may be used for the same purposes and the funding of the same types of programs previously authorized by those titles.

"(b) Funds appropriated pursuant to section 301 shall be available only for grants in accordance with applications approved pursuant to this title for—

"(1) planning for and taking other steps leading to the development of programs or projects designed to provide supplementary educational activities and services described in paragraphs (2) and (3), including pilot projects designed to test the effectiveness of plans so developed;

"(2) the establishment or expansion of exemplary and innovative educational programs (including dual-enrollment programs and the lease or construction of necessary facilities) for the purpose of stimulating the adoption of new educational programs (including those described in section 503(4) and special programs for handicapped children) in the schools of the State; and

"(3) the establishment, maintenance, operation, and expansion of programs or projects, including the lease or construction of necessary facilities and the acquisition of necessary equipment, designed to enrich the programs of local elementary and secondary schools and to offer a diverse range of educational experience to persons of varying talents and needs by providing, especially through new and improved approaches, supplementary educational services and activities, such as—

"(A) remedial instruction, and school health, physical education, recreation, psychological, social work, and other services designed to enable and encourage persons to enter, remain in, or reenter educational programs, including the provision of special educational programs and study areas during periods when schools are not regularly in session;

"(B) comprehensive academic services and, where appropriate, vocational guidance and counseling, for continuing adult education;

"(C) specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively on a centralized basis, or for persons who are handicapped or of preschool age;

"(D) making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary basis for the benefit of children in public and other nonprofit schools, organizations, and institutions;

"(E) developing, producing, and transmitting radio and television programs for classroom and other educational use;

"(F) in the case of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs (including preschool education), because some or all of its schools are seriously overcrowded, obsolete, or unsafe, initiating and carrying out programs or projects designed to meet those needs, particularly those which will result in more effective use of existing facilities;

"(G) providing special education and related services for persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities including, where appropriate, the provision of mobile educational services and equipment, special home study courses, radio, television, and related forms of instruction, bilingual education methods and visiting teachers' programs,

"(H) encouraging community involvement in educational programs;

"(I) providing programs for gifted and talented children; and

"(J) other specially designed educational programs or projects which meet the purposes of this title; and

"(4) programs for testing students in the public and private elementary and secondary schools and in junior colleges and technical institutes in the State, and programs designed to improve guidance and counseling services at the appropriate levels in such schools.

"(c) In addition to the uses specified in subsection (b), funds appropriated for carrying out this title may be used for—

"(1) proper and efficient administration of State plans;

"(2) obtaining technical, professional, and clerical assistance and the services of experts and consultants to assist the advisory councils authorized by this title in carrying out their responsibilities; and

"(3) evaluation of plans, programs, and projects, and dissemination of the results thereof.

"APPLICATION FOR GRANTS; CONDITIONS FOR APPROVAL

"SEC. 304. (a) A grant under this title pursuant to an approved State plan or by the Commissioner for a supplementary educational center or service program or project may be made only to a local educational agency or agencies, and then only if there is satisfactory assurance that, in the planning of that program or project there has been, and in the establishment and carrying out thereof there will be, participation of persons broadly representative of the cultural and educational resources of the area to be served. The term 'cultural and educational resources' includes State educational agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources. Such grants may be made only upon application to the appropriate State educational agency or to the Commissioner, as the case may be, at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

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

"(2) set forth a program for carrying out the puposes set forth in section 303(b) and provide for such methods of administration as are necessary for the proper and efficient operation of the programs;

"(3) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 303(b), and in no case supplant such funds;

"(4) provide, in the case of an application for assistance under this title which includes a project for the construction of necessary facilities, satisfactory assurance that—

"(A) reasonable provision has been made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities,

"(B) upon completion of the construction, title to the facilities will be in a State or local educational agency, and

"(C) in developing plans for such facilities (i) due consideration will be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and (ii) there will be compliance with such standards as the Secretary may prescribe or approve in order to insure that, to the extent appropriate in view of the uses to be made of the facilities, such facilities are accessible to and usable by handicapped persons;

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

"(6) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and vertification of such reports.

"(b) An application by a local educational agency for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

"(1) meets the requirements set forth in subsection (a);

"(2) provides that the program or project for which application is made—

"(A) will utilize the best available talents and resources and will substantially increase the educational opportunities in the area to be served by the applicant, and

"(B) to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type provided by the program and project, makes provision for the participation of such children; and

"(3) has been reviewed by a panel of experts.

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications."

"STATE PLANS

"SEC. 305. (a)(1) Any State desiring to receive payments for any fiscal year to carry out a State plan under this title shall (A) establish within its State educational agency a State advisory council (hereinafter referred to as the State advisory council) which meets the requirements of this subsection, (B) set dates before which local educational agencies must have submitted applications for grants to the State educational agency, and (C) submit to the Commissioner, through its State educational agency, a State plan at such time and in such detail as the Commissioner may deem necessary. The Commissioner may, by regulation, set uniform dates for the submission of State plans and applications.

"(2) The State advisory council, established pursuant to paragraph (1), shall—

"(A) be appointed by the State educational agency, and be broadly representative of the cultural and educational resources of the State (as defined in section 304(a)) and of the public, including persons representative of—

"(i) elementary and secondary schools,

"(ii) institutions of higher education, and

"(iii) areas of professional competence in dealing with children needing special education because of physical or mental handicaps;

"(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for approval of applications under such State plan;

"(C) review, and make recommendations to the State educational agency on the action to be taken with respect to, each application for a grant under the State plan;

"(D) evaluate programs and projects assisted under this title; and

"(E) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and to the National Advisory Council, established pursuant to this title, at such times, in such form, and in such detail, as the Secretary may prescribe.

"(3) Not less than ninety days prior to the beginning of any fiscal year in which a State desires to receive a grant under this title, such State shall certify the establishment of, and membership of, its State advisory council to the Commissioner.

"(4) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and select from its membership a chairman. The time, place, and manner of meeting shall be as provided by such council, except that such council shall have not less than one public meeting each year at which the public is given opportunity to express views concerning the administration and operation of this title.

"(5) State advisory councils shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

"(b) The Commissioner shall approve a State plan, or modification thereof, if he determines that the plan submitted for that fiscal year—

"(1)(A) except in the case of funds available for the purpose described in paragraph (4) of section 303(b), sets forth a program (including educational needs, and their basis, and the manner in which the funds paid to the State under this title shall be used in meeting such educational needs) under which funds paid to the State under section 307(a) will be expended solely for the improvement of education in the State through grants to local educational agencies for programs or projects in accordance with sections 303 and 304; *Provided*, That, in the case of a State educational agency that also is a local educational agency, its approval of a program or project to be carried out by it in the latter capacity shall, for the purposes of this title, be deemed an award of a grant by it upon application of a local educational agency if the State plan contains, in addition to the provisions otherwise required by this section, provisions and assurances (applicable to such programs or project) that are fully equivalent to those otherwise required of a local educational agency;

"(B) in the case of funds available for the purpose described in paragraph (4) of section 303(b), sets forth—

"(i) a program for testing students in the public elementary and secondary schools of such State or in the public junior colleges and technical institutes of such State, and, if authorized by law, in other elementary and secondary schools and in other junior colleges and technical institutes in such State, to identify students with outstanding aptitudes and ability, and the means of testing which will be utilized in carrying out such program; and

"(ii) a program of guidance and counseling at the appropriate levels in the public elementary and secondary schools or public junior colleges and technical institutes of such State; (A) to advise students of courses of study best suited to their ability, aptitudes and skills, (B) to advise students in their decisions as to the type of educational program they should pursue, the vocation they train for and enter, and the job opportunities in the various fields, and (C) to encourage students with outstanding aptitudes and ability to complete their secondary

school education, take the necessary courses for admission to institutions of higher education, and enter such institutions and such programs may include, at the discretion of such State agency, short-term sessions for persons engaged in guidance and counseling in elementary and secondary schools, junior colleges, and technical institutes in such State;

"(2) sets forth the administrative organization and procedures, including the qualifications for personnel having responsibilities in the administration of the plan in such detail as the Commissioner may prescribe by regulation;

"(3) sets forth criteria for achieving an equitable distribution of assistance under this title, which criteria shall be based on consideration of (A) the size and population of the State, (B) the geographic distribution and density of the population within the State, and (C) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities described in section 303, and the financial ability of the local educational agencies serving such persons to provide such services and activities;

"(4) provides for giving special consideration to the application of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs, including preschool education for four- and five-year-olds and including where appropriate bilingual education, because some or all of its schools are seriously overcrowded (as a result of growth or shifts in enrollment or otherwise), obsolete, or unsafe;

"(5) provides that, in approving applications for grants for programs or projects, applications proposing to carry out programs or projects planned under this title will receive special consideration;

"(6) provides for adoption of effective procedures (A) for the evaluation, at least annually, of the effectiveness of the programs and projects, by the State advisory council, supported under the State plan in meeting the purposes of this title, (B) for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (C) for adopting, where appropriate, promising educational practices developed through such programs or projects;

"(7) provides that not less than 50 per centum of the amount which such State receives to carry out the plan in such fiscal year shall be used for purposes of paragraphs (1) and (2) of section 303(b);

"(8) provides that not less than 15 per centum of the amount which such State receives to carry out the plan in such fiscal year shall be used for special programs or projects for the education of handicapped children;

"(9) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year (A) will not be commingled with State funds, and (B) will be so used as to supplement and, to the extent practical, increase the fiscal effort (determined in accordance with criteria prescribed by the Commissioner, by regulation) that would, in the absence of such Federal funds, be made by the applicant for educational purposes;

"(10) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title;

"(11) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the areas served by the programs or projects supported under the State plan and in the State as a whole, including reports of evaluations made in accordance with objective measurements under the State plan pursuant to paragraph (6), and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(12) provides that final action with respect to any application (or amendment thereof) regarding the proposed final disposition thereof shall not be taken without first affording the local educational agency or agencies submitting such application reasonable notice and opportunity for a hearing; and

"(13) contains satisfactory assurance that, in determining the eligibility of any local educational agency for State aid or the amount of such aid, grants to that agency under this title shall not be taken into consideration.

"(c) The Commissioner may, if he finds that a State plan for any fiscal year ending prior to July 1, 1973, is in substantial compliance with the requirements set forth in subsection (b), approve that part of the plan which is in compliance with such requirements and make available (pursuant to section 307) to that State that part of the State's allotment which he determines to be necessary to carry out that part of the plan so approved. The remainder of the amount which such State is eligible to receive under this section may be made available to such State only if the unapproved portion of that State plan has been so modified as to bring the plan into compliance with such requirements: Provided, That the amount made available to a State pursurant to this subsection shall not be less than 50 per centum of the maximum amount which the State is eligible to receive under this section.

"(d) A State which has had a State plan approved for any fiscal year may receive for the purpose of carrying out such plan an amount not in excess of 85 per centum of its allotment pursuant to section 302.

"(e)(1) The Comissioner shall not finally disapprove any plan submitted under subsection (a), or any modification thereof, without first affording the State educational agency submitting the plan reasonable notice and opportunity for a hearing.

"(2) Whenever the Commissioner, after reasonable notice and opportunity for hearings to any State educational agency, finds that there has been a failure to comply substantially with any requirements set forth in the plan of that State approved under section 305 or with any requirement set forth in the application of a local educational agency approved pursuant to section 304, the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

"(3)(A) If any State is dissatisfied with the Commissioner's final action with respect to the approval of a plan submitted under subsection (a) or with his final action under paragraph (2), such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commisisoner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

"(B) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings.

"(C) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(f)(1) If any local educational agency is dissatisfied with the final action of the State educational agency with respect to approval of an application of such local agency for a grant pursuant to this title, such local agency may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State educational agency. The State educational agency thereupon shall file in the court the record of the proceedings on which the State educational agency based its action as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the State educational agency, if supported by substantial evidence shall be conclusive; but the court, for good cause shown, may remand the case to the State educational agency to take further evidence, and the State educational agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

"(3) The court shall have jurisdiction to affirm the action of the State educational agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SPECIAL PROGRAMS AND PROJECTS

"SEC. 306. (a) From the amount allotted to any State pursuant to section 302 which is not available to that State under a State plan approved pursuant to section 305, the Commissioner is authorized, subject to the provisions of section 304, to make grants to local educational agencies in such State for programs or projects which meet the purposes of section 303 and which, in the case of a local educational agency in a State which has a State plan approved, hold promise of making a substantial contribution to the solution of critical educational problems common to all or several States. The Commissioner may not approve an application under this section unless the application has been submitted to the appropriate State educational agency for comment and recommendation with respect to the action to be taken by the Commissioner regarding the disposition of the application.

"(b) Not less than 15 per centum of the funds granted pursuant to this section in any fiscal year shall be used for programs or projects designed to meet the special educational needs of handicapped children.

"PAYMENTS

"SEC. 307. (a) From the allotment to each State pursuant to section 302, for any fiscal year, the Commissioner shall pay to each State, which has had a plan approved pursuant to section 305 for that fiscal year, the amount necessary to carry out its State plan as approved.

"(b) The Commissioner is authorized to

pay to each State amounts necessary for the activities described in section 303(c), during any fiscal year, except that (1) the total of such payments shall not be in excess of an amount equal to 7½ per centum of its allotment for that fiscal year or, $150,000 ($50,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater, and (2) in such payment, the amount paid for the administration of the State plan for any fiscal year shall not exceed an amount equal to 5 per centum of its allotment for that fiscal year of $100,000 ($35,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater.

"(c) The Commissioner shall pay to each applicant which has an application approved pursuant to section 306 the amount necessary to carry out the program or project pursuant to such application.

"(d) Payments under this section may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"(e) No payments shall be made under this title to any local educational agency or to any State unless the Commissioner finds, in the case of a local educational agency, that the combined fiscal effort of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year or, in the case of a State, that the fiscal effort of that State for State aid (as defined by regulation) with respect to the provision of free public eduaction in that State for the preceding fiscal year was not less than such fiscal effort for State aid for the second preceding fiscal year.

"(f)(1) In any State which has a State plan approved under section 305(c) and in which no State agency is authorized by law to provide, or in which there is a substantial failure to provide, for effective participation on an equitable basis in programs authorized by this title by children enrolled in any one or more private elementary or secondary schools of such State in the area or areas served by such programs, the Commissioner shall arrange for the provision, on an equitable basis, of such programs and shall pay the costs thereof for any fiscal year out of that State's allotment. The Commissioner may arrange for such programs through contracts with institutions of higher education, or other competent nonprofit institutions or organizations.

"(2) In determining the amount to be withheld from any State's allotment for the provision of such programs, the Commissioner shall take into account the number of children and teachers in the area or areas served by such programs who are excluded from participation therein and who, except for such exclusion, might reasonably have been expected to participate.

"RECOVERY OF PAYMENTS

"SEC. 308. If within twenty year after completion of any construction for which Federal funds have been paid under this title—

"(a) the owner of the facility shall cease to be a State or local educational agency, or

"(b) the facility shall cease to be used for the educational and related purposes for which it was constructed, unless the Commissioner determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so.

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

"NATIONAL ADVISORY COUNCIL

"SEC. 309. (a) The President shall appoint a National Advisory Council on Supplementary Centers and Services which shall—

"(1) review the administration of, general regulations for, and operation of this title, including its effectiveness in meeting the purposes set forth in section 303;

"(2) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to section 305(a)(2)(E);

"(3) evaluate programs and projects carried out under this title and disseminate the results thereof; and

"(4) make recommendations for the improvement of this title, and its administration and operation.

"(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of twelve members, a majority of whom shall be broadly representative of the educational and cultural resources of the United States including at least one person who has professional competence in the area of education of handicapped children. Such members shall be appointed for terms of 3 years except that (1) in the case of the initial members, four shall be appointed for terms of 1 year and four shall be appointed for terms of 2 years each, and (2) appointments to fill the unexpired portion of any terms shall be for such portion only. When requested by the President, the Secretary of Health, Education, and Welfare shall engage such technical and professional assistance as may be required to carry out the functions of the Council, and shall make available to the Council such secretarial, clerical and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out its functions.

"(c) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title) to the President and the Congress not later than January 20 of each year. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report."

(b) In the case of any fiscal year ending prior to July 1, 1973, each State submitting a State plan under title III of the Elementary and Secondary Education Act of 1965 shall assure the Commissioner of Education that it will expend for the purpose described in paragraph (4) of section 303(b) of such title III an amount at least equal to *50 per centum of* the amount expended by that State for the purposes of title V–A of the National Defense Education Act of 1968 from funds appropriated pursuant to such title V–A for the fiscal year ending June 30, 1970.

(c) Any appropriation for the purposes of title V of the National Defense Education Act of 1958 for any fiscal year ending after June 30, 1970, shall be deemed to have been appropriated pursuant to section 301 of *Elementary and Secondary Education* Act of 1965.

(*d*) The amendment made by this section shall be effective with respect to fiscal years ending after June 30, 1970.

PART D—AMENDMENTS TO TITLE V OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (STRENGTHENING STATE DEPARTMENTS OF EDUCATION)

EXTENSION OF TITLE V OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 141. Section 501(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" where it appears after "1969," and by striking out all that follows "1968" and inserting in lieu thereof the following: "$80,000,000 each for the fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971, $85,000,000 for the fiscal year ending June 30, 1972, and $90,000,000 for the fiscal year ending June 30, 1973".

PROVISION RELATING TO GIFTED AND TALENTED CHILDREN

SEC. 142. (a) Section 503(11) of the Elementary and Secondary Education Act of 1965 (relating to grants to strengthen State departments of education) is amended by inserting after "handicapped" a comma and the following: "and gifted and talented children".

(b) The amendment made by this section shall be effective upon enactment of this Act.

STRENGTHENING LEADERSHIP AND QUALITY IN EDUCATION; IMPROVING PLANNING AND EVALUATION OF EDUCATION PROGRAMS

SEC. 143. (a)(1) The heading of title V of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE V—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES".

(2) Such title V is amended by inserting before section 501 thereof the following heading:

"PART A—GRANTS TO STRENGTHEN STATE DEPARTMENTS OF EDUCATION".

(3) Section 507 of such title V, and all references thereto, is redesignated as section 553 of such title and is amended, in subsection (a), by striking out "but it does not include a local educational agency" and inserting in lieu thereof "including local educational agencies".

(4) Such title V is amended—

(A) by striking out sections 506, 508, 509, and 510;

(B) in sections 501, 502, 503, 504, and 505, by striking out "this title" wherever it appears therein and inserting in lieu thereof "this part";

(C) in section 503, by inserting "and" at the end of clause (11), by striking out the semicolon at the end of clause (12) and inserting in lieu thereof a period, and by striking out clauses (13) and (14); and

(D) by inserting after section 505 the following:

"PART B—LOCAL EDUCATIONAL AGENCIES

"APPROPRIATIONS AUTHORIZED

"SEC. 521. (a) The Commissioner shall carry out a program for making grants to stimulate and assist local educational agencies in strengthening the leadership resources of their districts, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of their districts.

"(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973.

"APPORTIONMENT AMONG STATES

"SEC. 522. (a) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 2 per centum of such sums, as he may determine and shall apportion such amount among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such sums shall be apportioned by the Commissioner as follows:

"(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.

"(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in all the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

For purposes of this paragraph, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(b) The amount apportioned to any State under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this subsection from funds appropriated pursuant to section 521 for any fiscal year shall be deemed part of the amount apportioned to it under subsection (a) for that year.

"GRANTS FROM APPORTIONED FUNDS

"SEC. 523. From the amount apportioned to any State for any fiscal year under section 522 the Commissioner may, upon approval of an application in accordance with section 524 submitted to him by a local educational agency of such State, after approval by the State educational agency in accordance with section 525, make a grant or grants to such local educational agency equal to the expenditures incurred by such agency for the planning of, and for programs for, the development, improvement, or expansion of activities promoting the purposes set forth in section 521(a) and more particularly described in such application and for which such application is approved, such as—

"(1) educational planning on a district basis, including the identification of educational problems, issues, and needs in the district and the evalution on a periodic or continuing basis of educational programs in the district;

"(2) providing support or services for the comprehensive and compatible recording, collecting, processing, analyzing, interpreting, storing, retrieving, and reporting of educational data including the use of automated data systems;

"(3) programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (A) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (B) discovering and testing new educational ideas (including new uses of printed and audiovisual media) and more effective educational practices, and putting into use those which show promise of success, and (C) studying ways to improve the legal and organizational structure for education, and the management and administration of education in the district of such agency;

"(4) programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and State educational agencies;

"(5) programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as instructional assistants and teacher aides) in elementary and secondary schools on a permanent basis;

"(6) providing such agencies and the schools of such agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, the gifted and talented, and the disadvantaged, vocational education, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation;

"(7) training programs for the officials of such agencies; and

"(8) carrying out any such activities or programs, where appropriate, in cooperation with other local educational agencies.

"APPROVAL OF APPLICATIONS BY THE COMMISSIONER

"SEC. 524. (a) An application for a grant under this part for each fiscal year shall set forth a plan under which Federal funds received by the applicant under this part for that fiscal year will be used solely for a program of activities specifically designed to strengthen the leadership resources of the applicant and to establish and improve programs to identify and meet the educational needs of the persons served by the applicant.

"(b) The Commissioner may approve an application under this part only if the application for that year—

"(1) contains or is supported by adequate assurance that Federal funds made available under the approved application will be so used as to supplement, and to the extent practical, increase the amounts of State and local funds that would in the absence of such Federal funds be made available for projects and activities which meet the requirements of section 523;

"(2) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part; and

"(3) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"APPROVAL OF APPLICATIONS BY STATE EDUCATIONAL AGENCIES

"SEC. 525. In approving applications for the purposes of this part a State educational agency shall—

"(1) approve only such applications for proposed projects, programs, or activities as will—

"(A) make a significant contribution to strengthening the leadership resources of the applicant or its ability to participate effectively in meeting the educational needs of its district, and

"(B) involve an expenditure of at least $2,500, and

"(2) provide for an equitable distribution on the basis of need of funds provided pursuant to this part, and, to the extent possible within such a distribution, give priority to exemplary projects, programs, or activities.

"PART C—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

"AUTHORIZATION

"SEC. 531, (a) The Commissioner is authorized to make comprehensive planning and evaluation grants to State and local educational agencies in order to assist and stimulate them to enhance their capability to make effective progress, through comprehensive and continuing planning and evaluation, toward the achievement of opportunities for high-quality education for all segments of the population.

"(b) For the purpose of carrying out the provisions of this part, there are hereby authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973.

"(c)(1)(A) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 2 per centum of such per centum, as he may determine and shall apportion such amount among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, according to their respective needs for assistance under this part. The remainder shall be apportioned by the Commissioner as follows:

"(i) He shall apportion 40 per centum of such remainder among the States in equal amounts.

"(ii) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the population of the State bears to the population of all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(B) For purposes of this paragraph (1), the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) The amount apportioned to any State under paragraph (1) of this subsection for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under such paragraph for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the State and local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this paragraph from funds appropriated pursuant to this section for any fiscal year shall be deemed part of the amount apportioned to it under paragraph (1) of that year.

"(3) Grants for any fiscal year to a State agency and any local educational agency in such State pursuant to this part shall be made from such State's apportionment for such year pursuant to this subsection.

"COMPREHENSIVE PLANNING AND EVALUATION GRANTS: ELIGIBLE AGENCIES

"SEC. 532. (a) Any State desiring to receive a grant under this part for any fiscal year shall designate or establish within its State educational agency a single office or unit (hereafter in this part referred to as the State planning and evaluation agency) as the sole agency for administering a comprehensive program of systematic planning and evaluation of elementary and secondary education in the State. The State planning and evaluation agency shall have the primary responsibility for planning and evaluating the education programs of the State and for the administration of funds received by the State under this part.

"(b) Any local educational agency desiring to receive a grant under this part must provide the Commissioner with satisfactory assurance that—

"(1) the local educational agency or agencies have a planning and evaluation office or unit which has or will have, as the result of assistance under this part, the capability

of carrying out a comprehensive program of systematic planning and evaluation meeting the purposes of this part;

"(2) the appropriate State educational agency or agencies have been consulted and have had the opportunity to comment on, and advise the local educational agencies and the Commissioner with regard to, the application; and

"(3) the planning and evaluation activities of the local educational agency or agencies will be closely coordinated with such activities of the appropriate State agencies; and must further provide the Commissioner with satisfactory assurance that—

"(4) the local educational agency serves, or, if two or more local educational agencies are making joint application, those agencies serve, an area with a population sufficient to merit a comprehensive planning and evaluation program in addition to that of the State or of other local educational agencies in the area or region to be served by the applicant; or

"(5) the local educational agency or agencies will use the funds for demonstration projects to plan, develop, test, and improve planning and evaluation systems and techniques consistent with, and to further the purposes of, this part.

"(c) In making grants pursuant to this section the Commissioner shall give special emphasis on developing coordinated and comprehensive plans for educational planning and evaluations between and among the Office of Education, State educational agencies, and local educational agencies, including projects on an interstate, regional, or metropolitan area basis.

"(d) No grant shall be made by the Commissioner to a local educational agency or agencies under this part unless the application for such grant has been submitted to the State educational agency or agencies in the State or States in which it is to be carried out. If, within sixty days of such submission or within such longer period of time as the Commissioner may determine pursuant to regulations, the State agency or agencies disapprove the proposed program or project, the Commissioner shall review the application with the appropriate State and local educational agencies before making a final decision.

"APPLICATION

"SEC. 533. (a) An application for a grant under this part shall be submitted to the Commissioner at such time or times, in such form, and containing such information as he may deem necessary. Such application shall include—

"(1) a statement of present and projected educational needs of persons residing in the area to be served;

"(2) a description of a program for meeting those needs which includes—

"(A) setting long-range areawide goals in meeting educational needs and establishing priorities among such goals,

"(B) developing long-range plans for achieving such goals, taking into consideration the resources available and the educational effectiveness of each of the alternatives,

"(C) planning new programs and improvements in existing programs based on the results of analyses of alternative means of achieving educational goals,

"(D) objectively evaluating at intermediate stages the progress and effectiveness of programs in achieving such goals, and, when appropriate, adjusting goals, plans, and programs to maximize educational effectiveness, and

"(E) utilizing available management information, planning, and evaluation systems and techniques;

"(3) a plan for developing and strengthening the capabilities of the applicant to improve its planning capacity and to conduct, on a continuous basis, objective evaluations of the effectiveness of education programs and projects;

"(4) a plan for utilizing the resources of, and coordinating with, programs affecting education of other Federal, State, and local agencies, organizations, and persons; and

"(5) a statement of policies and procedures which have been, or will be, established and implemented for developing and maintaining a permanent system for obtaining and collecting significant information necessary for the assessment of education in the area to be served by the applicant, for consulting with and involving parents of children served by the applicant, and for making full and detailed information concerning the educational planning and evaluation activities and findings of the applicant and other agencies and persons receiving assistance under this part reasonably available to the public.

"(b) Applications for grants under this section may be approved by the Commissioner only if he determines that the application—

"(1) has been submitted only after interested parents have been given reasonable notice and an opportunity to express their views thereon;

"(2) set forth, in such detail as the Commissioner may determine necessary, such policies and procedures as will provide satisfactory assurance that—

"(A) the assistance provided under this section, together with other available resources, will be so used for the purposes of this part as to result in the maximum possible effective progress toward the achievement of a high level of planning and evaluation competence, and

"(B) assistance under this part will be used primarily in strengthening the capabilities of the planning and evaluation staff of the agency, office, or unit responsible for the administration of the application plan; and

"(3) sets forth such policies and procedures as will insure that Federal funds made available under the application will be so used as to supplement, and to the extent practical, increase the amounts of State or local funds that would, in the absence of Federal funds, be made available for activities meeting the purposes of this title;

"(4) in the case of applications from States, makes adequate provision (consistent with such criteria as the Commissioner shall prescribe by regulation) for using funds granted under this section to make program planning and evaluation services available to local educational agencies in the State.

"(c) A grant made pursuant to an application under this section may be used to pay not to exceed 75 per centum of the cost of the activities covered by the application.

"REPORTS

"SEC. 534. Each recipient of a grant shall make an annual report on the activities carried out with the funds from such grant which includes such information as the Commissioner determines will permit on evaluation of the effectiveness of the program authorized by the part in achieving its purposes. Each such recipient shall also make such other reports, in such form and containing such information as the Commissioner may require to carry out his functions under this part.

"PART D—COUNCILS ON QUALITY IN EDUCATION

"NATIONAL AND STATE ADVISORY COUNCILS

"SEC. 541. (a)(1) There is hereby established a National Council on Quality in Education (hereafter referred to as the 'National Council') composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The membership of the National Council shall include persons who are familiar with the educational needs and goals of the Nation, persons with competence in assessing the progress of the education agencies, institutions, and organizations in meeting those needs and achieving those goals, persons familiar with the administration of State and local educational agencies and of institutions of higher education, and persons representative of the general public. Members shall be appointed for terms of three years, except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only.

"(2) The National Council shall—

"(A) review the administration of general regulations for, and operation of the programs assisted under this title at the Federal, State, and local levels, and other Federal education programs;

"(B) advise the Commissioner and, when appropriate, the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the educational agencies, institutions, and organizations of the Nation toward meeting those needs and achieving those goals;

"(C) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

"(D) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to clause (E) of paragraph (3) of subsection (b) of this section;

"(E) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of education programs including the programs authorized by this title;

"(F) consult with Federal, State, local, and other educational agencies, institutions, and organizations with respect to assessing education in the Nation and the improvement of the quality of education, including—

"(i) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

"(ii) determinations of priorities among unmet needs and national goals; and

"(iii) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement:

"(G) conduct national conferences on the assessment and improvement of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

"(H) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

"(3) The National Council shall make an annual report, and such other reports as it deems appropriate, on its findings, recommendations, and activities to the Congress and the President. The President is requested to transmit to the Congress, at least annually, such comments and recommendations as he may have with respect to such reports and its activities.

"(4) In carrying out its responsibilities under this section, the National Council shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, and such other advi-

sory councils and committees as may have information and competence to assist the National Council. All Federal agencies are directed to cooperate with the National Council in assisting it in carrying out its functions.

"(b)(1) Any State receiving payments under this title for any fiscal year may establish a State advisory council (hereinafter referred to as 'State council') which if it meets the requirements and has the authority specified in this subsection may receive payments pursuant to paragraph (7). The State council shall be appointed by the Governor or, in the case of States in which the members of the State educational agency are elected (including election by the State legislature), by such agency.

"(2) The State council established pursuant to this subsection shall be broadly representative of the educational resources of the State and of the public. Representation on the State council shall include, but not be limited to, persons representative of—

"(A) public and nonprofit private elementary and secondary schools,

"(B) institutions of higher education,

"(C) areas of competence in planning and evaluating education programs, and the assessment of the effectiveness of, and the administration of, such programs at the State and local levels; and

"(D) areas of competence in dealing with children for whom special educational assistance is available under this act.

"(3) The State council shall—

"(A) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and the National Council at such times, in such form, and in such detail, as the Commissioner may prescribe;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, State and local educational programs in the State, including the development of criteria for approval of applications for assistance under this title;

(C) advise State and local officials who have a responsibility for education in the States with respect to the planning, evaluating, administration, and assessment of education in the State;

"(D) review and make recommendations to the State educational agency on the action to be taken with respect to applications for assistance under this title by local educational agencies; and

"(E) evaluate programs and projects assisted under this title.

"(4) Any such State shall certify the establishment of, and membership of its State council to, the Commissioner.

"(5) Such State council shall meet within thirty days after its certification has been accepted by the Commissioner and select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given opportunity to express views concerning the operation of programs and projects assisted under this title.

"(6) Such State council shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

"(7) There are hereby authorized to be appropriated for each fiscal year such sums, not in excess of 2½ per centum of the amount otherwise appropriated for such year for the purposes of this title, as may be necessary to carry out the provisions of this subsection.

"PART E—GENERAL PROVISIONS

"ADMINISTRATION OF PLANS

"SEC. 551. (a) The Commissioner shall not finally disapprove any application from a State or a local educational agency, submitted under part A or B of this title, or any modification thereof, without affording the applicant reasonable notice and an opportunity for a hearing.

"(b) Whenever the Commissioner, after reasonable notice and an opportunity for a hearing to a State or a local educational agency administering a program under an application approved under this title, finds that there has been a failure to comply substantially with the appropriate provisions of this title or with the provisions of an application approved under this title, he shall notify the State or the local educational agency, as the case may be, that further payments will not be made to that State or that local educational agency under that application until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to that State or that local educational agency under the application. Whenever a local educational agency is given notice under the first sentence of this subsection, notice shall also be submitted to the appropriate State educational agency.

"JUDICIAL REVIEW

"SEC. 552. (a) If any State or any local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of an application submitted under part A or B of this title or with his final action under section 551(b), such State or local educational agency may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State or local educational agency is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

"(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code."

(b) The Act of July 26, 1954, entitled "An Act to establish a National Advisory Committee on Education" (Public Law 532, Eighty-third Congress) is hereby repealed.

(c) Subsections (a)(1) and (b)(1) of section 2 of the Cooperative Research Act are each amended by striking out "section 503(a)(4)" and inserting in lieu thereof "sections 503(4) and 523(a)(3)".

PART E—AMENDMENTS TO TITLE VII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT [redacted] (BILINGUAL EDUCATION)

EXTENSION OF TITLE VII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT [redacted] (THE BILINGUAL EDUCATION ACT)

SEC. 151. Section 703(a) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" where it appears after "1969," and by inserting before the period at the end thereof a comma and the following: $80,000,000 for the fiscal year ending June 30, 1971, $100,000,000 for the fiscal year ending June 30, 1972, and $135,000,000 for the fiscal year ending June 30, 1973".

APPLICATION TO INDIANS ON RESERVATIONS

SEC. 152. (a) Title VII of the Elementary and Secondary Education Act of 1965 is amended by redesignating sections 706, 707, and 708 (and references thereto) as sections 707, 708, and 709 thereof and by inserting the following new section immediately after section 705:

"CHILDREN IN SCHOOLS ON RESERVATIONS

"SEC. 706. (a) For the purpose of carrying out programs pursuant to this title for individuals on reservations serviced by elementary and secondary schools operated on such reservations for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section, may be considered to be a local educational agency as such term is used in this title.

"(b) From the sums appropriated pursuant to section 703, the Commissioner may also make payments to the Secretary of the Interior for elementary and secondary school programs to carry out the policy of section 702 with respect to individuals on reservations serviced by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for that purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702."

(b) Section 707(a) of such Act (as redesignated by this Act) is amended by inserting the following before the period at the end thereof: "or, in the case of payments to the Secretary of the Interior, an amount determined pursuant to section 706(b)".

INCREASE IN MEMBERSHIP OF ADVISORY COMMITTEE ON THE EDUCATION OF BILINGUAL CHILDREN

SEC. 153. Section 708(a) of the Elementary and Secondary Education Act of 1965 as redesignated by this Act, is amended (1) by striking out "nine" and inserting in lieu thereof "fifteen", and (2) by striking out "four" and inserting, in lieu thereof "seven".

PART F—AMENDMENTS TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT [redacted] (GENERAL PROVISIONS)

EXTENSION OF SECTION 807 OF THE ELEMENTARY AND SECONDARY EDUCATION ACT [redacted]

SEC. 161. Section 807(c) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(c) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated $30,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, $31,500,000 for the fiscal year ending June 30, 1972, and $33,000,000 for the fiscal year ending June 30, 1973."

DEFINITION OF "GIFTED AND TALENTED CHILDREN"

SEC. 162. Section 801 of the Elementary and Secondary Education Act of 1965 (relating to definitions) is amended by adding at the end thereof the following:

"(1) The term 'gifted and talented children' means, in accordance with objective criteria prescribed by the Commissioner, children who have outstanding intellectual ability or creative talent the development of which requires special activities or services not ordinarily provided by local educational agencies."

REVISION OF FEDERAL ADMINISTRATION SECTION

SEC. 163. Section 803(c) of the Elementary and Secondary Education Act of 1965 is amended by striking out "(1)" and by striking out everything after "by such other de-

partments and agencies" and inserting in lieu thereof a period and the following: "Federal departments and agencies administering programs which may be effectively coordinated with programs carried out under this Act or any Act amended by this Act, including community action programs carried out under title II of the Economic Opportunity Act of 1964, shall, to the fullest extent permitted by other applicable law, carry out such programs in such a manner as to assist in carrying out, and to make more effective, the programs under this Act or any Act amended by this Act."

SCHOOL NUTRITION AND HEALTH SERVICES AND RESEARCH IN CORRECTION EDUCATION SERVICES

SEC. 164. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding to the end thereof the following new sections:

"GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL NUTRITION AND HEALTH SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES

"SEC. 808. (a) The Secretary shall carry out a program of making grants to local educational agencies and, where appropriate, nonprofit private educational organizations, to support demonstration projects designed to improve nutrition and health services in public and private schools serving areas with high concentrations of children from low-income families.

"(b) Funds appropriated pursuant to subsection (d) shall be available for grants pursuant to applications approved under this section to pay the cost of (1) coordinating nutrition and health service resources in the areas to be served by a demonstration project supported under this section, (2) providing supplemental health, nutritional, mental health, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (3) nutrition and health education programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (4) the evaluation of projects assisted under this section with respect to their effectiveness in improving school nutrition and health services for such children.

"(c) Applications for a grant under this section shall be submitted at such time, contain such information, and be consistent with such criteria as the Secretary may require by regulation. Such applications shall provide for—

"(1) the use of funds available under this section and the coordination of health care facilities and resources and such nutrition resources as may be available to the applicant in order to insure that a comprehensive program of physical and mental health and nutrition services are available to children from low-income families in the area to be served;

"(2) the development of health and nutrition curriculum materials related to the specific needs of persons involved with the project and to new and improved approaches to health services and food technology;

"(3) the training of (A) school administrators, teachers, and school health and nutrition personnel in order to assist them in meeting the health and nutritional needs of children from low-income families, and (B) professional and subprofessional personnel for service in school nutrition and health programs; and

"(4) adequate provision for evaluation of the project.

"(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1970, $10,000,000 for the fiscal year ending June 3, 1971, $16,000,000 for the fiscal year ending June 30, 1972, and $26,000,000 for the fiscal year ending June 30, 1973.

"RESEARCH AND DEMONSTRATION PROJECTS IN CORRECTION EDUCATION SERVICES

"SEC. 809. (a) The Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other public and private nonprofit research agencies and organizations for research or demonstration projects, relating to the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youth offenders, and adult criminal offenders, including the development of criteria for the identification for specialized educational instruction of such persons from the general elementary and secondary school age population and special curriculums, and guidance and counseling programs. All projects shall include an evaluation component.

"(b) The Commissioner is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to the education of persons intended to be benefited by this section, and shall secure the advice and recommendations of the Director, Bureau of Prisons, of the Director, Office of Juvenile Delinquency and Youth Development, the Director of the Teacher Corps, the head of the National Institute of Law Enforcement and Criminal Justice, the Administrator of the Law Enforcement Assistance Administration, and such other persons and organizations as he, in his discretion, deems necessary before making any grant under this section."

TITLE II—AMENDMENTS TO PUBLIC LAWS 815 AND 874 OF THE EIGHTY-FIRST CONGRESS (IMPACTED AREAS PROGRAMS)

EXTENSION OF THE IMPACTED AREAS PROGRAMS

SEC. 201. (a)(1) Section 3 of the Act of September 30, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1973".

(2) Section 15(15) of such Act is amended by striking out "1965–1966" and inserting in lieu thereof "1968–1969".

(b) Sections 2(a), 3(b), and 4(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), are each amended by striking out "1970" wherever it appears and inserting in lieu thereof "1973".

(c) Section 16(a)(1)(A) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), and section 7(a)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), are each amended by striking out "July 1, 1970" and inserting in lieu thereof "July 1, 1973".

CERTAIN REFUGEE CHILDREN

SEC. 202. (a) Section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out the second sentence and inserting in lieu thereof the following: "In the case of fiscal years ending prior to July 1, 1973, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or any other provision of this subsection applies) who were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the fiscal year for which the determination is made, a refugee who meets the requirements of section 2(b)(3)(A) and (B) of the Migration and Refugee Assistance Act of 1962.".

(b) Section 3(c)(2) of such Act is amended (1) by inserting before "subsection (b)" both times it appears the following: "the first sentence of", and (2) by inserting after "to whom such subsection" the following: "or such sentence".

(c) Section 3(c) of such Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children who were in average daily attendance to whom such sentence applies amounts to 20 per centum or more of the number of children who were in average daily attendance during such year and for whom such agency provided free public education, but in determining the number of such children under such second sentence no child shall be counted with respect to whose education a payment was made under section 2(b)(4) of the Migration and Refuge Assistance Act of 1962."

INCLUSION OF CHILDREN RESIDING IN LOW-RENT PUBLIC HOUSING AS FEDERALLY CONNECTED CHILDREN

SEC. 203. (a)(1) The second sentence of section 15(1) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out "and (B)" and inserting in lieu thereof "(B) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, and (C)".

(2) The fourth sentence of such section 15(1) is amended (A) by striking out the comma before "(B)" and inserting in lieu thereof "and", and (B) by striking out all that follows "postal services" and inserting in lieu thereof a period.

(3) Section 5(c) of such Act is amended by striking out the colon and all that follows and inserting in lieu thereof a period and the following: "In determining the eligibility of a local educational agency under this subsection and in determining the number of federally connected children who are in the average daily membership of the schools of such agency during a base year and in estimating the increase since the base year in the number of such children under subsection (a), children residing on any housing property (whether or not owned by the United States), which is part of a low-rent housing project assisted under the United States Housing Act of 1937, shall not be considered as having been federally connected during the base year if such housing project was begun after the base year 1964–1965.".

(b)(1) The second sentence of section 303(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out ", and (C)" and inserting in lieu thereof ", (C) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (D)".

(2) The fourth sentence of such section 303(1) is amended by striking out "(A) any real property used for a labor supply center, labor home or labor camp for migratory workers, (B)" and by striking out all that follows "postal services" and inserting in lieu thereof a period.

(c)(1) The amendments made by subsections (a) and (b) shall be effective after June 30, 1970.

(2) For the purposes of section 5 of such Act of September 23, 1950, the number of children in the membership of a local educational agency residing in a low-rent housing project assisted under the United States Housing Act of 1937 during the years of the base period preceding the effective date provided in paragraph (1) shall be determined

by the Commissioner on the basis of estimates.

(3) Section 3 of such Act of September 23, 1950, is further amended by inserting at the end thereof the following new sentence: "Such order of priority shall provide that applications for payments based upon increases in the number of children residing on, or residing with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937 shall not be approved for any fiscal year until all other applications under paragraphs (2) and (3) of subsection (a) of section 5 have been approved for that fiscal year.".

(4) Subsection (c) of section 5 of such Act of September 30, 1950, is amended to read as follows:

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"(c) (1) If the funds appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies will be entitled to receive under this title for such year, the Commissioner (A) shall determine the part of the entitlement of each such local educational agency which is attributable to determinations under subsections (a) and (b) of section 3 of the number of children who resided on, or resided with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (B) except as otherwise provided in paragraph (3), shall allocate such funds, other than so much thereof as he estimates may be required for carrying out the provisions of section 6, among sections 2, 3, and 4(a) in the proportion that the amount he estimates to be required under each such section bears to the total estimated to be required under all such sections, except that he shall not take into consideration any part of any entitlement determined under clause (A). The amount so allocated to any such section shall be available for payment of a percentage of the amount to which each local educational agency is entitled under such section. Such percentage shall be equal to the percentage which the amount allocated to a section under the second sentence of this paragraph is of the amount to which all such agencies are entitled under such section. For the purposes of this paragraph, in determining the amount to which each local educational agency is entitled under section 3 he shall include any increases under paragraph (4) of subsection (c) thereof; but he shall exclude any part of any entitlement determined under clause (A) of this paragraph.

"(2) If the funds available for allocation under paragraph (1) for any fiscal year exceed the amount necessary to fully satisfy entitlements for which allocations will be made under such paragraph, that excess shall be available for payment of a percentage of that part of the entitlement of each local educational agency determined under clause (A) of paragraph (1). Such percentage shall be equal to the percentage which the amount of such excess is of the total amount to which all such agencies are so entitled.

"(3) All funds appropriated for making payments under this title for any fiscal year shall be allocated in the manner specified in paragraphs (1) and (2), unless an Act making appropriations for making payments under this title for any fiscal year specifically makes funds available for payments on the basis of entitlements determined under clause (A) of paragraph (1), apart from other payments under this title, in which case, if the funds so appropriated are not sufficient to pay in full the total amount to which all local educational agencies are so entitled, such funds shall be available for making payments in the manner specified in paragraph (2) respecting allocations of any excess appropriations.

"(4) In case the amount allocated to a section under paragraph (1) for a fiscal year exceeds the total to which all local educational agencies are entitled under such section for such year or, in case additional funds become available for making payments under this title, the excess or such additional funds, as the case may be, shall be allocated among sections for which previous allocations are inadequate, on the same basis as is provided in paragraphs (1), (2), and (3) for the initial allocation."

MINIMUM ELIGIBILITY REQUIREMENT FOR PUBLIC LAW 815

SEC. 204. (a) The first sentence of section 5(c) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), as amended by section 203(a)(3) of this Act, is amended to read as follows:

"(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children referred to in such paragraph, prior to the application of the limitation in subsection (d) is at least twenty and—

"(1) in the case of paragraph (1) or (2), is—

"(A) equal to at least 6 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

"(B) at least one thousand five hundred, whichever is the lesser; and

"(2) in the case of paragraph (3), is—

"(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

"(B) at least two thousand five hundred, whichever is the lesser: *Provided*, That no local educational agency shall be regarded as eligible under this paragraph (2) unless the Commissioner finds that the construction of additional minimum school facilities for the number of children in such increase will impose an undue financial burden on the taxing and borrowing authority of such agency."

(b) Section 5(d) of such Act is amended by inserting before the period at the end of the first sentence thereof the following: ", except that the number of children counted for the purposes of paragraph (1) or (2) of subsection (a) shall not be reduced by more than one thousand five hundred and that the number of children counted for the purposes of paragraph (3) of subsection (a) shall not be reduced by more than two thousand five hundred".

SCHOOL CONSTRUCTION ASSISTANCE WHERE THE IMMUNITY OF CERTAIN FEDERAL PROPERTY FROM TAXATION CREATES A SUBSTANTIAL AND CONTINUING IMPAIRMENT OF THE ABILITY TO FINANCE NEEDED SCHOOL FACILITIES

SEC. 205. (a) Section 14 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by redesignating subsections (c), (d), (e), and (f) of such subsection, and all references thereto, as subsections (d), (e), (f), and (g), respectively, and inserting after subsection (d) the following new subsection:

"(c) If the Commissioner determines with respect to any local educational agency—

"(1) that (A) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide, free public education for children who are inadequately housed by minimum school facilities and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and (B) the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, and (C) Federal property constitutes a substantial part of the school district of such agency,

"(2) that the immunity of such Federal property from taxation by such agency has created a substantial and continuing impairment of such agency's ability to finance needed school facilities,

"(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance for the purpose, and

"(4) that such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools,

he may provide the assistance necessary to enable such agency to provide minimum school facilities for children in the membership of the schools of such agency whom the Commissioner finds to be inadequately housed, upon such terms and conditions, and in such amounts (subject to the applicable provisions of this section) as the Commissioner may consider to be in the public interest. Such assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this subsection."

DECLARATION OF POLICY WITH RESPECT TO SCHOOL CONSTRUCTION ASSISTANCE FOR INDIAN CHILDREN

SEC. 206. Section 14 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), relating to public schools with children residing on Indian lands, is further amended by inserting at the end thereof the following:

"(h) It is hereby declared to be the policy of the Congress that the provision of assistance pursuant to subsections (a) and (b) of this section shall be given a priority at least equal to that given to payments made pursuant to section 10 of this Act."

TITLE III—AMENDMENTS TO THE ADULT EDUCATION ACT [redacted]

EXTENSION AND REVISION OF THE ADULT EDUCATION ACT [redacted]

SEC. 301. Effective on and after July 1, 1969, title III of the Elementary and Secondary Education Amendments of 1966 (the Adult Education Act of 1966) is amended to read as follows:

"TITLE III—ADULT EDUCATION

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Adult Education Act'.

"STATEMENT OF PURPOSE

"SEC. 302. It is the purpose of this title to expand educational opportunity and encourage the establishment of programs of adult public education that will enable all adults to continue their education to at least the level of completion of secondary school and make available the means to secure training that will enable them to become more employable, productive, and responsible citizens.

"DEFINITIONS

"SEC. 303. As used in this title—

"(a) The term 'adult' means any individual who has attained the age of sixteen.

"(b) The term 'adult education' means

services or instruction below the college level (as determined by the Commissioner), for adults who—

"(1) do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, and

"(2) are not currently required to be enrolled in schools.

"(c) The term 'adult basic education' means adult education for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, which is designed to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others, to improving their ability to benefit from occupational training and otherwise increasing their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities.

"(d) The term 'Commissioner' means the Commissioner of Education.

"(e) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

"(f) The term 'State' includes the District of Columbia, and (except for the purposes of section 305(a)) the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"(g) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

"(h) The term 'academic education' means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

"(i) The term 'institution of higher education' means any such institution as defined by section 801(e) of the Elementary and Secondary Education Act of 1965.

"GRANTS TO STATES FOR ADULT EDUCATION

"SEC. 304. (a) From the sums appropriated pursuant to section 312, not less than 10 per centum nor more than 20 per centum shall be reserved for the purposes of section 309.

"(b) From the remainder of such sums, the Commissioner is authorized to make grants to States, which have State plans approved by him under section 306 for the purposes of this section, to pay the Federal share of the cost of (1) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and private nonprofit agencies, and (2) the establishment or expansion of adult education programs to be carried out by local educational agencies and private nonprofit agencies.

"ALLOTMENT FOR ADULT EDUCATION

"SEC. 305. (a) From the sums available for purposes of section 304(b) for any fiscal year, the Commissioner shall allot (1) not more than 2 per centum thereof among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under such section, and (2) $150,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States.

"(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"STATE PLANS

"SEC. 306. (a) Any State desiring to receive its allotment of Federal funds for any any grant under this title shall submit through its State educational agency a State plan. Such State plan shall be in such detail as the Commissioner deems necessary, and shall—

"(1) set forth a program for the use of grants, in accordance with section 304(b), which affords assurance of substantial progress with respect to all segments of the adult population and all areas of the State, toward carrying out the purposes of such section;

"(2) provide for the administration of such plan by the State educational agency;

"(3) provide for cooperative arrangements between the State educational agency and the State health authority authorizing the use of such health information and services for adults as may be available from such agencies and as may reasonably be necessary to enable them to benefit from the instruction provided pursuant to this title;

"(4) provide for grants to public and private nonprofit agencies for special projects, teacher-training, and research;

"(5) provide for cooperation with Community Action programs, Work Experience programs, VISTA, Work Study, and other programs relating to the antipoverty effort;

"(6) provide that such agency will make such reports to the Commissioner, in such form and containing such information, as may reasonably be necessary to enable the Commissioner to perform his duties under this title and will keep such records and afford such access thereto as the Commissioner finds necessary to assure the correctness and verification of such reports;

"(7) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and private nonprofit agencies);

"(8) provide that special emphasis be given to adult basic education programs except where such needs can be shown to have been met in the State; and

"(9) provide such further information and assurances as the Commissioner may by regulation require.

"(b) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

"PAYMENTS

"SEC. 307. (a) Except as provided in subsection (b), the Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to such State. The Federal share for each State shall be 90 per centum, except that with respect to the Trust Territory of the Pacific Islands such Federal share shall be 100 per centum.

"(b) No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the amount available for expenditure by such State for adult education from non-Federal sources for such year will be not less than the amount expended for such purposes from such sources during the preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.

"OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

"SEC. 308. (a) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State educational agency administering a State plan approved under this title, finds that—

"(1) the State plan has been so changed that it no longer complies with the provisions of section 306, or

"(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that further payments to the State will be limited to programs under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

"(b) A State educational agency dissatisfied with a final action of the Commissioner under section 306 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner or any officer designated by him for that purpose. The Commissioner there upon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112, of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified find-

ings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or part, any action of the Commissioner shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

"SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING

"SEC. 309. (a) The sums reserved in section 304(a) for the purposes of this section shall be used for making special project grants or providing teacher-training grants in accordance with this section.

"(b) The Commissioner is authorized to make grants to local educational agencies or other public or private nonprofit agencies, including educational television stations, for special projects which will be carried out in furtherance of the purposes of this title, and which—

"(1) involve the use of innovative methods, systems, materials, or programs which the Commissioner determines may have national significance or be of special value in promoting effective programs under this title, or

"(2) involve programs of adult education, carried out in cooperation with other Federal, federally assisted, State, or local programs which the Commissioner determines have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies.

The Commissioner shall establish procedures for making grants under this subsection which shall require a non-Federal contribution of at last 10 per centum of the costs of such projects wherever feasible and not inconsistent with the purposes of this subsection.

"(c) The Commissioner is authorized to make provision for training persons engaged, or preparing to engage, as personnel in adult education programs designed to carry out the purposes of this title, including the payment of such stipends and allowances (including traveling and subsistence expenses, if any, for such persons and their dependents) as the Commissioner may determine by regulation. The Commissioner may provide such training directly or by contract or he may provide for such training by making grants to institutions of higher education, State or local educational agencies, or other appropriate public or private agencies or organizations.

"NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

"SEC. 310. (a) The President shall appoint a National Advisory Council on Adult Education (hereinafter in this section referred to as the 'Council').

"(b) The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, and persons representative of the general public. The Council shall meet initially at the call of the Commissioner and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year.

"(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

"(d) The Council shall review the administration, and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations. The Secretary of Health, Education, and Welfare shall coordinate the work of the Council with that of other related advisory councils.

"LIMITATION

"SEC. 311. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term 'school or department of divinity' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

"APPROPRIATIONS AUTHORIZED

"SEC. 312. (a) There are authorized to be appropriated $160,000,000 for the fiscal year ending June 30, 1970, $200,000,000 for the fiscal year ending June 30, 1971, and $225,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, for the purposes of this title.

"(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 5 per centum of the amount appropriated pursuant to subsection (a) for such year, as may be necessary to pay the cost of the administration and development of State plans, and other activities required pursuant to this title."

APPOINTMENT OF MEMBERS OF NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

SEC. 302. Members of the National Advisory Council on Adult Education shall be appointed within ninety days after the date of enactment of this Act.

TITLE IV—AMENDMENTS TO TITLE IV OF PUBLIC LAW 90-247

GENERAL PROVISIONS

SEC. 401. (a) Title IV of the Elementary and Secondary Education Amendments of 1967 is amended in the following respects:

(1) The heading of such title is amended to read as follows:

"TITLE IV—GENERAL PROVISIONS CONCERNING EDUCATION".

(2) Section 401 of such title is amended—

(A) by adding at the end of the caption head "; DEFINITIONS; APPROPRIATIONS; SHORT TITLE", and

(B) by inserting "(a)" after "SEC. 401." and adding at the end thereof the following new subsections:

"(b) For the purposes of this title, the term—

"(1) 'Commissioner' means the Commissioner of Education;

"(2) 'Secretary' means the Secretary of Health, Education, and Welfare; and

"(3) 'applicable program' means a program to which this title is applicable.

"(c) There are hereby authorized to be appropriated for any fiscal year, as part of the appropriations for salaries and expenses for the Office of Education, such sums as the Congress may determine to be necessary to carry out the provisions of this title.

"(d) This title may be cited as the 'General Education Provisions Act'.".

(3) Section 402 of such title is amended to read as follows:

"PROGRAM PLANNING AND EVALUATION

"SEC. 402. (a) Sums appropriated pursuant to section 401(c) may include for any fiscal year for which appropriations are otherwise authorized under any applicable program not to exceed $25,000,000 which shall be available to the Secretary, in accordance with regulations prescribed by him, for expenses, including grants, contracts, or other payments, for (1) planning for the succeeding year for any such program, and (2) evaluation of such programs.

"(b) No later than July 31 of each calendar year, the Secretary shall transmit to the respective committees of the Congress having legislative jurisdiction over any applicable program a report containing (1) a brief description of each contract or grant for evaluation of such program or programs (whetner or not such contract or grant was made under this section), any part of the performance of which occurred during the preceding fiscal year, (2) the name of the firm or individual who is to carry out the evaluation, and (3) the amount to be paid under the contract or grant."

(4) Section 403 of such title is amended by striking out "Act referred to in section 401" and inserting in lieu thereof "applicable program" and by striking out "under any such Act" and inserting in lieu thereof "under such program".

(5) Sections 404 and 405 of such title are amended by striking out "Act referred to in section 401" and inserting in lieu thereof "applicable program".

(6) Section 404 of such title is amended—

(A) in the caption head thereof, by striking out "AND" and inserting in lieu thereof a semicolon and by inserting "CONTINGENT EXTENSION OF EXPIRING APPROPRIATION AUTHORITY" at the end thereof; and

(B) by inserting at the end thereof the following new subsection:

"(c) Unless the Congress—

"(1) in the regular session in which a comprehensive evaluation report required by subsection (b) is submitted to Congress, has passed or formally rejected legislation extending the authorization for appropriations then specified for any title, part, or section of law to which such evaluation relates, or

"(2) prior to July 1, 1973, by action of either House approves a resolution stating that the provisions of this subsection shall no longer apply,

such authorization is hereby automatically extended, at the level specified for the terminal year of such authorization for one fiscal year beyond such terminal year, as specified in such legislation.".

(7) Section 405 of such title is amended by inserting "loans," after "grants,".

(8) Section 405 of such title is further amended by inserting "(a)" after "SEC. 405." and by inserting at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this title is applicable during any fiscal year, ending prior to July 1, 1973, which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.".

(9) Section 406 of such title is amended by inserting "and expenditure" after "obligation".

(10) Such title is further amended by inserting after section 401 the following heading: "PART A—APPROPRIATIONS AND EVALUATIONS" and by adding at the end thereof the following new parts:

"PART B—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING THE OPERATIONS AND ADMINISTRATION OF EDUCATION PROGRAMS; GENERAL AUTHORITY OF THE COMMISSIONER OF EDUCATION

"SUBPART 1—GENERAL AUTHORITY

"DELEGATION OF AUTHORITY; UTILIZATION OF OTHER AGENCIES

"SEC. 411. (a) The Commissioner is authorized to delegate any of his functions under any applicable program, except the making of regulations and the approval of State plans, to any officer or employee of the Office of Education.

"(b) In administering any applicable program, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"COLLECTION AND DISSEMINATION OF INFORMATION

"SEC. 412. (a) The Commissioner shall—

"(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs:

"(2) inform the public on federally supported education programs;

"(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes; and

"(4) prepare and publish an annual report (to be referred to as 'the Commissioner's annual report') on (A) the condition of education in the nation, (B) developments in the administration, utilization, and impact of applicable programs, (C) results of investigations and activities by the Office of Education, and (D) such facts and recommendations as will serve the purpose for which the Office of Education is established (as set forth in section 516 of the Revised Statutes (20 U.S.C. 1)).

"(b) The Commissioner's annual report shall be submitted to the Congress not later than March 31 of each calendar year. The Commissioner's annual report shall be made available to State and local educational agencies and other appropriate agencies and institutions and to the general public.

"(c) The Commissioner is authorized to enter into contracts with public or private agencies, organizations, groups, or individuals to carry out the provisions of this section.

"CATALOG OF FEDERAL EDUCATION ASSISTANCE PROGRAMS

"SEC. 413. The Commissioner shall prepare and make available in such form as he deems appropriate a catalog of all Federal education assistance programs whether or not such programs are administered by him. The catalog shall—

"(1) identify each such program, and include the name of the program, the authorizing statute, the specific Federal administering officials, and a brief description of such program;

"(2) set forth the availability of benefits and eligibility restrictions in each such program;

"(3) set forth the budget requests for each such program, past appropriations, obligations incurred, and pertinent financial information indicating (A) the size of each such program for selected fiscal years, and (B) any funds remaining available;

"(4) set forth the prerequisites, including the cost to the recipient, of receiving assistance under each such program, and any duties required of the recipient after receiving benefits;

"(5) identify appropriate officials, in Washington, District of Columbia, as well as in each State and locality (if applicable). to whom application of reference for information for each such program may be made;

"(6) set forth the application procedures;

"(7) contain a detailed index designed to assist the potential beneficiary in identifying all education assistance programs related to a particular need or category of potential beneficiaries;

"(8) contain such other program information and data as the Commissioner deems necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal education assistance program; and

"(9) be transmitted to Congress with the Commissioner's annual report.

"TECHNICAL ASSISTANCE

"SEC. 414. (a) For the purpose of carrying out more effectively Federal education programs, the Commissioner is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

"(1) in determining benefits available to them under Federal law;

"(2) in preparing applications for, and meeting requirements of, applicable programs;

"(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

"(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

"(b) The Commissioner shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

"(c) The Commissioner's annual report shall contain a statement of the Commissioner's activities under this section.

"PARENTAL INVOLVEMENT AND DISSEMINATION

"SEC. 415. In the case of any applicable program in which the Commissioner determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, he shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination provides for payments to local educational agencies, applications for such payments shall—

"(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by such programs and projects;

"(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

"(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

"USE OF FUNDS WITHHELD FOR FAILURE TO COMPLY WITH OTHER PROVISIONS OF FEDERAL LAW

"SEC. 416. At any time that the Commissioner establishes an entitlement, or makes an allotment or reallotment to any State, under any applicable program, he shall reduce such entitlement, allotment, or reallotment by such amount as he determines it would have been reduced, had the data on which the entitlement, allotment, or reallotment is based excluded all data relating to local educational agencies of the State which on the date of the Commissioner's action are ineligible to receive the Federal financial assistance involved because of a failure to comply with title VI of the Civil Rights Act of 1964. Any appropriated funds which will not be paid to a State as a result of the preceding sentence may be used by the Commissioner for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964.

"AUTHORITY TO FURNISH INFORMATION

"SEC. 417. (a) The Commissioner is authorized to furnish transcripts or copies of tables and other records of the Office of Education to, and to make special statistical compilations and surveys for, State or local officials, private organizations, or individuals. Such statistical compilations and surveys shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies the Commissioner may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Commissioner, provided that the purposes are otherwise authorized by law.

"(b) All moneys received in payment for work or services enumerated under this section shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

"SUBPART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

"RULES: REQUIREMENTS AND ENFORCEMENT

"SEC. 421. (a) Rules, regulations, guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of any applicable program shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

"(b) No standard, rule, regulation, or requirement of general applicability prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

"(c) All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States.

"PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

"SEC. 422. No provision of the Act of September 30, 1950, Public Law 874, Eighty-first Congress; the National Defense Education Act of 1958; the Act of September 23, 1950, Public Law 815, Eighty-first Congress; the Higher Education Facilities Act of 1963; the Elementary and Secondary Education Act of 1965; the Higher Education Act of 1965; the International Education Act of 1966; or the Vocational Education Act of 1963 shall be construed to authorize any department,

agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

"LABOR STANDARDS

"SEC. 423. Except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), all laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"RECORDS AND AUDIT

"SEC. 424. (a) Each recipient of funds from a grant or contract under any applicable program shall keep such records as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the prospect or undertaking in connections with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grant or contract received under any applicable program.

"PAYMENTS

"SEC. 425. Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

"AUTHORITY TO VEST TITLE TO EQUIPMENT

"SEC. 426. The authority of the Commissioner of Education to make a grant to or contract with a local educational agency or State educational agency as such agencies are defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, under any applicable program, shall include discretionary authority, whenever he determines that it would be in the public interest, to vest title to equipment purchased with grant or contract funds in such agency (or waive accountability to the United States for such equipment) without further obligation to the Government or on such terms or conditions as the Commissioner deems appropriate. The authority provided by this section shall be applicable to equipment purchased with funds provided by grants or contracts made on, before, or after the date of the enactment of this section.

"PART C—ADVISORY COUNCILS

"DEFINITIONS

"SEC. 431. As used in this part, the term—

"(1) 'advisory council' means any committee, board, commission, council, or other similar group (A) established or organized pursuant to any applicable statute, or (B) established under the authority of section 432; but such term does not include State advisory councils or commissions established pursuant to any such statute;

"(2) 'statutory advisory council' means an advisory council established by, or pursuant to, statute to advise and make recommendations with respect to the administration or improvement of an applicable program or other related matter;

"(3) 'nonstatutory advisory council' means an advisory council which is (A) established under the authority of section 432, or (B) established to advise and make recommendations with respect to the approval of applications for grants or contracts as required by statute;

"(4) 'Presidential advisory council' means a statutory advisory council, the members of which are appointed by the President;

"(5) 'Secretarial advisory council' means a statutory advisory council, the members of which are appointed by the Secretary;

"(6) 'Commissioner's advisory council' means a statutory advisory council, the members of which are appointed by the Commissioner;

"(7) 'applicable statute' means any statute (or title, part, or section thereof) which authorizes an applicable program or controls the administration of any such program.

"AUTHORIZATION FOR NECESSARY ADVISORY COUNCILS

"SEC. 432. (a) The Commissioner is authorized to create, and appoint the members of, such advisory councils as he determines in writing to be necessary to advise him with respect to—

"(1) the organization of the Office of Education and its conduct in the administration of applicable programs;

"(2) recommendations for legislation regarding education programs and the means by which the educational needs of the Nation may be met; and

"(3) special problems and areas of special interest in education.

"(b) Each advisory council created under the authority of subsection (a) shall terminate not later than one year from the date of its creation unless the Commissioner determines in writing not more than thirty days prior to the expiration of such one year that its existence for an additional period, not to exceed one year, is necessary in order to complete the recommendations or reports for which it was created.

"(c) The Commissioner shall include in his report submitted pursuant to section 438 a statement on all advisory councils created or extended under the authority of this section and their activities.

"MEMBERSHIP AND REPORTS OF STATUTORY ADVISORY COUNCILS

"SEC. 433. Notwithstanding any other provision of law unless expressly in limitation of the provisions of this section, each statutory advisory council—

"(1) shall be composed of the number of members provided by statute who may be appointed, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and shall serve for terms of not to exceed three years, which in the case of initial members, shall be staggered; and

"(2) shall make an annual report of its activities, findings and recommendations to the Congress not later than March 31 of each calendar year, which shall be submitted with the Commissioner's annual report.

The Commissioner shall not serve as a member of any such advisory council.

"COMPENSATION OF MEMBERS OF ADVISORY COUNCILS

"SEC. 434. Members of all advisory councils to which this part is applicable who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the advisory council or otherwise engaged in the business of the advisory council, be entitled to receive compensation at a rate fixed by the Commissioner, but not exceeding the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the advisory council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"PROFESSIONAL, TECHNICAL, AND CLERICAL STAFF; TECHNICAL ASSISTANCE

"SEC. 435. (a) Presidential advisory councils are authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of, such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions, as prescribed by law.

"(b) The Commissioner shall engage such personnel and technical assistance as may be required to permit Secretarial and Commissioner's advisory councils to carry out their functions as prescribed by law.

"(c) Subject to regulations of the Commissioner, Presidential advisory councils are authorized to procure temporary and intermittent services of such personnel as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5532 of such title.

"MEETINGS OF ADVISORY COUNCILS

"SEC. 436. (a) Each statutory advisory council shall meet at the call of the chairman thereof but not less than two times each year. Nonstatutory advisory councils shall meet in accordance with regulations promulgated by the Commissioner.

"(b) Minutes of each meeting of each advisory council shall be kept and shall contain a record of the persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory council. The accuracy of all minutes shall be certified to by the chairman of the advisory council.

"AUDITING AND REVIEW OF ADVISORY COUNCIL ACTIVITIES

"SEC. 437. (a) Each statutory advisory council shall be subject to such general regulations as the Commissioner may promulgate respecting the governance of statutory advisory councils and shall keep such records of its activities as will fully disclose the disposition of any funds which may be at its disposal and the nature and extent of its activities in carrying out its functions.

"(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit and examinations, to any books, documents, papers, and records of each statutory advisory council.

"REPORT BY THE COMMISSIONER OF EDUCATION

"SEC. 438. (a) Not later than March 31 of each calendar year after 1970, the Commissioner shall submit, as part of the Commissioner's annual report, a report on the activities of the advisory councils which are subject to this part to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and affiliations of their members, a description of the function of each advisory council, and a state-

ment of the dates of the meetings of each such advisory council.

"(b) If the Commissioner determines that a statutory advisory council is not needed or that the functions of two or more statutory advisory councils should be combined, he shall include in the report a recommendation that such advisory council be abolished or that such functions be combined. Unless there is an objection to such action by either the Senate or the House of Representatives within ninety days after the submission of such report, the Commissioner is authorized to abolish such advisory council or combine the functions of two or more advisory councils as recommended in such report.".

(b) Sections 1207, 1208, 1209, and 1210 of the Higher Education Act of 1965 (as added by Public Law 90–575) are superseded by part A of title IV of Public Law 90–247 and are hereby repealed.

(c) The following provisions of law relating to the delegation of functions and utilization of the services of other agencies by the Office of Education are superseded by section 411 of Public Law 90–247 and are hereby repealed:

(1) The third sentence of subsection (a) of section 302 of the Act of September 30, 1950, Public Law 874, Eighty-first Congress (20 U.S.C. 243(a));

(2) Subsections (a) and (b) of section 803 of the Eelementary and Secondary Education Act of 1965 (20 U.S.C. 883 (a) and (b));

(3) Subsection (a) of section 13 of the Act of September 23, 1950, Public Law 815, Eighty-first Congress (20 U.S.C. 643(a));

(4) Subsections (a) and (b) of section 1001 of the National Defense Education Act of 1958 (20 U.S.C. 581 (a), (b));

(5) Section 1203 of the Higher Education Act of 1965 (20 U.S.C. 1143);

(6) Subsectons (a) and (b) of section 402 of the Higher Education Facilities Act of 1963 (20 U.S.C. 752 (a), (b));

(7) Subsection (b) of section 103 of the International Education Act of 1966 (20 U.S.C. 1174(b)); and

(d) The following provisions of law concerning dissemination of information and reports by the Commissioner of Education are superseded by sections 412, 413, and 414 of Public Law 90–247 and are hereby repealed:

(1) Section 518 of the Revised Statutes of the United States (20 U.S.C. 4);

(2) The sixth paragraph under the heading "Department of Education" in the material relating to the Department of the Interior in the Act of May 28, 1896, making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1897, and for other purposes, which authorizes the Commissioner of Education to prepare and publish a bulletin concerning the condition of education (20 U.S.C. 3);

(3) Section 303 of Public Law 90–576 (20 U.S.C. 6);

(4) Section 806 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 886); and

(5) Section 1206 of the Higher Education Act of 1965 (20 U.S.C. 1146).

(e) The following provisions of law concerning requirements for rules and regulations for education programs are superseded by section 421 of Public Law 90–247 and are hereby repealed:

(1) Section 2 of Public Law 90–247 (20 U.S.C. 888); and

(2) Section 505 of Public Law 90–575 (20 U.S.C. 1001, note).

(f) The following provisions of law concerning Federal control of education are superseded by section 422 of Public Law 90–247 and are hereby repealed:

(1) Subsection (g) of section 6 and subsection (a) of section 301 of the Act of September 30, 1950, Public Law 874, Eighty-first Congress (20 U.S.C. 241(g), 242(a));

(2) Section 102 of the National Defense Education Act of 1958 (20 U.S.C. 402);

(3) Subsection (a) of section 12 of the Act of September 23, 1950, Public Law 815, Eighty-first Congress (20 U.S.C. 642(a));

(4) Section 407 of the Higher Education Facilities Act of 1963 (20 U.S.C. 757);

(5) Section 804 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 884);

(6) Subsection (a) of section 1204 of the Higher Education Act of 1965 (20 U.S.C. 1144 (a));

(7) Section 104 of the International Education Act of 1966 (20 U.S.C. 1175);

(8) Section 105 of the Vocational Education Act of 1963 (20 U.S.C. 1245).

(g) The following provisions of law concerning the payment of wages at prevailing rates on federally assisted construction projects are superseded by section 423 of Public Law 90–247 and are hereby repealed:

(1) Section 145 of title I of the Elementary and Secondary Education Act of 1965, as redesignated by this Act (20 U.S.C. 2411);

(2) Subsection (c) of section 4 of the Act of July 26, 1954, Public Law 531, Eighty-third Congress (20 U.S.C. 332a(c));

(3) Subsection (a)(4) of section 203 of the Library Services and Construction Act (20 U.S.C. 355c(a)(4)), and subsection (a)(3) of such section is amended by striking out the semicolon and the word "and" and at the end thereof inserting in lieu thereof a period;

(4) Subsection (b)(1)(E) of section 6 and subsection (d) of section 12 of the Act of September 23, 1950, Public Law 815, Eighty-first Congress (20 U.S.C. 636(b)(1)(E), 642 (d));

(5) Section 709 (as redesignated by section 152 of this Act) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 880b–6); and

(6) Section 106 of the Vocational Education Act of 1963 (20 U.S.C. 1246).

(h) The following provisions of law concerning advisory councils and committees are superseded by part C of title IV of Public Law 90–247 and are hereby repealed:

(1) Subsection (d) of section 761 and sections 1002 and 1003 of the National Defense Education Act of 1958 (20 U.S.C. 561(d), 582, 583);

(2) Subsection (c) of section 402 of the Higher Education Facilities Act of 1963 (20 U.S.C. 752(c));

(3) Subsections (c), (d), and (e) of section 510, subsection (c) of section 708, and section 802 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 870 (c), (d), (e), 880b–5(c), 882);

(4) Subsections (d) and (e) of section 109, subsection (c) of section 205, subsection (c) of section 224, subsection (c) of section 303, subsections (c) and (d) of section 469, subsections (d) and (e) of section 502, and subsections (c) and (d) of section 1205 of the Higher Education Act of 1965 (20 U.S.C. 1009 (d), (e), 1025(e), 1034(c), 1053(c), 1089(c), 1091a (d), (e), 1145 (c), (d));

(5) Subsections (c) and (d) of section 106 of the International Education Act of 1966 (20 U.S.C. 1177 (c)(d)).

(6) Paragraph (3) of subsection (a) of section 104 of the Vocational Education Act of 1963 (20 U.S.C. 1244(a)(3)).

TITLE V—CANCELLATION OF STUDENT LOANS FOR CERTAIN PUBLIC SERVICE

CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

SEC. 501. (a) Section 205(a)(3) of the National Defense Education Act of 1958 is amended—

(1) by striking out "made prior to July 1, 1970 (plus interest)" and inserting in lieu thereof "(plus interest) (A)";

(2) thereafter by striking out "(A)", "(B)", or "(C)" wherever appearing therein and inserting in lieu thereof "(i)", "(ii)", or "(iii)", respectively; and

(3) by inserting before the semicolon at the end thereof a comma and the following: "and (B) shall be canceled for service after June 30, 1970, as a member of the Armed Forces of the United States at the rate of 12½ per centum of the total amount of such loan plus interest thereon for each year of consecutive service".

(b) The amendment made by this section shall apply to loans made after the date of enactment of this Act.

TITLE VI—EDUCATION OF THE HANDICAPPED

"PART A—GENERAL PROVISIONS

SHORT TITLE

SEC. 601. This title may be cited as the "Education of the Handicapped Act".

DEFINITION

SEC. 602. As used in this title—

(1) The term "handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education and related services.

(2) The term "Commissioner" means the Commisioner of Education.

(3) The term "Advisory Committee" means the National Advisory Committee on Handicapped Children.

(4) The term "construction", except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor: or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this title; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing.

(5) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provisions of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands.

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary, or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(9) The term "elementary school" means a day or residential school which provides

elementary education, as determined under State law.

(10) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(11) The term "institution of higher education" means and educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: Provided, however, That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(12) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "research and related purposes" means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, including (but without limitation) experimental schools.

(14) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(15) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

BUREAU FOR EDUCATION AND TRAINING OF THE HANDICAPPED

SEC. 603. There shall be, within the Office of Education, a bureau for the education and training of the handicapped which shall be the principal agency in the Office of Education for administering and carrying out programs and projects relating to the education and training of the handicapped, including programs and projects for the training of teachers of the handicapped and for research in such education and training.

NATIONAL ADVISORY COMMITTEE ON HANDICAPPED CHILDREN

SEC. 604. (a) The Commissioner shall establish in the Office of Education a National Advisory Committee on Handicapped Children, consisting of fifteen members, appointed by the Commissioner. At least eight of such members shall be persons affiliated with educational, training, or research programs for the handicapped.

(b) The Advisory Committee shall review the administration and operation of the programs authorized by this title and other provisions of law administered by the Commissioner with respect to handicapped children, including their effect in improving the educational attainment of such children, and make recommendations for the improvement of such administration and operation with respect to such children. Such recommendations shall take into consideration experience gained under this and other Federal programs for handicapped children and, to the extent appropriate, experience gained under other public and private programs for handicapped children. The Advisory Committee shall from time to time make such recommendations as it may deem appropriate to the Commissioner and shall make an annual report of its findings and recommendations to the Commissioner not later than March 31 of each year. The Commissioner shall transmit each such report to the Secretary together with his comments and recommendations, and the Secretary shall transmit such report, comments, and recommendations to the Congress together with any comments or recommendations he may have with respect thereto.

ACQUISITION OF EQUIPMENT AND CONSTRUCTION OF NECESSARY FACILITIES

SEC. 605. (a) In the case of any program authorized by this title, if the Commissioner determines that such program will be improved by permitting the funds authorized for such program to be used for the acquisition of equipment and the construction of necessary facilities, he may authorize the use of such funds for such purposes.

(b) If within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this title the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

PART B—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

AUTHORIZATION

SEC. 611. (a) The Commissioner is authorized to make grants pursuant to the provisions of this part for the purpose of assisting the States in the initiation, expansion, and improvement of programs and projects for the education of handicapped children at the preschool, elementary school, and secondary school levels.

(b) For the purpose of making grants under this part there is authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1971, $210,000,000 for the fiscal year ending June 30, 1972, and $220,000,000 for the fiscal year ending June 30, 1973.

ALLOTMENT OF FUNDS

SEC. 612. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under section 611(b). The Commissioner shall allot the amount appropriated pursuant to this paragraph among—

(A) Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, according to their respective needs, and

(B) for each fiscal year ending prior to July 1, 1972, the Secretary of the Interior, according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior and the terms upon which payments for such purposes shall be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(2) From the total amount appropriated pursuant to section 611(b) for any fiscal year the Commissioner shall allot to each State an amount which bears the same ratio to such amount as the number of children aged three to twenty-one, inclusive, in the State bears to the number of such children in all the States, except that no State shall be allotted less than $200,000 or three-tenths of 1 per centum of such amount available for allotment to the States, whichever is greater. For purposes of this paragraph and subsection (b), the term "State" shall not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(b) The number of children aged three to twenty-one, inclusive, in any State and in all the States shall be determined, for purposes of this section, by the Commissioner on the basis of the most recent satisfactory data available to him.

(c) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reallotment, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

STATE PLANS

SEC. 613. (a) Any State which desires to receive grants under this part shall submit to the Commissioner through its State educational agency a State plan (not part of any other plan) in such detail as the Commissioner deems necessary. Such State plan shall—

(1) set forth such policies and procedures as will provide satisfactory assurance that funds paid to the State under this part will be expended (A) either directly or through individual, or combinations of, local educational agencies, solely to initiate, expand, or improve programs and projects, including preschool programs and projects, (i) which are designed to meet the special educational and related needs of handicapped children throughout the State, and (ii) which are of sufficient size, scope, and quality (taken into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and (B) for the proper and efficient administration of the State plan (including State leadership activities and consultative services), and for planning on the State and local level: *Provided,* That the amount expended for such administration and planning shall not exceed 5 per centum of the amount allotted to the State for any fiscal year or $100,000 ($35,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater;

(2) provide satisfactory assurance that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision will be made for participation of such children in programs assisted or carried out under this part;

(3) provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

(4) set forth policies and procedures which provide satisfactory assurance that Federal funds made available under this part will be so used as to supplement and, to the extent practical, increase the level of State, local, and private funds expended for the education of handicapped children, and in no case supplant such State, local and private funds;

(5) provide that effective procedures, including provision for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of, and providing related services for, handicapped children;

(6) provide that the State educational agency will be the sole agency for administering or supervising the administration of the plan;

(7) provide for (A) making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this part, including reports of the objective measurements required by clause (5) of this subsection, and (B) keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part;

(8) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the State, including any such funds paid by the State to local educational agencies;

(9) provide satisfactory assurance that funds paid to the State under this part shall not be made available for handicapped children eligible for assistance under section 103(a)(5) of title I of the Elementary and Secondary Education Act of 1965;

(10) provide satisfactory assurance that effective procedures will be adopted for acquiring and disseminating to teachers of, and administrators of programs for, handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and

(11) contain a statement of policies and procedures which will be designed to insure that all education programs for the handicapped in the State will be properly coordinated by the persons in charge of special education programs for handicapped children in the State educational agency.

(b) The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this part.

(c)(1) The Commissioner shall not approve any State plan pursuant to this section for any fiscal year unless the plan has, prior to its submission, been made public as a separate document by the State educational agency and a reasonable opportunity has been given by that agency for comment thereon by interested persons (as defined by regulation). The State educational agency shall make public the plan as finally approved. The Commissioner shall not finally disapprove any plan submitted under this section or any modification thereof, without first affording the State educational agency submitting the plan reasonable notice and opportunity for a hearing.

(2) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such State agency, finds—

(A) that the State plan has been so changed that it no longer complies with the provisions of this part, or

(B) that in the administration of the plan there is a failure to comply substantially with any such provision or with any requirements set forth in the application of a local educational agency approved pursuant to such plan,

the Commissioner shall notify the agency that further payments will not be made to the State under this part (or in his discretion, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not affected by the failure, or that the State educational agency shall not make further payments under this part to specified local agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to the State under this part (or shall limit payments to programs or projects under, or parts of, the State plan not affected by the failure, or payments by the State educational agency under this part shall be limited to local educational agencies not affected by the failure, as the case may be).

(d)(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under subsection (a) or with his final action under subsection (c), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner hereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

PAYMENTS

SEC. 614. From the amounts allotted to each State under this part, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan.

PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF THE HANDICAPPED

REGIONAL RESOURCE CENTERS

SEC. 621. (a) The Commissioner is authorized to make grants to or contracts with installations of higher education, State educational agencies, or combinations of such agencies or institutions, which combinations may include one or more local educational agencies, within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional centers which will develop and apply the best methods of appraising the special educational needs of handicapped children referred to them and will provide other services to assist in meeting such needs. Centers established or operated under this section shall (1) provide testing and educational evaluation to determine the special educational needs of handicapped children referred to such centers, (2) develop educational programs to meet those needs, and (3) assist schools and other appropriate agencies, organizations, and institutions in providing such educational programs through services such as consultation (including, in appropriate cases, consultation with parents or teachers of handicapped children at such regional centers), periodic reexamination and reevaluation of special educational programs, and other technical services.

(b) In determining whether to approve an application for a project under this section, the Commissioner shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to develop and apply, with the assistance of funds under this section, new methods, techniques, devices, or facilities relating to educational evaluation or education of handicapped children.

CENTERS AND SERVICES FOR DEAF-BLIND CHILDREN

SEC. 622. (a) It is the purpose of this section to provide, through a limited number of model centers for deaf-blind children, a program designed to develop and bring to bear upon such children, beginning as early as feasible in life, those specialized, intensive professional and allied services, methods, and aids that are found to be most effective to enable them to achieve their full potential for communication with, and adjustment to, the world around them, for useful and meaningful participation in society, and for self-fulfillment.

(b) The Commissioner is authorized, upon such terms and conditions (subject to the provisions of subsection (d)(1) of this section) as he deems appropriate to carry out the purposes of this section, to make grants to or contracts with public or nonprofit private agencies, organizations, or institutions to pay all or part of the cost of establish-

ment, including construction, which for the purposes of this section shall include the construction of residential facilities, and operation of centers for deaf-blind children.

(c) In determining whether to make a grant or contract under subsection (b), the Commissioner shall take into consideration the need for a center for deaf-blind children in the light of the general availability and quality of existing services for such children in the part of the country involved.

(d) (1) A grant or contract pursuant to subsection (b) shall be made only if the Commissioner determines that there is satisfactory assurance that the center will provide such services as he has by regulation prescribed, including at least—

(A) comprehensive diagnostic and evaluative services for deaf-blind children;

(B) a program for the adjustment, orientation, and education of deaf-blind children which integrates all the professional and allied services necessary therefor; and

(C) effective consultative services for parents, teachers, and others who play a direct role in the lives of deaf-blind children to enable them to understand the special problems of such children and to assist in the process of their adjustment, orientation, and education.

(2) Any such services may be provided to deaf-blind children (and, where applicable, other persons) regardless of whether they reside in the center, may be provided at some place other than the center, and may include the provision of transportation for any such children (including an attendant) and for parents.

EARLY EDUCATION FOR HANDICAPPED CHILDREN

SEC. 623. (a) The Commissioner is authorized to arrange by contract, grant, or otherwise with appropriate public agencies and private nonprofit organizations, for the development and carrying out by such agencies and organizations, of experimental preschool and early education programs for handicapped children which the Commissioner determines show promise of promoting a comprehensive and strengthened approach to the special problems of such children. Such programs shall be distributed to the greatest extent possible throughout the Nation, and shall be carried out both in urban and in rural areas. Such programs shall include activities and services designed to (1) facilitate the intellectual, emotional, physical, mental, social, and language development of such children; (2) encourage the participation of the parents of such children in the development and operation of any such program; and (3) acquaint the community to be served by any such program with the problems and potentialities of such children.

EARLY EDUCATION FOR HANDICAPPED CHILDREN

(b) Each arrangement for developing or carrying out a program authorized by this section shall provide for the effective coordination of each such program with similar programs in the schools of the community to be served by such a program.

(c) No arrangement pursuant to this section shall provide for the payment of more than 90 per centum of the cost of developing, carrying out, or evaluating such a program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services.

RESEARCH, INNOVATION, TRAINING, AND DISSEMINATION ACTIVITIES IN CONNECTION WITH CENTERS AND SERVICES FOR THE HANDICAPPED

SEC. 624. (a) The Commissioner is authorized, either as part of any grant or contract under this part, or by separate grant to or contract with, an agency, organization, or institution operating a center or providing a service which meets such requirements as the Commissioner determines to be appropriate, consistent with the purposes of this part, to pay all or part of the cost of such activities as—

(1) research to identify and meet the full range of special needs of handicapped children;

(2) development or demonstration of new, or improvements in existing, methods, approaches, or techniques, which would contribute to the adjustment and education of such children;

(3) training (either directly or otherwise) of professional and allied personnel engaged or preparing to engage in programs specifically designed for such children, including payment of stipends for trainees and allowances for travel and other expenses for them and their dependents; and

(4) dissemination of materials and information about practices found effective in working with such children.

(b) In making grants and contracts under this section, the Commissioner shall insure that the activities funded under such grants and contracts will be coordinated with similar activities funded from grants and contracts under other parts of this title.

EVALUATIONS

SEC. 625. The Commissioner shall conduct, either directly or by contract with independent organizations, a thorough and continuing evaluation of the effectiveness of each program assisted under this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 626. There are hereby authorized to be appropriated $36,500,000 for the fiscal year ending June 30, 1971, $51,500,000 for the fiscal year ending June 30, 1972, and $66,500,000 for the fiscal year ending June 30, 1973, for the purpose of carrying out the provisions of this part.

PART D—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

GRANTS TO INSTITUTIONS OF HIGHER EDUCATION AND OTHER APPROPRIATE INSTITUTIONS OR AGENCIES

SEC. 631. The Commissioner is authorized to make grants to institutions of higher education and other appropriate nonprofit institutions or agencies to assist them—

(1) in providing training of professional personnel to conduct training of teachers and other specialists in fields related to the education of handicapped children;

(2) in providing training for personnel engaged or preparing to engage in employment as teachers of handicapped children, as supervisors of such teachers, or as speech correctionists or other special personnel providing special services for the education of such children, or engaged or preparing to engage in research in fields related to the education of such children; and

(3) in establishing and maintaining scholarships, with such stipends and allowances as may be determined by the Commissioner, for training personnel engaged in or preparing to engage in employment as teachers of the handicapped or as related specialists. Grants under this subsection may be used by such institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Commissioner.

GRANTS TO STATE EDUCATIONAL AGENCIES

SEC. 632. The Commissioner is authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, programs for training personnel engaged, or preparing to engage, in employment as teachers of handicapped children or as supervisors of such teachers. Such grants shall also be available to assist such institutions in meeting the cost of training such personnel.

GRANTS OR CONTRACTS TO IMPROVE RECRUITING OF EDUCATIONAL PERSONNEL, AND TO IMPROVE DISSENINATION OF INFORMATION CONCERNING EDUCATIONAL OPPORTUNITIES FOR THE HANDICAPPED

SEC. 633. The Commissioner is authorized to make grants to public or nonprofit private agencies, organizations, or institutions, or to enter into contracts with public or private agencies, organizations, or institutions, for projects for—

(1) encouraging students and professional personnel to work in various fields of education of handicapped children and youth through, among other ways, developing and distributing imaginative or innovative materials to assist in recruiting personnel for such careers, or publicizing existing forms of financial aid which might enable students to pursue such careers, or

(2) disseminating information about the programs, services, and resources for the education of handicapped children, or providing referral services to parents, teachers, and other persons especially interested in the handicapped.

TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR HANDICAPPED CHILDREN

SEC. 634. The Commissioner is authorized to make grants to institutions of higher education to assist them in providing training for personnel engaged or preparing to engage in employment as physical educators or recreation personnel for handicapped children or as educators or supervisors of such personnel, or engaged or preparing to engage in research or teaching in fields related to the physical education or recreation of such children.

REPORTS

SEC. 635. Each recipient of a grant under this part during any fiscal year shall, after the end of such fiscal year, submit a report to the Commissioner. Such report shall be in such form and detail and contain such information as the Commissioner determines to be appropriate.

AUTHORIZATION OF APPROPRIATIONS

SEC. 636. There are authorized to be appropriated for carrying out this part, $69,500,000 for the fiscal year ending June 30, 1971, $87,000,000 for the fiscal year ending June 30, 1972, and $103,500,000 for the fiscal year ending June 30, 1973.

PART E—RESEARCH IN THE EDUCATION OF THE HANDICAPPED

RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN

SEC. 641. The Commissioner is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes and to conduct research, surveys, or demonstrations, relating to education of handicapped children.

RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR HANDICAPPED CHILDREN

SEC. 642. The Commissioner authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for handicapped children, and to conduct research, surveys, or demonstrations relating to physical education or recreation for handicapped children.

PANELS OF EXPERTS

SEC. 643. The Commissioner shall from time to time appoint panels of experts who are competent to evaluate various types of research or demonstration projects under this part, and shall secure the advice and recommendations of one such panel before making any grant under this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 644. There are hereby authorized to be appropriated $27,000,000 for the fiscal year ending June 30, 1971, $35,500,000 for the fiscal year ending June 30, 1972, and $45,000,000 for the fiscal year ending June 30, 1973, for carrying out the provisions of this part.

PART F—INSTRUCTIONAL MEDIA FOR THE HANDICAPPED

PURPOSE

SEC. 651. (a) The purposes of this part are to promote—

(1) the general welfare of deaf persons by (A) bringing to such persons understanding and appreciation of those films which play such an important part in the general and cultural advancement of hearing persons, (B) providing through these films enriched educational and cultural experiences through which deaf persons can be brought into better touch with the realities of their environment, and (C) providing a wholesome and rewarding experience which deaf persons may share together; and

(2) the educational advancement of handicapped persons by (A) carrying on research in the use of educational media for the handicapped. (B) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of the handicapped, and (C) training persons in the use of eductional media for the instruction of the handicapped.

CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED PERSONS

SEC. 652. (a) The Commissioner shall establish a loan service of captioned films and educational media for the purpose of making such materials available in the United States for nonprofit purposes to handicapped persons, parents of handicapped persons, and other persons directly involved in activities for the advancement of the handicapped in accordance with regulations.

(b) The Commissioner is authorized to—

(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

(2) acquire by lease or purchase equipment necessary to the administration of this part;

(3) provide for the captioning of films;

(4) provide for the distribution of captioned films and other educational media and equipment through State schools for the handicapped and such other agencies as the Commissioner may deem appropriate to serve as local or regional centers for such distribution;

(5) provide for the conduct of research in the use of educational and training films and other educational media for the handicapped, for the production and distribution of educational and training films and other educational media for the handicapped and the training of persons in the use of such films and media, including the payment to those persons of such stipends (including allowances for travel and other expenses of such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

(6) utilize the facilities and services of other governmental agencies; and

(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations.

NATIONAL CENTER ON EDUCATIONAL MEDIA AND MATERIALS FOR THE HANDICAPPED

SEC. 653. (a) The Secretary is authorized to enter into an agreement with an institution of higher education for the establishment and operation of a National Center on Educational Media and Materials for the Handicapped, which will provide a comprehensive program of activities to facilitate the use of new educational technology in education programs for handicapped persons, including designing and developing, and adapting instructional materials, and such other activities consistent with the purposes of this part as the Secretary may prescribe in the agreement. Such agreement shall—

(1) provide that Federal funds paid to the Center will be used solely for such purposes as are set forth in the agreement;

(2) authorize the Center, subject to the Secretary's prior approval, to contract with public and private agencies and organizations for demonstration projects; and

(3) provide for an annual report on the activities of the Center which will be transmitted to the Congress.

(b) In considering proposals from institutions of higher education to enter into an agreement under this subsection, the Secretary shall give preference to institutions—

(1) which have demonstrated the capabilities necessary for the development and evaluation of educational media for the handicapped; and

(2) which can serve the educational technology needs of the Model High School for the Deaf (established under Public Law 89–694).

AUTHORIZATION OF APPROPRIATIONS

SEC. 654. For the purpose of carrying out this part, there are hereby authorized to be appropriated not to exceed $12,500,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year thereafter.

PART G—SPECIAL PROGRAMS FOR CHILDREN WITH SPECIFIC LEARNING DISABILITIES

RESEARCH, TRAINING, AND MODEL CENTERS

SEC. 661. (a) The Commissioner is authorized to make grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private educational and research agencies and organizations (except that no grant shall be made other than to a nonprofit agency or organization) in order to carry out a program of—

(1) research and related purposes relating to the education of children with specific learning disabilities;

(2) professional or advanced training for educational personnel who are teaching, or are preparing to be teachers of, children with specific learning disabilities, or such training for persons who are, or are preparing to be, supervisors and teachers of such personnel; and

(3) establishing and operating model centers for the improvement of education of children with specific learning disabilities, which centers shall (A) provide testing and educational evaluation to identify children with learning disabilities who have been referred to such centers, (B) develop and conduct model programs designed to meet the special educational needs of such children, (C) assist appropriate educational agencies, organizations, and institutions in making such model programs available to other children with learning disabilities, and (D) disseminate new methods or techniques for overcoming learning disabilities to educational institutions, organizations, and agencies within the area served by such center and evaluate the effectiveness of the dissemination process. Such evaluation shall be conducted annually after the first year of operation of a center.

In making grants and contracts under this section the Commissioner shall give special consideration to applications which propose innovative and creative approaches to meeting the educational needs of children with specific learning disabilities, and those which emphasize the prevention and early identification of learning disabilities.

(b) In making grants and controls under this section, the Commissioner shall—

(1) for the purposes of clause (2) of subsection (a), seek to achieve an equitable geographical distribution of training programs and trained personnel throughout the Nation, and

(2) for the purposes of clause (3) of subsection (a), to the extent feasible, taking into consideration the appropriations pursuant to this section, seek to encourage the establishment of a model center in each of the States.

(c) For the purpose of making grants and contracts under this section there are hereby authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, and $31,000,000 for each of the succeeding fiscal years ending prior to July 1, 1973.

REPEALER

SEC. 662. Effective July 1, 1971, the following provisions of law are repealed:

(1) That part of section 1 of the Act of September 2, 1958 (Public Law 85–905), which follows the enacting clause and sections 2, 3, and 4 of such Act;

(2) The Act of September 6, 1958 (Public Law 85–926);

(3) Title VI of the Elementary and Secondary Education Act of 1965 (Public Law 89–10);

(4) Titles III and V of the Act of October 31, 1963 (Public Law 88–164); and

(5) The Act of September 30, 1968 (Public Law 90–538).

TITLE VII—VOCATIONAL EDUCATION

EXTENSION OF PROGRAM OF GRANTS FOR SPECIAL PROGRAMS FOR DISADVANTAGED STUDENTS

SEC. 701. Section 102(b) of the Vocational Education Act of 1963 is amended by inserting after "1970," the following: $50,000,000 for the fiscal year ending June 30, 1971, and $60,000,000 for the fiscal year ending June 30, 1972,".

TECHNICAL AMENDMENT

SEC. 702. Section 103(a)(2)(D) of the Vocational Education Act of 1963 is amended by striking out "5 per centum" and inserting in lieu thereof "15 per centum".

CLARIFYING AMENDMENT WITH RESPECT TO STATE ADVISORY COUNCILS

SEC. 703. Section 104(b)(1) of the Vocational Education Act of 1963 is amended by inserting after "State board are elected" the following: "(including election by the State legislature)".

EXTENSION OF AUTHORITY FOR RESIDENTIAL FACILITIES

SEC. 704. (a) Section 152(a)(1) of the Vocational Education Act of 1963 is amended by striking out "$15,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof "for each of the succeeding fiscal years ending prior to July 1, 1972".

(b) Section 153(d)(2) of such Act is amended by striking out "1969" and inserting in lieu thereof "1970, and on July 1, 1971".

PROMOTION OF KNOWLEDGE OF NUTRITION

SEC. 705. Section 161(b) of the Vocational Education Act of 1963 is amended by adding after "consumer education programs," the following: "including promotion of nutritional knowledge and food use and the understanding of the economic aspects of food use and purchase,".

EXTENSION OF WORK-STUDY PROGRAMS

SEC. 706. (a) Section 181(a) of the Vocational Education Act of 1963 is amended by inserting after "1970" a comma and the following: "$45,000,000 for the fiscal year ending June 30, 1971, and $55,000,000 for the fiscal year ending June 30, 1972,".

(b) Section 183(a) of such Act is amended by striking out "the fiscal year ending June 30, 1970" and inserting in lieu thereof "any succeeding fiscal year".

EXTENSION OF CURRICULUM DEVELOPMENT PROGRAM

SEC. 707. Section 191(b) of the Vocational Education Act of 1963 is amended by striking out "the fiscal year ending June 30, 1970" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1972".

EXTENSION OF PART F OF THE EDUCATION PROFESSIONS DEVELOPMENT ACT

SEC. 708. Section 555 of the Education Professions Development Act (title V of the Higher Education Act of 1965) is amended by striking out "and" where it appears after "1969," and by inserting before the period at the end thereof a comma and the following: "the sum of $40,000,000 for the fiscal year ending June 30, 1971, and the sum of $45,000,000 for the fiscal year ending June 30, 1972".

TECHNICAL AMENDMENT

SEC. 709. Section 104 of the Vocational Education Amendments of 1968 is amended by striking out "this Act" and inserting in lieu thereof "the Vocational Education Act of 1963".

TITLE VIII—MISCELLANEOUS

WAIVER OF MATCHING REQUIREMENT IN THE UPWARD BOUND PROGRAM

SEC. 801. Section 408(c)(1) of the Higher Education Act of 1965 is amended by inserting after the third sentence thereof the following: "The Commissioner may, however, approve assistance in excess of such percentage if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this section. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services."

EXTENSION OF AUTHORIZATION FOR ADVISORY COUNCIL UNDER EDUCATION PROFESSIONS DEVELOPMENT ACT

SEC. 802. Section 502(f) of the Education Professions Development Act (title V of the Higher Education Act of 1965) is amended by striking out "two" and inserting in lieu thereof "three".

TEACHER CORPS ASSISTANCE FOR INDIAN CHILDREN

SEC. 803. The first sentence of section 513(c)(2) of the Higher Education Act of 1965 is amended to read as follows: "Not to exceed 3 per centum of the number of members of the Teachers Corps who are available shall be allocated to Puerto Rico and the Virgin Islands and not to exceed 5 per centum of such members shall be allocated to the elementary and secondary schools operated for Indian children by the Department of Interior, according to their respective needs."

STUDENT TEACHER CORPS

SEC. 804. (a) It is the purpose of this section to encourage high school and college students, parents, and other community residents to volunteer for service on a part-time or full-time basis as tutors or instructional assistants for children in disadvantaged areas and to provide support by the Teacher Corps of volunteer programs to be carried out by State and local educational agencies and institutions of higher education.

(b)(1) Section 511(a) of the Higher Education Act of 1965 is amended by deleting the word "and" at the end of paragraph (1), by deleting the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and the word "and", and by inserting after paragraph (2) the following new paragraph:

"(3) attracting volunteers to serve as part-time tutors or full-time instructional assistants in programs carried out by local educational agencies and institutions of higher education serving such areas."

(2) Section 511(b) of such Act is amended by striking out "$56,000,000 for each of the succeeding fiscal years ending prior to July 1, 1971" and inserting in lieu thereof "$80,000,000 for the fiscal year ending June 30, 1970, and $100,000,000 for the fiscal year ending June 30, 1971".

(c) Paragraph (1) of section 513(a) of such Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and, for such periods as the Commissioner may prescribe by regulation, persons who volunteer to serve as part-time tutors or full-time instructional assistants".

(d) Section 513(a) of such Act is further amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) enter into contracts or other arrangements with local educational agencies or institutions of higher education, upon approval by the appropriate State educational agency, under which provisions (including payment of the cost of such arrangements) will be made (A) to carry out programs serving disadvantaged areas in which volunteers (including high school and college students) serve as part-time tutors or full-time instructional assistants in teams with other Teacher Corps members, under the guidance of experienced teachers, but not in excess of 90 per centum of the cost of compensation for such tutors and instructional assistants may be paid from Federal funds, and (B) to provide appropriate training to prepare tutors and instructional assistants for service in such programs;".

(e) Section 514(a) of such Act is amended—

(1) by inserting after "paragraph (3) of section 513(a)" a comma and the following: "or an arrangement with a local educational agency or institution of higher education pursuant to paragraph (5) of section 513(a),";

(2) by striking out in paragraph (2) "is equal to" and inserting in lieu thereof "does not exceed", and by striking out "$75 per week" in such paragraph and inserting in lieu thereof "$90 per week"; and

(3) by deleting the word "and" at the end of paragraph (1), by deleting the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and the word "and", and by inserting after paragraph (2) the following new paragraph:

"(3) tutors and instructional assistants shall be compensated at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs."

TEACHER CORPS CORRECTIONS EDUCATION PROJECTS

SEC. 805. (a) Section 511(a) of the Higher Education Act of 1965 (as amended by section 804(b) of this Act) is further amended by deleting the word "and" at the end of paragraph (2), by deleting the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and the word "and", and by inserting after paragraph (3) the following new paragraph:

"(4) attracting and training educational personnel to provide relevant remedial, basic, and secondary educational training, including literacy and communications skills, for juvenile delinquents, youth offenders, and adult criminal offenders."

(b) Section 513(a) of such Act is further amended by redesignating paragraphs (6), (7), and (8) (as redesignated by section 804(d) of this Act), and all references thereto, as paragraphs (7), (8), and (9), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) enter into arrangements, through grants or contracts, with State and local educational agencies, and with institutions of higher education, and such other agencies or institutions approved by the Commissioner according to criteria which shall be established by him to carry out the purposes of this paragraph, under which provisions (including payment of the cost of such arrangements) will be made to furnish to such agencies members of the Teacher Corps to carry out projects designed to meet the special educational needs of juvenile delinquents, youth offenders, and adult criminal offenders, and persons who have been determined by State or local educational agency, court of law, law enforcement agency, or any other State or local public agency to be predelinquent juveniles, but not in excess of 90 per centum of the cost of compensation for Teacher Corps members serving in such projects may be paid from Federal funds;".

(c) Section 514(a) of such Act is further amended by inserting before "shall provide" the following: "or an arrangement with any agency pursuant to paragraph (6) of Section 513(a),".

PROVISIONS RELATED TO GIFTED AND TALENTED CHILDREN

SEC. 806. (a) Section 521 of the Higher Education Act of 1965 (relating to fellowships for teachers) is amended by inserting in the last sentence thereof after the words "handicapped children" a comma and the following: "and for gifted and talented children".

(b) Section 1201 of such Act (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(k) The term 'gifted and talented children' means, in accordance with objective criteria prescribed by the Commissioner, children who have outstanding intellectual ability or creative talent."

(c)(1) The Commissioner of Education shall:

(A) determine the extent to which special educational assistance programs are necessary or useful to meet the needs of gifted and talented children.

(B) Show which existing Federal educational assistance programs are being used to meet the needs of gifted and talented children,

(C) evaluate how existing Federal educational assistance programs can be more effectively used to meet these needs, and

(D) recommend which new programs, if any, are needed to meet these needs.

(2) The Commissioner shall report his findings, together with his recommendations, to the Congress not later than one year after the enactment of this Act.

CONSOLIDATION OF TITLE III OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958 AND SECTION 12 OF THE NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES ACT OF 1965

SEC. 807. (a)(1) Section 303(a) of the National Defense Education Act of 1958 is amended by striking out "science, mathematics, history, civics, geography, economics, industrial arts, modern foreign language, English, or reading" and inserting in lieu thereof "academic subjects".

(2) Section 303(a)(5) of such Act is amended by striking out "the fields of science, mathematics, history, civics, geography, economics, industrial arts, modern foreign language, English, and reading" and inserting in lieu thereof "academic subjects".

(3) The first sentence of section 301 of such Act is amended by striking out $120,000,000" and inserting in lieu thereof "$120,-

500,000" and by striking out "$130,000,000" and inserting in lieu thereof "$130,500,000".

(b) Section 12 of the National Foundation on the Arts and the Humanities Act of 1965 is hereby repealed.

ADVISORY COUNCIL ON RESEARCH AND DEVELOPMENT

SEC. 808. Section 2 of the Cooperative Research Act of 1954 is amended by adding the following new subsection at the end thereof:

"(e) (1) The Commissioner shall establish in the Office of Education an Advisory Council on Research and Development, consisting of fifteen members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary of Health, Education, and Welfare. The Commissioner shall appoint one such member as Chairman. Such members shall include persons recognized as authorities in the field of educational research and development or in related fields.

"(2) The Advisory Council shall advise the Commissioner with respect to matters of general policy arising in the administration of this Act."

RESEARCH ON PROBLEMS OF FINANCING ELEMENTARY AND SECONDARY EDUCATION

SEC. 809. (a) The Congress finds that—

(1) insufficient national concern has been focused upon the escalating operating expenses and construction costs faced by school districts, including serious inequities within and among States in financial support of elementary and secondary education;

(2) taxpayer resistance to the existing tax structure is growing and school bond issues and budget requests are being rejected;

(3) school districts are facing serious fiscal crises as they approach or exceed statutory limits on taxing and bonding authority; and

(4) there is a need for additional knowledge to solve these problems.

(b) It is the purpose of this section—

(1) to provide for research and reports on such problems under the Cooperative Research Act; and

(2) to provide for a National Commission on School Finance to study such problems and report to the Commissioner and the Congress within two years.

(c) Section 2(a) of the Cooperative Research Act is amended by inserting at the end thereof the following:

"(3) The Commissioner shall, pursuant to his authority under this Act, provide for research regarding the problems of financing elementary and secondary education. Such research shall include, but not be limited to, recommendations concerning—

"(A) an appropriate division of responsibility among local, State, and the Federal Government in financing elementary and secondary education;

"(B) an appropriate balance of categorical aid, general aid, and school construction aid in the total Federal responsibility for financing elementary and secondary education;

"(C) new approaches to relieve the fiscal crisis now facing the schools;

"(D) the use of Federal revenue sharing for supporting elementary and secondary education; and

"(E) methods to minimize variations within and among States in per pupil expenditures for elementary and secondary education. The Commissioner shall make a preliminary report to the Congress not later than one hundred and twenty days after the date of enactment of the Elementary and Secondary Education Amendments of 1969 identifying all existing federally financed research in this area (whether authorized under this or any other Act) and the current status of such research. Thereafter, the Commissioner shall report the results of, and recommendations with respect to, research under this paragraph as a separate and distinct part of his annual report pursuant to subsection (d)."

(d) The Commissioner shall, not later than ninety days after the date of enactment of this Act, establish a National Commission on School Finance. Such Commission shall consist of fifteen members appointed from (1) members of State and local educational agencies, (2) State and local government officials, (3) education administrators, (4) teachers, (5) financial experts, (6) parents with one or more children in a public elementary or secondary school, (7) the Office of Education, (8) the Department of the Treasury, with the approval of the Secretary of the Treasury, and (9) other appropriate fields. The Commissioner shall appoint a chairman and vice chairman from among such members. Such Commission shall make a full and complete investigation and study of the financing of elementary and secondary education, including but not limited to, the matters referred to in section 2(a)(3) of the Cooperative Research Act (as amended by subsection (c) of this section). The Commission shall report the results of such investigation and study and its recommendations to the Commissioner and the Congress not later than two years after the date of enactment of this Act. Funds available for the purposes of the Cooperative Research Act and for the purposes of section 402 of Public Law 90–247 shall be available for the purposes of this subsection.

CONSTRUCTION OF EDUCATIONAL RESEARCH FACILITIES

SEC. 810. Section 4(a) of the Cooperative Research Act (Public Law 83–531) is amended by striking out "July 1, 1970" and substituting in lieu thereof "July 1, 1973", and by striking out "July 1, 1971" and substituting in lieu thereof "July 1, 1974".

AMENDMENT RELATING TO THE AMERICAN PRINTING HOUSE FOR THE BLIND

SEC. 811. (a) The paragraph designated "First" in section 3 of the Act entitled "An Act to promote the education of the blind", approved March 3, 1879 (20 U.S.C. 102), is amended to read as follows:

"First. (A) Such appropriation shall be expended by the trustees of the American Printing House for the Blind each year in manufacturing and furnishing books and other materials specially adapted for instruction of the blind; and the total amount of such books and other materials so manufactured and furnished by such appropriation shall each year be distributed among all the public and private nonprofit institutions in the States, territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, in which blind pupils are educated. Each public and private nonprofit institution for the education of the blind shall receive, in books and other materials, upon requisition of its superintendent, that portion of the appropriation as is shown by the ratio between the number of blind pupils in that institution and the total number of blind pupils in all of the public and private nonprofit institutions in which blind pupils are educated. Each chief State school officer shall receive, in books and other materials, upon requisition, that portion of the appropriation as is shown by the ratio between the number of blind pupils in public and private nonprofit institutions (in the State) in which blind pupils are educated, other than institutions to which the preceding sentence is applicable, and the total number of blind pupils in the public and private nonprofit institutions in which blind pupils are educated in all of the States, territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia. The ratio referred to in each of the two immediately preceding sentences shall be computed upon the first Monday in January of each year; and for purposes of such sentences the number of blind pupils in public and private nonprofit institutions in which blind pupils are educated shall be authenticated in such manner and as often as the trustees of the American Printing House for the Blind shall require. For purposes of this Act, an institution for the education of the blind is any institution which provides education exclusively for the blind, or exclusively for the blind and other handicapped children (in which case special classes are provided for the blind); the chief State school officer of a State is the superintendent of public elementary and secondary schools in such State or, if there is none, such other official as the Governor certifies to have comparable responsibility in the State; and a blind pupil is a blind individual pursuing a course of study in an institution of less than college grade.

"(B) The portion of the appropriation received by each chief State school officer, in such books and other materials under subparagraph (A) of this paragraph which represents the number of blind pupils in private nonprofit institutions in such State in which blind pupils are educated shall be distributed among such institutions on the basis of the number of blind pupils in each such institution as compared to the total number of such pupils in all of the private nonprofit institutions in which blind pupils are educated in such State.

"(C) All books and other materials furnished pursuant to this Act, and control and administration of their use, shall vest only in a public agency. Such books and materials made available pursuant to this Act for use of teachers and blind pupils in any State, Territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia in any school shall be limited to those books and materials which have been approved by an appropriate educational authority or agency of such State, Territory, possession, Commonwealth, or District, or any local educational authority thereof, for use, or are used, in a public elementary or secondary school therein."

(b) The paragraph designated "Fourth" of section 3 of the Act entitled "An Act to promote the education of the blind", approved March 3, 1879, as amended (20 U.S.C. 102), is amended by inserting immediately after "public", the following: "and private nonprofit".

(c) Section 4 of such Act is amended by inserting immediately after "public", the following: "or private nonprofit".

And the Senate agree to the same.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. PELL. Mr. President, I ask unanimous consent that the staff of the Committee on Labor and Public Welfare necessary for a discussion of the conference report be permitted on the floor without the usual limitation.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HOLLINGS. Mr. President, if the

Senator from Rhode Island will yield, the language of the conference report that raises a question of understanding is section 2(b) with additional language:

> Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

I would ask the distinguished Senator from Rhode Island, after we passed the Stennis amendment by a vote of 56 to 36, what was the compulsion, if any, to add this further language, and does he think it explanatory? Does he really think this elucidates or clarifies the intent of the Senate or not?

Mr. PELL. In the first place, the Stennis amendment was hard fought in the conference. I think the conference, according to my recollection, broke up 2 or 3 days due to our standing pat on it. The language before us was offered by a House Member.

As I understand it, this language does not denigrate or dilute the Stennis amendment, but seeks to set forth the view that where de facto segregation occurs—and de facto segregation can occur in Atlanta, Ga., just as it can in Providence, R.I.—then the applicable law would apply to desegregation there, as anywhere else in the country. However, it must be noted that in this regard, no laws presently apply because de facto segregation has not been ruled unconstitutional.

I am not deeply versed or grounded in civil rights legislation, but, as I understand it, this language seeks to do what the Senator from Mississippi was seeking to do and clarifies the effect of the amendment with respect to those situations that are an outgrowth of dual school systems or previous laws, but de facto segregation would be handled in Georgia, for example, as in Chicago, or New York, or Providence.

That is what I understand the language does.

If the Senator from South Carolina disagrees with me, I shall be delighted to hear his views.

Mr. HOLLINGS. As I read the language, it says such a uniformity refers to one policy applied uniformly to de jure segregation wherever found.

Mr. PELL. That is right.

Mr. HOLLINGS. And then, on the other hand, to such other policy as may be provided pursuant to law applied uniformly to de facto segregation.

In other words, the language added in the conference report would call for uniformity of treatment as between de facto situations wherever found, on the one hand, and uniformity of treatment as between de jure situations wherever found, on the other hand; but not uniformity as between the two.

Mr. PELL. That is as I understand it.

Mr. HOLLINGS. If the Senator understands the language to be that, is it not a fact that the Stennis amendment, just above that, in section 2(a), says that when you come to segregation, when you come to discrimination, when you come to people, we do not separate them by class in this country, but that we are going to have uniformity of application. That is what the Senate said by the Stennis amendment, and this language was added in conference to the Stennis amendment under the thrust or suggestion of some of those who were talking so grandly and profoundly about civil rights, "whether de jure or de facto."

Is that not the language just above section 2(b)? It did not call for uniformity within de facto guidelines, or uniformity within de jure guidelines, but as between the two it says the U.S. Senate is not going to make any class distinction here. If we do, we have got segregation. The law has been in effect for 15 or 16 years, and whether you define it it as de jure or de facto, in and of itself it is bad, and we want uniform application of the law.

Does not the Senator agree?

Mr. PELL. That is correct. We tried to have the language left intact. From a practical, political viewpoint, there was considerable merit to leaving the language completely as it was brought to the conference, because it would have assured greater acceptance of the conference report by the House of Representatives, and the argument had been thoroughly thrashed out in the Senate.

But when we go into these conferences, we go in as managers, and try to do what we can. I think that in this case we came out, not with half a loaf, but with two-thirds of a loaf. The House would have liked us to have retreated a good deal farther. This language I thought, treated fairly the different classes of segregation around the country. But the Senator is correct; it does not lump together de facto and de jure segregation.

Mr. HOLLINGS. Is that not abhorrent to the distinguished Senator from Rhode Island, that it does not lump them together? I ask him sincerely. I know the Senator from Rhode Island is a great civil libertarian, and he believes in equality. From the viewpoint of equality, is not the language in section 2(b) abhorrent to the Senator?

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. PELL. I respect the legal ability of the Senator from Missouri very much more than my own legal ability, but to my mind, this is fair, because it treats the two kinds of segregation the same way all over the country. And you cannot wipe out history. There is a difference between the situation where a dual school system has been set up for a hundred years and the situation where there is no dual school system.

Mr. HOLLINGS. But that is the same thing as saying "separate but equal." That was the argument of me and my colleagues for 100 years. We interpreted the Constitution under the separate-but-equal doctrine of Plessy against Ferguson. But then they came along with Brown against Board of Education of Topeka, Kans., and they said there is no such thing as separate but equal; you have got to have desegregation in and of itself. Chief Justice Vinson in September of 1952 said:

> Don't give us this argument about separate but equal; talk about the constitutionality in and of itself.

Mr. PELL. The only kind of segregation that is illegal at this time is de jure segregation. De facto segregation has not been ruled illegal.

Mr. HOLLINGS. Was not the U.S. Senate, in December, saying that might be a nicety in understanding, and we can read what we can into the decisions, but in the Senate, in a conscience-ridden session extending over days, particularly distinguished by the leadership of the Senator from Maryland and that of the Senator from Mississippi on his own amendment, after all the debate that was carried through, we said regardless of all of that, we would put in there, to clarify the Stennis amendment, "whether de jure or de facto"; that we are not going to separate citizens by class in this country any longer—at least so far as the policy of the Senate and the Congress is concerned—in education in America.

Mr. PELL. Nevertheless, as I understand it, the law does not presently touch de facto segregation. What the amendment really does is provide that, in those areas of the South where segregation results from economic situations or living patterns, the efforts to desegregate would be nullified.

Mr. HOLLINGS. Does the distinguished Senator maintain that we in the U.S. Senate, are supposed to pass laws in accordance with the existing laws, or are we supposed to change laws? Is not that what we do when we pass laws?

Mr. PELL. We are supposed to pass laws that will be upheld by the courts.

Mr. HOLLINGS. Does the Senator think the Stennis amendment was unconstitutional?

Mr. PELL. No.

Mr. HOLLINGS. Does he not think this class distinction could be held unconstitutional, when we come in and talk about a distinction between types of segregation in the public education system of America, where the fundamental right in all of the school cases is based on the 14th amendment, that no State shall deny or deprive an individual because of race, color, or creed?

I say it is an individual denial, and that this is writing unconstitutional language, by saying that if the individual happens to be caught up in a de jure system, he gets one right, but if he gets caught up in a de facto system, he does not get that right at all.

Mr. PELL. I thought this was the great argument we had the other day, which led to putting into the language the phrase "de facto or de jure."

Mr. HOLLINGS. No, sir. If the Senator please, that was the language of the distinguished senior Senator from New York (Mr. JAVITS), who was bringing in all this "de jure" and "de facto." Every Member of this body came forward with fine talks about human rights, equal rights—rights, rights, rights—and then they come along, when we finally come to the question of policy, and say, "Let us not have two classes of citizens in the public schools," but then they go off into the de jure and de facto business.

What we tried to say, in the U.S. Senate, is what we did say, "whether de jure or de facto." Either one. And rather than clarifying that, does not the Senator from Rhode Island agree that rather than clarifying, the conference amendment nullifies that expression "whether de jure or de facto"?

We said it explicitly in the Stennis amendment, and the conferees explicitly changed it by applying the uniformity within the class of de jure or within the class of de facto, but not as between the two, as the language says. Is that not right?

Mr. PELL. I would imagine that both the Stennis amendment and the language we evolved in conference will have to be tested, as of course it should. I see the point of the Senator's argument. It perhaps would have been better if we could have left the language as it was, but if we had left the language as it was, there was no possibility of agreement in conference. Senators could then ask, "Why did we not come back with the point in disagreement with the House?" I think my job, as manager of the bill, was to try to resolve as much of the difference as we could. The language before you is our suggested resolution of the differing points of view.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from Missouri.

Mr. EAGLETON. I thank the Senator from Rhode Island. I would like to address myself to the questions propounded to him by the distinguished Senator from South Carolina, by way of background and for the purposes of clarification.

The Senator from Rhode Island is correct in his recitation of the agony, one might call it, that the conference committee went through in numerous sessions, in which the House was adamant in its refusal to accept the Stennis amendment.

Mr. HOLLINGS. Will the distinguished Senator from Missouri yield at that point?

Mr. EAGLETON. May I finish my exposition? Then I shall be happy to answer any questions the Senator has.

Mr. HOLLINGS. Very well.

Mr. EAGLETON. After meeting day after day, and after recess after recess, it became evident that if there was to be any bill reported out of conference, something had to be done with respect to this item, because it was the item most in contention among the conferees. That reemphasizes and underscores what the Senator from Rhode Island has already said.

With respect to the law and specifically with respect to the Stennis amendment, one of the hangups about the Stennis amendment is that no one is quite certain what it does mean or was intended to do. After reading the Senate debate on the Stennis amendment—which, as we all know, consumed hours and days, with many, many Senators participating—we came up with an enormous number of varying assertions as to what was meant by the Stennis amendment as modified by the Ribicoff amendment.

The Senator from South Carolina said it was the Senator from New York (Mr. JAVITS) who cluttered this amendment up with "de jure" and "de facto." Far from it. It was the Senator from Connecticut (Mr. RIBICOFF) who offered his "perfecting amendment," which was resoundingly accepted by the Senate and which introduced the words "de jure" and "de facto" into the original text of the Stennis amendment. I defy anyone today to tell me what the original Stennis amendment meant for sure. To Senator STENNIS, presumably, it meant one thing; to Senator RIBICOFF it may have meant another thing; to Senator MONDALE it meant another thing; to Senator SCOTT it meant another thing. Hence, with the cluttered record, with the gross ambiguity of what it did mean, the House conferees submitted their proposal, which is now incorporated in the bill, and which does precisely clarify the situation. Whether it is acceptable, whether it is tolerable, whether it is accepted with glee or joy, is a matter separate and apart. It, at least, is susceptible to being read and understood and applied and enforced.

It is uniform. It is constitutional. It is constitutional under the 14th amendment. What is prohibited by the 14th amendment is the State from acting in a way violative of due process and violative of the equal protection of the laws.

When the State acts, it must act uniformly—to wit, de jure segregation is, as is has been since the Brown case, unconstitutional per se, across the board. It is prohibited wherever it exists—North, South, East, or West; in California, Mississippi, Georgia, or wherever. Where the State or one of its subdivisions, a county or a school district, sets up a dual school system, one for blacks and one for whites, such is unconstitutional and illegal.

Likewise, it says with respect to de facto segregation that it shall be treated uniformly. We do not know as of this moment the constitutionality of de facto segregation, for the U.S. Supreme Court has declined to take jurisdiction in any case so as to rule on de facto segregation.

I believe one case grew out of my State in Kansas City, Mo., in which an attempt was made to take the case to U.S. Supreme Court. The Court denied certiorari. We do not know for sure what the attitude of the Court will be. The new Chief Justice seemingly wants to rule on this point, and he is advertising for business. Whether his advertisement will be answered, I do not know. Thus, at this juncture we do not know about de facto segregation insofar as its constitutionality is concerned.

Thus, section 2(b) of the conference committee report has this significance. Assume that Atlanta, Ga., years ago or even a few years ago there was a de jure segregated school system. I am making this as a hypothetical assumption. I do not know about Atlanta, Ga. What section 2(b) says is that, regardless of what it was in yesteryear, regardless of what its ancestry was, if in fact and in truth today, in 1970, it is a de facto segregated district, it is treated coequally with any other de facto segregated district.

For example, Washington, D.C., is 94.6 percent black and 5.4 percent white. It is obviously a de facto segregated district. If the same situation obtains in Atlanta, if Atlanta is in fact and in truth a de facto segregated district, then the same rules have to apply to Atlanta, to Washington, to St. Louis, to New York, to Kansas City. That is what 2(b) says. It is clear. It is unequivocal. It is not susceptible to duplicitous interpretation. It is not susceptible to the varying analyses to which I think the original Stennis amendment was susceptible.

Therefore, I think it has more to commend it than to condemn it because of its clarity and because of its uniformity of application.

I would be glad to answer any other questions.

Mr. HOLLINGS. If the distinguished Senator from Missouri would yield, it is great to listen to the arguments of what we did not know and what we did not understand. We do not know about Atlanta; we did not know about the Stennis amendment; we did not know about all those other things.

It is my contention, and the contention of the country, that position flies fully in the face of everything that occured here on the Stennis amendment debate. Everybody knew what the Senate intended.

I go back to the comment I made about the Senator from New York. I was not talking about the authorship. In the colloquy between the Senator from Connecticut and the Senator from New York, the Senator from Connecticut said, "If you want to get into that, let's just clarify it and say what we mean, whether de jure or de facto." In order to clarify it and make absolutely certain what we meant, and that was that we were going to treat all citizens alike.

The distinguished Senator talks about the agony of a conference committee. Is it not a greater agony to come up with a segregation law, one that segregates de jure from de facto? Is not the Stennis amendment putting them together, integrating them, saying uniformity, whether de jure or de facto? The distinguished Senator from Mississippi integrated them upon the Senate floor, and the Senator from Missouri went into the conference committee and segregated them.

Mr. EAGLETON. I think the Stennis amendment, regardless of what semantics one wishes to apply to it, "clutter-gated" them together. It "clutter-gated" or obfuscated the whole field of law. The Senator from Mississippi, himself, on television, after the adoption of his amendment, when he was interviewed, said it is "too early to tell for certain what its effect will be." He counseled caution to the constituents of his State and said they have to be cautious, because it is too early "to tell what the effect will be."

Mr. HOLLINGS. Exactly. But what we are talking about is intent.

Mr. EAGLETON. If the Stennis amendment on its face is confusing and susceptible of varying interpretations, I think it is in the best interest of Congress to try to tell the American public precisely—subject to no equivocation, subject to no duplicitous interpretation—what Congress was intending.

Mr. HOLLINGS. That is right. That is the intent. And the intent of Congress. The effect is always unclear in this particular field because of the duplicity—by the U.S. Supreme Court.

Congress spoke loudly, clearly, and eloquently with respect to the 1964 Civil

Rights Act on racial imbalance. But then came the U.S. Supreme Court and completely ignored it.

So we speak again clearly, and what I rather resist is the Senate trying to outdo the U.S. Supreme Court in compounding and confusing the manifest and clear intent of the Senate when it says "whether de jure or de facto," and coming around and instead asking us this morning to vote for a segregation law, and it is being led by the so-called integrationists.

That is what I am trying to get at. The Senator from Missouri is the one segregating it. We integrated the terms. We said, "whether de jure or de facto," and we made it clear.

The Senator said the effect might be clouded somewhat as it always seems to be in school litigation, but not with respect to the intent. Does the distinguished Senator from Missouri think that the language in section (b) clarifies or nullifies the language "whether de jure or de facto"? Does the Senator think that clarifies it?

Mr. EAGLETON. I will answer that. Ours is not to segregate. Ours is to specify. Ours is not to obfuscate. Ours is to elucidate.

One of the varying interpretations of the original Stennis amendment was made by the Library of Congress. The people at the Library were a little confused about it. But they came up with this "possible conclusion" of the Stennis amendment. They said that the most likely—they are not sure—the most likely result of the Stennis amendment would be to end enforcement of title VI of the Civil Rights Act against admittedly dual systems.

I take it that the Senator from South Carolina, since he is now for the total integration of statutory language, would not want to see such an evil deed result from the adoption of the original Stennis amendment—that is, the cessation of enforcement of title VI against dual school systems?

Mr. HOLLINGS. Uniformly.

Mr. EAGLETON. Uniformly segregated?

Mr. HOLLINGS. No, uniformly the elimination of dual school systems—uniformly, whether de facto or de jure. In fact, the Court gives a rather good guideline by saying "unitary." They say unitary, but we say uniformly. But a bunch of segregationist Senators going to the conference committee segregate de jure from de facto. Is that not agony to the Senator from Missouri? When the Senator talks about the agony of a conference committee, how could he agonize so and come up with that?

Mr. EAGLETON. I am much less agonized today than I was during the long, hot conferences that went on into the late hours of the night in which we were trying to effectuate some rational compromise so that the public educational system of this county could go forward. We thought it was a commendable objective, and I still believe so.

We call for the uniform application of desegregation laws in dual school system. Dual school systems have got to go now, says the Supreme Court. We also call for a uniform application of whatever rules may be devised in futuro with respect to de facto segregation.

I repeat, I think the Senator from South Carolina is overlooking a very important point here that has not heretofore been in any Federal statute to my knowledge, but will be in a Federal statute if the conference report is adopted; namely, that de facto segregation in Atlanta, if, in fact, it be that today will be treated the same as de facto segregation anywhere else in the country, regardless of the historical ancestry or origin of that de facto segregation.

Mr. ERVIN. Mr. President, will the Senator from Missouri yield?

Mr. EAGLETON. I yield.

Mr. ERVIN. If I may lapse into North Carolina vernacular here, "de fact is" that the change made in the conference committee segregates schools in the South from those in the North for the purpose of integration.

Mr. EAGLETON. I respectfully disagree with the Senator.

Mr. ERVIN. That is "de fact."

Mr. HOLLINGS. That is "de fact" both in Latin and English; right?

Mr. ERVIN. That is correct.

Mr. EAGLETON. I respectfully disagree with the Senator from North Carolina.

Mr. HOLLINGS. Well, now, let us go to New York, South Carolina, or Missouri. Missouri does not have any freedom-of-choice laws. It does not have a school law. The Senator from Missouri says freedom of choice is a thing, a gimmick, to promote and continue segregation.

Mr. EAGLETON. We did not wait for the 1954 Brown against Board of Education case. In Missouri, the 872 Missouri school districts voluntarily began the desegregation process in 1948.

Mr. HOLLINGS. Then, there is no freedom-of-choice law in Missouri?

Mr. EAGLETON. We have selective assignment laws for every student originally enrolled in his closest neighborhood school. If in a certain section of any school district there is overcrowding and if in another section of the school district there is an undersupply of students and an abundance of space, one can apply for a transfer from the original neighborhood assignment to the less crowded school.

Mr. HOLLINGS. But what about with respect to freedom of choice? Does that amount to freedom of choice?

Mr. EAGLETON. Unlike the Senator from South Carolina, I do not get hung up on the cliches or the vernacular in the involvement in this matter. All I say is that Missouri schools are integrated insofar as it is conceivably possible to have them integrated, bearing in mind the geographical and ethnic housing patterns.

Take my own city of St. Louis. Generally speaking, north St. Louis is black. Generally speaking, south St. Louis is white. Generally speaking, the schools in north St. Louis have black students. Generally speaking, the schools of south side of St. Louis have white students.

Mr. HOLLINGS. Missouri does not have segregated schools, does it?

Mr. EAGLETON. All Missouri school district are unitary school districts.

Mr. HOLLINGS. Now we are back to the vernacular.

Mr. EAGLETON. We are back to the law. That is what we are debating here. We are debating the law both what it has been and what it will be.

Mr. HOLLINGS. What has the Supreme Court said about freedom of choice? Has it not said that it has been a gimmick to continue the dual school system?

Mr. EAGLETON. I believe it has; yes.

Mr. HOLLINGS. It said that freedom of choice, generally, by law, is bad, did it not? That it is a sort of segregation law? New York has a freedom-of-choice law, has it not?

Mr. HANSEN. Mr. President, I call for the regular order. Who has the floor?

The PRESIDING OFFICER. The Senator from Wyoming calls for the regular order.

Mr. PELL. Mr. President, I yielded to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Rhode Island yielded to the Senator from Missouri and then took his seat, thus losing the floor; therefore, at this time, the Chair does recognize the Senator from Missouri in his own right.

Mr. EAGLETON. I thank the Chair.

Mr. President, the courts have said that if freedom of choice is used as a sham and a pretense and as an excuse for the furtherance of the dual school system—which has been done in many instances—then that is violative of the Brown against Board of Education decision and is violative of the 14th amendment.

Mr. HOLLINGS. New York has a freedom-of-choice system, does it not?

Mr. EAGLETON. New York has a freedom-of-choice system in a unitary school district.

Mr. ERVIN. Mr. President, will the Senator from Missouri yield?

Mr. EAGLETON. I yield.

Mr. ERVIN. Has not the Supreme Court held in the past 3 or 4 weeks that a unitary school system is a school system in which no child is effectively excluded from any school on account of race or color?

Mr. EAGLETON. By official action.

Mr. ERVIN. I agree, yes; by official action. I submitted an amendment which made clear what the bill itself undertook to do. It provided that there should be no assignment of children to any school, and no transportation of children to any school, to alter the racial composition of any school. That is clearly in harmony with the latest decisions of the Supreme Court.

Mr. EAGLETON. Pardon me. Is the Senator not talking about his amendment that was adopted in the bill and has now been taken out of the conference report?

Mr. ERVIN. Yes. So evidently the conference committee goes beyond—at least the majority on the conference committee go beyond—whatever the Supreme Court said on the question of forced integration.

Mr. EAGLETON. I must disagree with the Senator from North Carolina. I remember his amendment quite well. I remember the debate on it in the conference committee. The Senator from North

Carolina may remember that when he was proposing and debating his amendment, he had extensive colloquy on it with the Senator from Rhode Island (Mr. PASTORE). The Senator from Rhode Island was willing to accept the new additional language that the Senator from North Carolina was going to add the words: "or alter racial composition." I then asked the Senator from Rhode Island if, in his judgment, the adoption of that language, which at first he was unwilling to accept, but later did accept, in any way altered, affected, or changed the law that existed as of that moment. He said it did not and that in his judgment it was "innocuous surplusage." I agreed with the Senator from Rhode Island, and the House conferees thought it was innocuous surplusage and that it did not add or subtract much; hence, it was deleted.

Mr. ERVIN. The point I made with the Senator from Rhode Island on the floor of the Senate was that the Civil Rights Act of 1964 said that desegregation meant the assignment of children to schools without regard to race, that desegregation did not mean the assignment of children to schools to overcome racial imbalance. I thought that that was plain. But I pointed out that the necessity for my amendment was that HEW steadfastly refused to recognize the congressional intent, although it was expressed in the 1964 Civil Rights Act and had been three times reiterated since then; hence, putting in the words "or alter racial composition" meant just exactly what they said, and what Congress had said, that we could not bus children or assign children so as to make any changes, however imperceptible, in the racial composition of a school.

It seems to me that the conference committee should have retained that wording, which made that clear, and not allow any further rule for HEW to wiggle and twist and turn and disobey the acts of Congress; yet the conference committee had that chance, and the conference committee refused to avail itself of that opportunity.

Mr. EAGLETON. The Senator is correct. The conference committee did agree to delete the amendment.

I do not have the CONGRESSIONAL RECORD of the day in question in front of me, but it is my recollection that in his presentation of the amendment, the Senator from North Carolina articulated the fact that he himself saw no difference between the words racial imbalance and the words racial composition.

Again, to the Senator from North Carolina, as a student of the English language and a distinguished jurist, those words signified the same thing, and he so stated, if my recollection serves me right in his presentation. Hence, since they added nothing new, since racial composition is not a way of talking about racial imbalance, and since in our judgment they added nothing new, I did not think we were giving up very much.

Mr. ERVIN. Mr. President, I stated very emphatically on the floor of the Senate that I wanted to put it in the RECORD to make clear the meaning of the original Act 1964, because for some strange reason HEW seemed to be incapable of understanding the English language.

It seems to me that the conference committee should retain it for that reason, and I cannot escape the conviction that this change made in the Stennis amendment and the dropping by the conference committee of the amendment proposed by me is intended to accomplish the purpose which has existed since the 1964 act—for the HEW and the Federal courts to browbeat the South and ignore similar conditions which exist in other sections of the country.

I think it was designed—as I say "defact is"—to segregate the South from the rest of the country. And that will be the result of it if the HEW pursues the course of action which it has thus far taken.

Mr. EAGLETON. Mr. President, I yield briefly to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, this morning President Nixon issued a very significant and comprehensive statement on the subject of elementary and secondary school desegregation. I ask unanimous consent that the text of the statement be printed at this point in the RECORD.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE.

STATEMENT BY THE PRESIDENT ON ELEMENTARY AND SECONDARY SCHOOL DESEGREGATION

My purpose in this statement is to set forth in detail this Administration's policies on the subject of desegregation of America's elementary and secondary schools.

Few public issues are so emotionally charged as that of school desegregation, few so wrapped in confusion and clouded with misunderstanding. None is more important to our national unity and progress.

This issue is not partisan. It is not sectional. It is an American issue, of direct and immediate concern to every citizen.

I hope that this statement will reduce the prevailing confusion and will help place public discussion of the issue on a more rational and realistic level in all parts of the nation. It is time to strip away the hypocrisy, the prejudice and the ignorance that too long have characterized discussion of this issue.

My specific objectives in this statement are:

To reaffirm my personal belief that the 1954 decision of the Supreme Court in *Brown* v. *Board of Education* was right in both Constitutional and human terms.

To assess our progress in the 16 years since *Brown* and to point the way to continuing progress.

To clarify the present state of the law, as developed by the courts and the Congress, and the Administration policies guided by it.

To discuss some of the difficulties encountered by courts and communities as desegregation has accelerated in recent years, and to suggest approaches that can mitigate such problems as we complete the process of compliance with *Brown*.

To place the question of school desegregation in its larger context, as part of America's historic commitment to the achievement of a free and open society.

Anxiety over this issue has been fed by many sources.

On the one hand, some have interpreted various Administration statements and actions as a backing away from the principle of *Brown*—and have therefore feared that the painstaking work of a decade and a half might be undermined. We are not backing away. The Constitutional mandate will be enforced.

On the other hand, several recent decisions by lower courts have raised widespread fears that the nation might face a massive disruption of public education: that wholesale compulsory busing may be ordered and the neighborhood school virtually doomed. A comprehensive review of school desegregation cases indicates that these latter are untypical decisions, and that the prevailing trend of judicial opinion is by no means so extreme.

Certain changes are needed in the nation's approach to school desegregation. It would be remarkable if sixteen years of hard, often tempestuous experience had not taught us something about how better to manage the task with a decent regard for the legitimate interests of all concerned—and especially the children. Drawing on this experience, I am confident the remaining problems can be overcome.

WHAT THE LAW REQUIRES

In order to determine what ought to be done, it is important first to be as clear as possible about what *must* be done.

We are dealing fundamentally with inalienable human rights, some of them constitutionally protected. The final arbiter of Constitutional questions is the United States Supreme Court.

The President's Responsibility

There are a number of questions involved in the school controversy on which the Supreme Court has not yet spoken definitively. Where it has spoken, its decrees are the law. Where is has not spoken, where Congress has not acted, and where differing lower courts have left the issue in doubt, my responsibilities as Chief Executive make it necessary that I determine, on the basis of my best judgment, what must be done.

In reaching that determination, I have sought to ascertain the prevailing judicial view as developed in decisions by the Supreme Court and the various Circuit Courts of Appeals. In this statement I list a number of principles derived from that prevailing judicial view. I accept those principles and shall be guided by them. The Departments and agencies of the Government will adhere to them.

A few recent cases in the lower courts have gone beyond those generally accepted principles. Unless affirmed by the Supreme Court, I will not consider them as precedents to guide Administration policy elsewhere.

What the Supreme Court Has Said

To determine the present state of the law, we must first remind ourselves of the recent history of Supreme Court rulings in this area.

This begins with the *Brown* case in 1954, when the Court laid down the principle that deliberate segregation of students by race in the public schools was unconstitutional. In that historic ruling, the court gave legal sanction to two fundamental truths—that separation by law establishes schools that are inherently unequal, and that a promise of equality before the law cannot be squared with use of the law to establish two classes of people, one black and one white.

The Court requested further argument, however, and propounded the following questions, among others:

"Assuming it is decided that segregation in public schools violates the Fourteenth Amendment

"a. would a decree necessarily follow providing that, within the limits set by normal geographic school districting, Negro children

should forthwith be admitted to schools of their choice, or

"b. may this Court, in the exercise of its equity powers, permit an effective gradual adjustment to be brought about from existing segregated systems to a system not based on color distinctions?"

In its second *Brown* decision the following year, the Court addressed itself to these questions of manner and timing of compliance. Its ruling included these principles:

Local school problems vary: school authorities have the primary responsibility for solving these problems; courts must consider whether these authorities are acting in good faith.

The courts should be guided by principles of equity, which traditionally are "characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs."

Compliance must be achieved "with all deliberate speed," including "a prompt and reasonable start" toward achieving full compliance "at the earliest practicable date."

In 1964, the Supreme Court spoke again: "The time for mere 'deliberate speed' has run out, and that phrase can no longer justify denying these . . . children their constitutional rights."

At the same time, Congress also added to the impetus of desegragation by passing the Civil Rights Act of 1964, an Act that as a private citizen I endorsed and supported.

Although the Supreme Court in the *Brown* cases concerned itself primarily, if not exclusively, with pupil assignments, its decree applied also to teacher assignments and school facilities as a whole.

In 1968, the Supreme Court reiterated the principle enunciated in prior decisions, that teacher assignments are an important aspect of the basic task of achieving a public school system wholly freed from racial discrimination. During that same year, in another group of Supreme Court decisions, a significant and new set of principles also emerged.

That a school board must establish "that its proposed plan promises meaningful and immediate progress toward disestablishing State-imposed segregation," and that the plan must "have real prospects for dismantling the State-imposed dual system 'at the earliest practicable date.'"

That one test of whether a school board has met its affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch" is the extent to which racial separation persists under its plan.

That the argument that effective desegregation might cause white families to flee the neighborhood cannot be used to sustain devices designed to perpetuate segregation.

That when geographic zoning is combined with "free transfers," and the effect of the transfer privilege is to perpetuate segregation despite the zoning, the plan is unacceptable.

The most recent decisions by the Supreme Court have now rejected any further delay, adding to the Court's mandate:

"The obligation of every school district is to terminate dual systems at once and to operate now and hereafter only unitary schools."

That the obligation of such districts is an affirmative one and not a passive one.

That freedom of choice plans could no longer be considered as an appropriate substitute for the affirmative obligation imposed by the Court unless they, in fact, discharge that obligation immediately.

The Court has dealt only in very general terms with the question of what constitutes a "unitary" system, referring to it as one "within which no person is to be effectively excluded from any school because of race or color." It has not spoken definitely on whether or not, or the extent to which, "desegregation" may mean "integration."

In an opinion earlier this month, Chief Justice Burger pointed out a number of "basic practical problems" which the Court had not yet resolved, "including whether, as a Constitutional matter, any particular racial balance must be achieved in the schools: to what extent school districts and zones may or must be altered as a Constitutional matter; to what extent transportation may or must be provided to achieve the ends sought by prior holdings of this Court."

One of these areas of legal uncertainty cited by Chief Justice Burger—school transportation—involves Congressional pronouncement.

In the 1964 Civil Rights Act, the Congress stated, ". . . nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

In the 1966 amendments to the Elementary and Secondary Education Act, the Congress further stated, ". . . . nothing contained in this Act shall . . . require the assignment or transportation of students or teachers in order to overcome racial imbalance."

I am advised that these provisions cannot constitutionally be applied to *de jure* segregation. However, not all segregation as it exists today is *de jure*.

I have consistently expressed my opposition to any compulsory busing of pupils beyond normal geographic school zones for the purpose of achieving racial balance.

What the lower courts have said

In the absence of definitive Supreme Court rulings, these and other "basic practical problems" have been left for case-by-case determination in the lower courts—and both real and apparent contradictions among some of these lower court rulings have generated considerable public confusion about what the law really requires.

In an often-cited case in 1955 (*Briggs* v. *Elliott*), a District Court held that "the Constitution . . . does not require integration. . . . It merely forbids the use of governmental power to enforce segregation."

But in 1966 another court took issue with this doctrine, pointing out that it had been used as justifying "techniques for perpetuating school segregation," and declaring that:

". . . the only adequate redress for a previously overt systemwide policy of segregation directed against Negroes as a collective entity is a system-wide policy of integration."

In 1969, the 4th Circuit Court of Appeals declared:

"The famous *Briggs* v. *Elliott* dictum—adhered to by this court for many years—that the Constitution forbids segregation but does not require integration. . . . is now dead."

Cases in two circuit courts have held that the continued existence of some all-black schools in a formerly segregated district did *not* demonstrate unconstitutionality, with one noting that there is "no duty to balance the races in the school system in conformity with some mathematical formula."

Another circuit court decision declared that even though a district's geographic zones were based on objective, non-racial criteria, the fact that they failed to produce any significant degree of integration meant that they *were* unconstitutional.

Two very recent Federal court decisions continue to illustrate the range of opinion: a plan of a southern school district has been upheld even though three schools would remain all-black, but a northern school system has been ordered by another Federal court to integrate all of its schools completely "by the revising of boundary lines for attendance purposes as well as busing so as to achieve maximum racial integration."

This range of differences demonstrates that lawyers and judges have honest disagreements about what the law requires. There have been some rulings that would divert such huge sums of money to non-educational purposes, and would create such severe dislocations of public school systems, as to impair the primary function of providing a good education. In one, for example—probably the most extreme judicial decree so far—a California State court recently ordered the Los Angeles School Board to establish a virtually uniform racial balance throughout its 711 square mile district, with its 775,000 children in 561 schools. Local leaders anticipate that this decree would impose an expenditure of $40,000,000 over the next school year to lease 1,600 buses, to acquire site locations to house them, to hire drivers, and to defray operating costs. Subsequent costs would approximate $20,000,000 annually. Some recent rulings by federal district courts applicable to other school districts appear to be no less severe.

I am dedicated to continued progress toward a truly desegregated public school system. But, considering the always heavy demands for more school operating funds, I believe it is preferable, when we have to make the choice, to use limited financial resources for the improvement of education—for better teaching facilities, better methods, and advanced educational materials—and for the upgrading of the disadvantaged areas in the community rather than buying buses, tires and gasoline to transport young children miles away from their neighborhood schools.

What most of the courts agree on

Despite the obvious confusion, a careful survey of rulings both by the Supreme Court and by the Circuit Courts of Appeals suggests that the basic judicial approach may be more reasonable than some have feared. Whatever a few lower courts might have held to the contrary, the prevailing trend of judicial opinion appears to be summed up in these principles:

There is a fundamental distinction between so-called *"de jure"* and *"de facto"* segregation: *de jure* segregation arises by law or by the deliberate act of school officials and is unconstitutional; *de facto* segregation results from residential housing patterns and does not violate the Constitution. (The clearest example of *de jure* segregation is the dual school system as it existed in the South prior to the decision in *Brown*—two schools, one Negro and one White, comprised of the same grades and serving the same geographical area. This is the system with which most of the decisions, and the Supreme Court cases up until now, have been concerned.)

Where school boards have demonstrated a good-faith effort to comply with court rulings, the courts have generally allowed substantial latitude as to method—often making the explicit point that administrative choices should, wherever possible, be made by the local school authorities themselves.

In devising particular plans, questions of cost, capacity, and convenience for pupils and parents are relevant considerations.

Whatever the racial composition of student bodies, faculties and staff must be assigned in a way that does not contribute to identifying a given school as "Negro" or "White."

In school districts that previously operated dual systems, affirmative steps toward integration are a key element in disestablishing the dual system. This positive integration, however, does not necessarily have to result in "racial balance" throughout the system. When there is racial separation in housing, the Constitutional requirement has

been held satisfied even though some schools remained all-black.

While the dual school system is the most obvious example, *de jure* segregation is also found in more subtle forms. Where authorities have deliberately drawn attendance zones or chosen school locations for the express purpose of creating and maintaining racially separate schools, *de jure* segregation is held to exist. In such a case the school board has a positive duty to remedy it. This is so even though the board ostensibly operates a unitary system.

In determining whether school authorities are responsible for existing racial separation—and thus whether they are Constitutionally required to remedy it—the *intent* of their action in locating schools, drawing zones, etc., is a crucial factor.

In the case of genuine *de facto* segregation (i.e., where housing patterns produce substantially all-Negro or all-White schools, and where this racial separation has not been caused by deliberate official action) school authorities are not Constitutionally required to take any positive steps to correct the imbalance.

To summarize: There is a Constitutional mandate that dual school systems and other forms of *de jure* segregation be eliminated totally. But within the framework of that requirement an area of flexibility—a "rule of reason"—exists, in which school boards, acting in good faith, can formulate plans of segregation which best suit the needs of their own localities.

De facto segregation, which exists in many areas both North and South, is undesirable but is not generally held to violate the Constitution. Thus, residential housing patterns may result in the continued existence of some all-Negro schools even in a system which fully meets Constitutional standards. But in any event, local school officials *may* if they so choose, take steps beyond the Constitutional minimums to diminish racial separation.

SCHOOL DESEGREGATION TODAY

The progress

Though it began slowly, the momentum of school desegregation has become dramatic.

Thousands of school districts throughout the South have met the requirements of law.

In the past year alone, the number of black children attending southern schools held to be in compliance has doubled, from less than 600,000 to nearly 1,200,000—representing 40 per cent of the Negro student population.

In most cases, this has been peacefully achieved.

However, serious problems are being encountered both by communities and by courts—in part as a consequence of this accelerating pace.

The problems

In some communities, racially mixed schools have brought the community greater interracial harmony; in others they have heightened racial tension and exacerbated racial frictions. Integration is no longer seen automatically and necessarily as an unmixed blessing for the Negro, Puerto Rican or Mexican-American child. "Racial balance" has been discovered to be neither a static nor a finite condition; in many cases it has turned out to be only a way station on the road to resegregation. Whites have deserted the public schools, often for grossly inadequate private schools. They have left the now re-segregated public schools foundering for lack of support. And when whites flee the central city in pursuit of all- or predominantly-white schools in the suburbs, it is not only the central city schools that become racially isolated, but the central city itself.

These are not theoretical problems, but actual problems. They exist not just in the realm of law, but in the realm of human attitudes and human behavior. They are part of the real world, and we have to take account of them.

The Complexities

Courts are confronted with problems of equity, and administrators with problems of policy. For example: To what extent does desegregation of dual systems require positive steps to achieve integration? How are the rights of individual children and their parents to be guarded in the process of enforcement? What are the educational impacts of the various means of desegregation—and where they appear to conflict, how should the claims of education be balanced against those of integration? To what extent should desegregation plans attempt to anticipate the problem of *re*segregation?

These questions suggest the complexity of the problems. These problems confront us in the North as well as the South, and in rural communities, suburbs and central cities.

The troubles in our schools have many sources. They stem in part from deeply rooted racial attitudes; in part from differences in social, economic and behavioral patterns; in part from weaknesses and inequities in the educational system itself; in part from the fact that by making schools the primary focus of efforts to remedy long-standing social ills, in some cases greater pressure has been brought to bear on the schools than they could withstand.

The Context

Progress toward school desegregation is part of two larger processes, each equally essential:

The improvement of educational opportunities for all of America's children.

The lowering of artificial racial barriers in all aspects of American life.

Only if we keep each of these considerations clearly in mind—and only if we recognize their separate natures—can we approach the question of school desegregation realistically.

It may be helpful to step back for a moment, and to consider the problem of school desegregation in its larger context.

The school stands in a unique relationship to the community, to the family, and to the individual student. It is a focal point of community life. It has a powerful impact on the future of all who attend. It is a place not only of learning, but also of living—where a child's friendship center, where he learns to measure himself against others, to share, to compete, to cooperate—and it is the one institution above all others with which the parent shares his child.

Thus it is natural that whatever affects the schools stirs deep feelings among parents, and in the community at large.

Whatever threatens the schools, parents perceive—rightly—as a threat to their children.

Whatever makes the schools more distant from the family undermines one of the important supports of learning.

Quite understandably, the prospect of any abrupt change in the schools is seen as a threat.

As we look back over these sixteen years, we find that many changes that stirred fears when they first were ordered have turned out well. In many Southern communities, black and white children now learn together—and both the schools and the communities are better where the essential changes have been accomplished in a peaceful way.

But we also have seen situations in which the changes have not worked well. These have tended to command the headlines, thus increasing the anxieties of those still facing change.

Overburdening the schools

One of the mistakes of past policy has been to demand too much of our schools: They have been expected not only to educate, but also to accomplish a social transformation. Children in many instances have not been served, but used—in what all too often has proved a tragically futile effort to achieve in the schools the kind of a multiracial society which the adult community has failed to achieve for itself.

If we are to be realists, we must recognize that in a free society there are limits to the amount of government coercion that can reasonably be used; that in achieving desegregation we must proceed with the least possible disruption of the education of the nation's children; and that our children are highly sensitive to conflict, and highly vulnerable to lasting psychic injury.

Failing to recognize these factors, past policies have placed on the schools and the children too great a share of the burden of eliminating racial disparities throughout our society. A major part of this task falls to the schools. But they cannot do it all or even most of it by themselves. Other institutions can share the burden of breaking down racial barriers, but only the schools can perform the task of education itself. If our schools fail to educate, then whatever they may achieve in integrating the races will turn out to be only a pyrrhic victory.

With housing patterns what they are in many places in the nation, the sheer numbers of pupils and the distances between schools make full and prompt school integration in every such community impractical—even if there were a sufficient desire on the part of the community to achieve it. In Los Angeles, 78 per cent of all Negro pupils attend schools that are 95 per cent or more black. In Chicago the figure is 85 per cent—the same as in Mobile, Alabama. Many smaller cities have the same patterns. Nationwide, 61 per cent of all Negro students attend schools which are 95 per cent or more black.

Demands that an arbitrary "racial balance" be established as a matter of right misinterpret the law and misstate the priorities.

As a matter of educational policy, some school boards have chosen to arrange their school systems in such a way as to provide a greater measure of racial integration. The important point to bear in mind is that where the existing racial separation has not been caused by official action, this increased integration is and should remain a matter for local determination.

Pupil assignments involve problems which do not arise in the case of the assignment of teachers. If school administrators were truly color blind and teacher assignments did not reflect the color of the teacher's skin, the law of averages would eventually dictate an approximate racial balance of teachers in each school within a system.

Not just a matter of race

Available data on the educational effects of integration are neither definitive nor comprehensive. But such data as we have suggest strongly that, under the appropriate conditions, racial integration in the classroom can be a significant factor in improving the quality of education for the disadvantaged. At the same time, the data lead us into several more of the complexities that surround the desegregation issue.

For one thing, they serve as a reminder that, from an educational standpoint, to approach school questions solely in terms of race is to go astray. The data tell us that in educational terms, the significant factor is not race but rather the educational environment in the home—and indeed, that the single most important educational factor in a school is the kind of home environment its pupils come from. As a general rule, children from families whose home environment encourages learning—whatever their race—are higher achievers; those from homes offering little encouragement are lower achievers.

Which effect the home environment has de-

pends on such things as whether books and magazines are available, whether the family subscribes to a newspaper, the educational level of the parents, and their attitude toward the child's education.

The data strongly suggest, also, that in order for the positive benefits of integration to be achieved, the school must have a majority of children from environments that encourage learning—recognizing, again, that the key factor is not race but the kind of home the child comes from. The greater concentration of pupils whose homes encourage learning—of whatever race—the higher the achievement levels not only of those pupils, but also of others in the same school. Students learn from students. The reverse is also true: the greater concentration of pupils from homes that discourage learning, the lower the achievement levels of all.

We should bear very carefully in mind, therefore, the distinction between educational difficulty as a result of race, and educational difficulty as a result of social or economic levels, of family background, of cultural patterns, or simply of bad schools. Providing better education for the disadvantaged requires a more sophisticated approach than mere racial mathematics.

In this same connection, we should recognize that a smug paternalism has characterized the attitudes of many white Americans toward school questions. There has been an implicit assumption that blacks or others of minority races would be improved by association with whites. The notion that an all-black or predominantly-black school is automatically inferior to one which is all or predominantly-white—even though not a product of a dual system—inescapably carries racist overtones. And, of course, we know of hypocrisy: not a few of those in the North most stridently demanding racial integration of public schools in the South at the same time send their children to private schools to avoid the assumed inferiority of mixed public schools.

It is unquestionably true that most black schools—though by no means all—are in fact inferior to most white schools. This is due in part to past neglect or shortchanging of the black schools; and in part to long-term patterns of racial discrimination which caused a greater proportion of Negroes to be left behind educationally, left out culturally, and trapped in low paying jobs. It is not really because they serve black children that most of these schools are inferior, but rather because they serve poor children who often lack the home environment that encourages learning.

Innovative approaches

Most public discussion of overcoming racial isolation centers on such concepts as compulsory "busing"—taking children out of the schools they would normally attend, and forcing them instead to attend others more distant, often in strange or even hostile neighborhoods. Massive "busing" is seen by some as the only alternative to massive racial isolation.

However, a number of new educational ideas are being developed, designed to provide the educational benefits of integration without depriving the student of his own neighborhood school.

For example, rather than attempting dislocation of whole schools, a portion of a child's educational activities may be shared with children from other schools. Some of his education is in a "home-base" school, but some outside it. This "outside learning" is in settings that are defined neither as black nor white, and sometimes in settings that are not even in traditional school buildings. It may range all the way from intensive work in reading to training in technical skills, and to joint efforts such as drama and athletics.

By bringing the children together on "neutral" territory friction may be dispelled; by limiting it to part-time activities no one would be deprived of his own neighborhood school; and the activities themselves provide the children with better education.

This sort of innovative approach demonstrates that the alternatives are not limited to perpetuating racial isolation on the one hand, and massively disrupting existing school patterns on the other. Without uprooting students, devices of this kind can provide an additional educational experience within an integrated setting. The child gains both ways.

Good faith and the courts

Where desegregation proceeds under the mandate of law, the best results require that the plans be carefully adapted to local circumstances.

A sense of compassionate balance is indispensable. The concept of balance is no stranger to our Constitution. Even First Amendment freedoms are not absolute and unlimited; rather the scales of that "balance" have been adjusted with minute care, case by case, and the process continues.

In my discussion of the status of school desegregation law, I indicated that the Supreme Court has left a substantial degree of latitude within which specific desegregation plans can be designed. Many lower courts have left a comparable degree of latitude. This does not mean that the courts will tolerate or the Administration condone evasions or subterfuges; it does mean that if the essential elements of good faith is present, it should ordinarily be possible to achieve legal compliance with a minimum of educational disruption, and through a plan designed to be responsive to the community's own local circumstances.

This matter of good faith is critical.

Thus the far-sighted local leaders who have demonstrated good faith by smoothing the path of compliance in their communities have helped lay the basis for judicial attitudes taking more fully into account the practical problems of compliance.

How the Supreme Court finally rules on the major issues it has not yet determined can have a crucial impact on the future of public education in the United States.

Traditionally, the Court has refrained from deciding Constitutional questions until it became necessary. This period of legal uncertainty has occasioned vigorous controversy over what the thrust of the law should be.

As a nation, we should create a climate in which these questions, when they finally are decided by the Court, can be decided in a framework most conducive to reasonable and realistic interpretation.

We should not provoke any court to push a Constitutional principle beyond its ultimate limit in order to compel compliance with the court's essential, but more modest, mandate. The best way to avoid this is for the nation to demonstrate that it does intend to carry out the full spirit of the Constitutional mandate.

POLICIES OF THIS ADMINISTRATION

It will be the purpose of this Administration to carry out the law fully and fairly. And where problems exist that are beyond the mandate of legal requirements, it will be our purpose to seek solutions that are both realistic and appropriate.

I have instructed the Attorney General, the Secrtary of Health, Education and Welfare, and other appropriate officials of the Government to be guided by these basic principles and policies:

Principles of enforcement

Deliberate racial segregation of pupils by official action is unlawful, wherever it exists. In the words of the Supreme Court, it must be eliminated "root and branch"—and it must be eliminated at once.

Segregation of teachers must be eliminated. To this end, each school system in this nation, North and South, East and West, must move immediately, as the Supreme Court has ruled, toward a goal under which "in each school the ratio of White to Negro faculty members is substantially the same as it is throughout the system."

With respect to school facilities, school administrators throughout the nation, North and South, East and West, must move immediately, also in conformance with the Court's ruling, to assure that schools within individual school districts do not discriminate with respect to the quality of facilities or the quality of education delivered to the children within the district.

In devising local compliance plans, primary weight should be given to the considered judgment of local school boards—provided they act in good faith, and within Constitutional limits.

The neighborhood school will be deemed the most appropriate base for such a system.

Transportation of pupils beyond normal geographic school zones for the purpose of achieving racial balance will not be required.

Federal advice and assistance will be made available on request, but Federal officials should not go beyond the requirements of law in attempting to impose their own judgment on the local school district.

School boards will be encouraged to be flexible and creative in formulating plans that are educationally sound and that result in effective desegregation.

Racial imbalance in a school system may be partly *de jure* in origin, and partly *de facto*. In such a case, it is appropriate to insist on remedy for the *de jure* portion, which is unlawful, without insisting on a remedy for the lawful *de facto* portion.

De facto racial separation, resulting genuinely from housing patterns, exist in the South as well as the North; in neither area should this condition by itself be cause for Federal enforcement actions. *De jure* segregation brought about by deliberate school-board gerrymandering exists in the North as the South; in both areas this must be remedied. In all respects, the law should be applied equally, North and South, East and West.

This is one nation. We are one people. I feel strongly that as Americans we must be done, now and for all future time, with the divisive notion that these problems are sectional.

Policies for progress

In those communities facing desegregation orders, the leaders of the communities will be encouraged to lead—not in defiance, but in smoothing the way of compliance. One clear lesson of experience is that local leadership is a fundamental factor in determining success or failure. Where leadership has been present, where it has been mobilized, where it has been effective, many districts have found that they could, after all, desegregate their schools successfully. Where local leadership has failed, the community has failed and the schools and the children have borne the brunt of that failure.

We shall launch a concerted, sustained and honest effort to assemble and evaluate the lessons of experience: to determine what methods of school desegregation have worked, in what situations, and why—and also what has not worked. The Cabinet-level working group I recently appointed will have as one of its principal functions amassing just this sort of information and helping make it available to the communities in need of assistance.

We shall attempt to develop a far greater body of reliable data than now exists on the effects of various integration patterns on the learning process. Our effort must always be to preserve the educational benefit for the children.

We shall explore ways of sharing more broadly the burdens of social transition that

have been laid disproportionately on the schools—ways, that is, of shifting to other public institutions a greater share of the task of undoing the effects of racial isolation.

We shall seek to develop and test a varied set of approaches to the problems associated with *"de facto"* segregation, North as well as South.

We shall intensify our efforts to ensure that the gifted child—the potential leader—is not stifled intellectually merely because he is black or brown or lives in a slum.

While raising the quality of education in all schools, we shall concentrate especially on racially-impacted schools, and particularly on equalizing those schools that are furthest behind.

Words often ring empty without deeds. In government, words can ring even emptier without dollars.

In order to give substance to these commitments, I shall ask Congress to divert $500 million from my previous budget requests for other domestic programs for Fiscal 1971, to be put instead into programs for improving education in racially-impacted areas, North and South, and for assisting school districts in meeting special problems incident to court-ordered desegregation. For Fiscal 1972, I have ordered that $1 billion be budgeted for the same purposes.

I am not content simply to see this money spent, and then to count the spending as the measure of accomplishment. For much too long, national "commitments" have been measured by the number of Federal dollars spent rather than by more valid measures such as the quality of imagination displayed, the amount of private energy enlisted or, even more to the point, the results achieved.

If this $1.5 billion accomplishes nothing, then the commitment will mean nothing.

If it enables us to break significant new ground, then the commitment will mean everything.

This I deeply believe:

Communities desegregating their schools face special needs—for classrooms, facilities, teachers, teacher training—and the nation should help meet those needs.

The nation also has a vital and special stake in upgrading education where de facto segregation persists—and where extra efforts are needed if the schools are to do their job. These schools, too, need extra money for teachers and facilities.

Beyond this, we need to press forward with innovative new ways of overcoming the effects of racial isolation and of making up for environmental deficiencies among the poor.

I have asked the Vice President's Cabinet Committee on School Desegregation, together with the Secretary of Health, Education and Welfare, to consult with experts in and out of government and prepare a set of recommended criteria for the allocation of these funds.

I have specified that these criteria should give special weight to four categories of need:

The special needs of desegregating (or recently desegregated) districts for additional facilities, personnel and training required to get the new, unitary system successfully started.

The special needs of racially-impacted schools where *de facto* segregation persists—and where immediate infusions of money can make a real difference in terms of educational effectiveness.

The special needs of those districts that have the furthest to go to catch up educationally with the rest of the nation.

The financing of innovative techniques for providing educationally sound inter-racial experiences for children in racially isolated schools.

This money—the $500 million next year, and $1 billion in Fiscal 1972—must come from other programs. Inevitably, it represents a further reordering of priorities on the domestic scene. It represents a heightened priority for making school desegregation work, and for helping the victims of racial isolation learn.

Nothing is more vital to the future of our nation than the education of its children; and at the heart of equal opportunity is equal educational opportunity. These funds will be an investment in both the quality and the equality of that opportunity.

This money is meant to provide help *now*, where help is needed now.

As we look to the longer-term future, it is vital that we concentrate more effort on understanding the process of learning—and improving the process of teaching. The educational needs we face cannot be met simply with more books, more classrooms and more teachers—however urgently these are needed now in schools that face shortages. We need more effective methods of teaching, and especially of teaching those children who are hardest to reach and most lacking in a home environment that encourages learning.

In my message on education reform earlier this month, I proposed creation of a National Institute of Education to conduct and to sponsor basic and applied educational research—with special emphasis on compensatory education for the disadvantaged, on the Right to Read, on experimental schools and on the use of television for educational purposes.

I repeat that proposal—and I ask that the Congress consider it a matter of high priority.

A FREE AND OPEN SOCIETY

The goal of this Administration is a free and open society. In saying this, I use the words "free" and "open" quite precisely.

Freedom has two essential elements: the *right* to choose, and the *ability* to choose. The right to move out of a mid-city slum, for example, means little without the means of doing so. The right to apply for a good job means little without access to the skills that make it attainable. By the same token, those skills are of little use if arbitrary policies exclude the person who has them because of race or other distinction.

Similarly, an "open" society is one of open choices—and one in which the individual has the mobility to take advantage of those choices.

In speaking of "desegregation" or "integration," we often lose sight of what these mean within the context of a free, open, pluralistic society. We cannot be free, and at the same time be required to fit our lives into prescribed places on a racial grid—whether segregated or integrated, and whether by some mathematical formula or by automatic assignment. Neither can we be free, and at the same time be denied—because of race—the right to associate with our fellow-citizens on a basis of human equality.

An open society does not have to be homogeneous, or even fully integrated. There is room within it for many communities. Especially in a nation like America, it is natural that people with a common heritage retain special ties; it is natural and right that we have Italian or Irish or Negro or Norwegian neighborhoods; it is natural and right that members of those communities feel a sense of group identity and group pride. In terms of an open society, what matters is mobility: the right and the ability of each person to decide for himself where and how he wants to live, whether as part of the ethnic enclave or as part of the larger society—or, as many do, share the life of both.

We are richer for our cultural diversity; mobility is what allows us to enjoy it.

Economic, educational, social mobility—all these, too, are essential elements of the open society. When we speak of equal opportunity we mean just that: that each person should have an equal chance at the starting line, and an equal chance to go just as high and as far as his talents and energies will take him.

This Administration's programs for helping the poor, for equal opportunity, for expanded opportunity, all have taken a significantly changed direction from those of previous years—and those principles of a free and open society are the keys to the new direction.

Instead of making a man's decisions for him, we aim to give him both the *right* and *ability* to choose for himself—and the mobility to move upward. Instead of creating a permanent welfare class catered to by a permanent welfare bureaucracy, for example, my welfare reform proposal provides job training and a job requirement for all those able to work—and also a regular Family Assistance payment instead of the demeaning welfare handout.

By pressing hard for the "Philadelphia Plan," we have sought to crack the color bar in the construction unions—and thus to give black and other minority Americans both the right and the ability to choose jobs in the construction trades, among the highest paid in the nation.

We have inaugurated new Minority Business Enterprise programs—not only to help minority members get started in business themselves, but also, by developing more black and brown entrepreneurs, to demonstrate to young blacks, Mexican-Americans and others that they, too, can aspire to this same sort of upward economic mobility.

In our education programs, we have stressed the need for far greater diversity in offerings to match the diversity of individual needs—including more and better vocational and technical training, and a greater development of 2-year community colleges.

Such approaches have been based essentially on faith in the individual—knowing that he sometimes needs help, but believing that in the long run he usually knows what is best for himself. Through them also runs a belief that education is the key that opens the door to personal progress.

As we strive to make our schools places of equal educational opportunity, we should keep our eye fixed on this goal: To achieve a set of conditions in which neither the laws nor the institutions supported by law any longer draw an invidious distinction based on race; and going one step further, we must seek to repair the human damage wrought by past segregation. We must give the minority child, that equal place at the starting line that his parents were denied—and the pride, the dignity, the self-respect, that are the birthright of a free American.

We can do no less and still be true to our conscience and our Constitution. I believe that most Americans today, whether North or South, accept this as their duty.

The issues involved in desegregating schools, reducing racial isolation and providing equal educational opportunity are not simple. Many of the questions are profound, the factors complex, the legitimate considerations in conflict, and the answers elusive. Our continuing search, therefore, must be not for the perfect set of answers, but for the most nearly perfect and the most constructive.

I am aware that there are many sincere Americans who believe deeply in instant solutions and who will say that my approach does not go far enough fast enough. They feel that the only way to bring about social justice is to integrate all schools now, everywhere, no matter what the cost in the disruption of education.

I am aware, too, that there are many equally sincere citizens—North and South, black and white—who believe that racial separation is right, and wish the clock of progress would stop or be turned back to 1953. They will be disappointed, too.

But the call for equal educational oppor-

tunity today is in the American tradition. From the outset of the nation, one of the great struggles in America has been to transform the system of education into one that truly provided equal opportunity for all. At first, the focus was on economic discrimination. The system of "fee schools" and "pauper schools" persisted well into the 19th century.

Heated debates preceded the establishment of universal free public education—and even in such States as New York, New Jersey and Connecticut, the system is barely a century old.

Even today, inequities persist. Children in poor areas often are served by poor schools—and unlike the children of the wealthy, they cannot escape to private schools. But we have been narrowing the gap—providing more and better education in more of the public schools, and making higher education more widely available through free tuition, scholarships and loans.

In other areas, too, there were long struggles to eliminate discrimination that had nothing to do with race. Property and even religious qualifications for voting persisted well into the 19th century—and not until 1920 were women finally guaranteed the right to vote.

Now the focus is on race—and on the dismantling of all racial bars to equality of opportunity in the schools. As with the lowering of economic barriers, the pull of conscience and the pull of national self-interest both are in the same direction. A system that leaves any segment of its people poorly educated serves the nation badly, a system that educates all of its people well serves the nation well.

We have overcome many problems in our 190 years as a nation. We can overcome this problem. We have managed to extend opportunity in other areas. We can extend it in this area. Just as other rights have been secured, so too can these rights be secured—and once again the nation will be better for having done so.

I am confident that we can preserve and improve our schools, carry out the mandate of our Constitution, and be true to our national conscience.

Mr. HOLLINGS. Mr. President, if the Senator from Missouri will continue the discussion about one thought I had, perhaps he can clarify something for me. The Senator said New York has a freedom of choice law. Is that correct?

Mr. EAGLETON. Yes. We discussed that in the debate.

Mr. HOLLINGS. As a matter of fact, the New York Times, and I think the CBS in a New Year's roundup in December, said segregation had increased under that law in 1969; that at the end of the year segregation was on the increase.

Mr. EAGLETON. I am not familiar with that article from the Times. But if the Senator says that is what it said, that is correct.

Mr. HOLLINGS. If that is what they say occurred in New York, and that is what occurred under the law in New York, then New York is a de jure State, is it not?

Mr. EAGLETON. Mr. President, New York is one of the 50 States of the Union, but it is happily one of the States that does not apply to de jure or a dual school system.

Mr. HOLLINGS. If that is a freedom of choice, and segregation is on the increase, how does that make it de jure?

Mr. EAGLETON. The statutes of New York do not set up, nor do the New York school districts by administrative fiat set up, separate or dual school systems, one for the blacks and one for the whites.

Mr. HOLLINGS. In New York it results in segregation. But when we pass a law that applies to the South, the law must result in integration. In the North when it results in segregation, they try to maintain that it is de jure segregation and that the law does not apply to New York. However, they say the law does apply to South Carolina, which did away with its segregation 15 years ago.

Mr. EAGLETON. De jure segregation is to be affected by subsection (b) wherever found, from Maine to Hawaii, with every State included in between.

Mr. HOLLINGS. The difference depends on whether they pass a law in the South. If they happen to have had laws in 1954 which did away with that situation, they still consider it de facto. But in a State like New York that in 1969 passed a freedom of choice plan which results in segregation that is de jure segregation. Is that correct?

Mr. EAGLETON. I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, we had a colloquy during the debate with the Senator from New York on this matter.

Mr. HOLLINGS. Does the Senator from Minnesota have the floor?

Mr. MONDALE. I do not have the floor.

Mr. EAGLETON. I yield the floor.

Mr. HOLLINGS. Mr. President, do I have the floor? I would like to have the Senator from Minnesota have the floor.

The PRESIDING OFFICER. The Senator from Missouri had the floor. He has yielded to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I simply wanted to clear up one point. During the debate, the Senator from New York (Mr. JAVITS) mentioned that he opposed the New York law. He made it very clear that wherever there was official segregation, including New York, it was clearly unconstitutional and illegal and had to be eliminated.

There is a uniform rule prohibiting official discrimination. And if the law in New York seeks in any way to impair the protection of Constitutional rights it obviously is ineffective.

Mr. HOLLINGS. Mr. President, if the distinguished Senator from Minnesota would stop at that particular point, no one doubts the sincerity of the Senator from New York. But perhaps that is where the administration got its guidelines. They say, "Lower your voice. Do not judge this administration by what we say, but by what we do."

And when we, from our vantage point, looked at the distinguished State of New York and looked at the record of New York, we did not hear any objections until finally we pressured them with the Stennis amendment. We had to flush them out like rabbits out of the brier patch. Then they came up with the statement as to how they opposed the freedom of choice.

We did not see the Secretary of HEW receive any letter from New York about the application of integration guidelines in that 8- by 40-block area known as Harlem.

We find them all the time arm in arm, demonstrating in every fashion possible to show what a terrible situation exists in the South in running the schools in the South.

That is why we wonder when we hear that they got into the conference committee and justified the action of the State of New York. We begin to question it.

Does the Senator from Minnesota really believe in that segregation provision test? He did not write this in the conference committee?

Mr. MONDALE. Mr. President, I think it is probably in order to describe the matter.

Mr. HOLLINGS. Who wrote this section?

Mr. MONDALE. The President has clarified his position on civil rights today. It is all spelled out in 19 pages. I have not read it. But I know it clarifies his position.

Mr. HOLLINGS. Does the Senator know whether the President dealt with de facto and de jure? Do the words de facto or de jure appear anywhere in those 19 pages?

Mr. MONDALE. I would hope so. I believe it does.

Mr. HOLLINGS. We will both research that.

Senators who have preceded the Senator from Minnesota this morning said in the debate that it was not clear about the intent of the Stennis amendment. But is it not a fact that we said, "Let's make it clear and add the language, whether de jure or de facto. We are not going to have two classes of citizens"? Under HEW administration of school laws in America, if an individual, under the 14th amendment and the Constitution, happened to find himself under a de jure system, he had no rights; but if he was in a de facto system, he had some rights. We were trying to go back to what Chief Justice Vinson announced in the original cases in the early 1950's: Let us not have any of this "either/or"; let us treat citizens fairly and equally, regardless of de jure or de facto.

I am sure that is the creed of the Senator from Minnesota. Did the Senator join in this particular provision?

Mr. MONDALE. I think it is important to try to indicate the degree to which the conferees tried to sustain the position of the Senate, a position which initially was sustained by a vote of 48 to 46. I refer to the effort by the Senator from Pennsylvania (Mr. SCOTT) to substitute his proposal for the Stennis amendment. I recall that that effort was defeated by a 2-vote margin.

The conference was in session for nearly 2 weeks. The Stennis amendment was repeatedly brought up, but the House conferees were adamantly opposed to any Stennis amendment at all.

First the House conferees, I think with one dissenting vote, asked the Senate to recede and delete the Stennis amendment completely.

Mr. HOLLINGS. Yes, but——

Mr. MONDALE. If the Senator will let me finish this statement, I think it is important for us to get a sense of the position of the Senate conferees here.

The Senate refused to yield. Thereafter, the House offered a modification, substituting the word "discrimination"

for the word "segregation" and deleting the words "whether de facto or de jure" and deleting the words appearing in the Stennis amendment "without regard to the origin of cause of such segregation."

This amendment was offered by Representative QUIE, of Minnesota. The Senate conferees once again refused to yield; as a matter of fact, I think we refused to yield to that version on two occasions.

Then the Senate—and this was after nearly 2 weeks of debate which involved a good deal of discussion on this issue—offered a modification adding to the Stennis amendment the following phrase: "To the extent of otherwise applicable law," hoping this would provide a basis for settlement; and adding what is now subsection (c):

Providing nothing in this section will be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines in order to eliminate discrimination in federally assisted programs and activities as required by title VI of the Civil Rights Act of 1964.

In other words, this was our effort to maintain what we then thought was the best and most complete Senate position that was then possible and still reach agreement. The House rejected that proposal.

Then the House offered the modified language now in the conference report. I believe it was offered by Representative FORD of Michigan.

Mr. HOLLINGS. So subsection (b) was written by Representative FORD of Michigan?

Mr. MONDALE. Yes; but I would like to get all of this in the record at this point and then go back. It was Representative WILLIAM FORD of Michigan.

Mr. HOLLINGS. Of Michigan.

Mr. MONDALE. Next, the Senate amended the House offer by substituting the original Stennis language for subsection (a) and sent this modification back to the House conferees. The House rejected the Senate amendments and re-offered the modified language now in the conference report. Finally, reluctantly, after two weeks the Senate accepted the House offer in order to complete the conference.

I assure the Senator from South Carolina that the Senate conferees tried to be, to the fullest extent possible, trustees of the action of the Senate.

I say this for the chairman of our conference committee, the distinguished Senator from Rhode Island. If ever there was a chairman of a Senate delegation who tried harder to sustain a position on a controversial point with which there may have been personal disagreement, I am not aware of it. But it was felt that the principle of the conferees in their representative character required that kind of representation, which was performed by the distinguished Senator from Rhode Island.

If the Senator from South Carolina does not object, I would like to yield to the Senator from Rhode Island on this very point.

Mr. HOLLINGS. Let me clarify the record for just a moment, since I still have the floor, and then we will proceed as the Senator requested.

Mr. MONDALE. Very well.

Mr. HOLLINGS. No one doubts the sincerity and dedication of the Senator from Rhode Island.

Mr. PELL. Mr. President, will the Senator yield to me for 1 minute?

Mr. HOLLINGS. I yield.

Mr. PELL. I would like to make the point that every member of the Senate conferees fought hard on this matter, particularly the senior Senator from New York, the ranking minority member (Mr. JAVITS), as well as the other Senate conferees who were in disagreement with the body of the Stennis amendment when it was considered on the floor. They fought for it. In fact, I think we produced a considerable surprise in the conference. One member on the House side seemed very upset. He felt all of his members were not reflecting the body as a whole and took the occasion—I believe he was from the Senator's State—to remark on what an able job Senators were doing in upholding the views of the Senate, although they were not upholding their own views on the subject.

Mr. HOLLINGS. One can understand the apprehension and somewhat sense of misgiving, when we talk about fighting hard. We know how able, resourceful, and effective the senior Senator from New York is; yet his State ends up with a freedom of choice law on the books, to which the Senator finds no objection. The Stennis amendment was adopted in the Senate by a vote of 56 to 36. We somehow get a feeling of delivering letters by rabbit when they say they fought hard.

I yield to my distinguished friend.

Mr. PELL. We did fight hard. I made a mistake. The gentleman was not from the State of the Senator from South Carolina, but from a State to the immediate north.

Mr. HOLLINGS. I see.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. PROUTY. Mr. President, I voted for the Stennis amendment in the Senate, and I was a conferee. I can assure the distinguished Senator from South Carolina that the conferees, in my judgment, did everything possible to sustain the action of the Senate on the Stennis amendment. I voted for it when it was before the Senate. I did my best, and I am sure every member of the conference committee on the Senate side worked steadfastly and did everything in his power to maintain the position of the Senate.

Mr. HOLLINGS. We know the record of the House of Representatives. That is the body by which a good majority sends over here each year the Whitten amendment, which is far more stringent and far more segregationist, if we want to use colorful language, than the language of the Stennis amendment. The Stennis amendment was not segregationist at all. We clarified it and said de jure or de facto.

When the Senator talks about the conference taking 2 weeks, I am reminded of his valiant fight on open and equal housing. It took some 7 or 8 months to debate that. That bill was almost a month on the floor of the Senate. I cannot see him coming out of that conference committee and putting certain pupils in America in one house of de jure segregation and putting other pupils in another house of de facto segregation.

Is that not what we said in the Stennis amendment—that there is not going to be that classification? We said, whether de jure or de facto, there is going to be equal application under the law. I cannot imagine my friend coming up with provision for segregation in here.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield to the distinguished Senator from Pennsylvania.

Mr. SCOTT. I was not a conferee. I do not see anything greatly wrong with the substitute except that, like the original, neither one of them has any constitutional effect. Neither one is enforceable. Neither one expresses anything more than a pious hope that people will obey the law, and they ought to obey it everywhere alike. But the President, in his message this morning, demolishes completely the need for any one of these amendments, when we get down to it. Therefore, I cannot care very much whether it is section (b) or (c) or page 1, because, on page 7 of the Preseident's message on school desegregation, the President says:

To summarize: There is a Constitutional mandate that dual school systems and other forms of de jure segregation be eliminated totally. But within the framework of that requirement an area of flexibility—a "rule of reason"—exists, in which school boards, acting in good faith, can formulate plans of desegregation which best suit the needs of their own localities.

Mr. HOLLINGS. Does the Senator from Pennsylvania construe that language to mean that the President supports de facto segregation?

Mr. SCOTT. I will go on to read what the President himself says on de facto segregation. I am simply pointing out that this previous portion of the message ought to be acceptable in every section of the country as being fair. The next paragraph is equally so. I quote now from the President's statement delivered at 11 o'clock a.m.:

De facto segregation, which exists in many areas both North and South, is undesirable but is not generally held to violate the Constitution. Thus, residential housing patterns may result in the continued existence of some all-Negro schools even in a system which fully meets Constitutional standards. But in any event, local school officials may, if they so choose, take steps beyond the Constitutional minimums to diminish racial separation.

That is the end of the quotation.

What I am saying is that in this morning's meeting the President was asked about these two paragraphs and he said the evil is the same, but the approach is different, because in de facto segregation there is the difference of the law, the absence of Supreme Court decision, there is the difference in the cost of the application, as witness the Los Angeles decision, and there is a difference in the application of the remedies.

I am paraphrasing the discussion of this morning, but what I am saying is that the President's message makes it very clear that de jure segregation is one

thing and the law is going to be applied in this country in all sections fairly and justly and equally; and he is right. He says that de facto segregation is undesirable also. I go further and say it is wrong and it is evil. But he goes further to say it is not yet held to be unconstitutional, as he phrased it.

Therefore, the point I make is that I think the furor over that section or the original Stennis amendment is no longer not only unworthy but is a tempest in a teapot gone cold with disuse or no reason for its use.

Mr. HOLLINGS. That is, if the distinguished Senator from Pennsylvania lives in Pennsylvania, but if he lives in the State of South Carolina, it is no tempest gone cold. It has become very, very warm and it has been warm for years.

I cannot comment on the President's message, because I have not read it, so I will withhold comment on it, but what we are about to do in the Senate today is enact a law, and what we say in the Elementary and Secondary Education Act is, "Look, Mr. HEW, it is a policy of the United States, the guidelines and criteria, not about the Constitution, not about de jure or de facto, not North or South, not whether it is the law, or good policy or bad policy or not." Regardless of all those things, JOHN STENNIS, with the help of ABE RIBICOFF of Connecticut, made it crystal clear. They said:

> Now this government shall apply the guidelines and criteria uniformly, whether the segregation be de jure or de facto.

Is not that what the U.S. Senate said by a vote of 56 to 36?

Mr. SCOTT. It is what the distinguished Senate said, but in doing so, it, with that rare facility which we have in the Senate and as lawyers, totally ignored the law and the Constitution of the United States. That we are quite able to do, and often do, all of us. We all sin, and peccavi is our policy in that regard.

Mr. HOLLINGS. The Senator says, "the law." We have the Stennis amendment, which more nearly approximates equal justice under the law than the language in the report does. Would the Senator divide the application of the law, and make it one way under de jure and another under de facto segregation?

Mr. SCOTT. I say the equal application of the law is the most desirable result we can achieve, but we have to achieve it in accordance with what the Supreme Court has said. It has ruled on de jure segregation. It has not ruled on de facto segregation. I had nothing to do with the wording of section (b), but if it is applied to de jure segregation, it should be applied uniformly throughout the whole country.

If the Senator is talking about de facto, if it is to be applied uniformly throughout the country, as applied to de jure violations or de facto violations, the great thrust of what the President said today is that he pleads for an end to regional distinction between North and South; and again I say he is right.

Mr. HOLLINGS. Is there a better plea than the Stennis amendment? Let us get back to the Morning Show in which Secretary of Labor Shultz was commenting on the postal strike, in which a striking lady postal worker said: "Everybody else is doing it; why shouldn't we?"

It gets to the point that what is wrong is that the Department of Health, Education, and Welfare have no uniformity of application. They send their agents and bring their guidelines to one section only, and they do not apply the law uniformly. Did not this all start with the Senator from Georgia when he found that 17 HEW agents were in South Carolina and only two in Chicago, and one in the entire State of Minnesota, and I think six in New York? Was it not the thinking that all the evil was down there? And all we are saying is, invoke equal justice under the law and a better feeling about integration and allowing them in the schools together, regardless of where they live, in the South or North. They say the greater evil exists in the South. Is not that what is ruining our progress in the South, because we feel we are discriminated against when we see the leadership ignore the segregation law in some areas and we know it?

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HOLLAND). Does the Senator from North Carolina yield to the Senator from Mississippi?

Mr. PELL. Mr. President, the Senator from South Carolina has the floor.

Mr. HOLLINGS. Mr. President, I wish to yield to the Senator from Pennsylvania to complete his thought.

The PRESIDING OFFICER. The Senator from South Carolina yields to the Senator from Pennsylvania. The Chair would suggest that the Senator from Pennsylvania did not ask the Senator from South Carolina to yield.

Mr. SCOTT. Mr. President, I admit I did not ask for it, but I had my mouth open, which is preliminary to it.

The PRESIDING OFFICER. The Senator from Pennsylvania certainly has had his mouth open for the last 5 or 10 minutes.

Mr. SCOTT. The Senator from Pennsylvania had his mouth open because of some of the illogical statements made which he heard with arrectis auribus, even though his mind rejected them.

The PRESIDING OFFICER. The Senator from Pennsylvania has been yielded to.

Mr. SCOTT. By the way, "arrectis auribus" means upright ears, if any Senator has any doubt about it. May I say I think such arguments as the Senator made, that the laws should be equally applied, I agree with. All I am saying is that the court has not yet ruled on how to apply the law as to de facto segregation. Until it does, we do not know how to apply it, either. All section (b) says is, wherever the courts have said it is de jure, apply the law equally. Wherever the courts have failed to rule on de facto, apply such law, as remains left in your hands, until it is finally decided by the courts, but apply it equally. What is wrong with that?

Mr. HOLLINGS. We are not waiting for the Supreme Court for this application, because it is a moving target in this area.

We have a very difficult time, but when you get to a conscience-ridden discussion like the debate we had on the Stennis amendment, I think it is salutary for this country. We were telling it like it is, and everybody was making his talk about equal rights and human rights, and when we added to the amendment, "whether de jure or de facto," we were setting down the policy as it concerned the legislative branch of this Government.

We were not trying to outguess the courts. We said whether they found it de facto or whatever it was, we were asking for uniformity and equal justice under the law. That is all the Senate was asking for; why recede from it? Why are we now saying, all of a sudden, we cannot say what the court is going to do, and going into all this doubletalk? What the conference report is trying to do is replace dual school systems with dual citizenship.

Mr. SCOTT. What does the Senator find wrong with what the conferees have done? They are still asking for equal application of the law so far as it has been handed down.

Mr. STENNIS. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER (Mr. HOLLAND). Does the Senator from South Carolina yield to the Senator from Mississippi?

Mr. HOLLINGS. I yield.

Several Senators addressed the Chair.

Mr. PELL. Mr. President, am I recognized?

The PRESIDING OFFICER. Just a moment. Is the Senator from Rhode Island asking for recognition? If so, for what purpose?

Mr. PELL. I was asking for recognition to yield to the Senator from Mississippi.

The PRESIDING OFFICER. Does the Senator have the floor? The Presiding Officer did not know that; he thought the Senator from South Carolina had it.

Mr. HOLLINGS. I yielded the floor, Mr. President.

The PRESIDING OFFICER. The Chair then recognizes the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Chair, but I did not really seek recognition. I think the Senator from Rhode Island, who is handling the conference report, is entitled to the floor if he wishes it.

Mr. PELL. I yield to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

I wanted to make a point, Mr. President, in respect to the colloquy between the Senator from South Carolina and the Senator from Pennsylvania. If I may have the attention of the Senator from Pennsylvania, I am going to mention his State in the figures I am about to cite.

Mr. SCOTT. I would be delighted to listen to my friend.

Mr. STENNIS. The figures I am about to recite for my State were supplied by HEW. They advise me that according to their records on 118 districts in Mississippi, containing 223,784 Negro students, of that number, 50.4 percent attend either majority white schools in HEW-monitored voluntary plan districts—that means plans under HEW—or school districts which have been integrated under court order, based upon HEW-approved plans.

There are 30 districts that are not included in this tabulation I have given, and they have 30,500 Negro students. They are set aside from the tabulation because they were not in the records, because they were not drawing any Federal funds, and HEW did not have records on them; so I set them out separately.

I repeat, in these 118 districts—which is all of them, as I have stated, except 30—with 223,784 Negro students, 50.4 percent of those students are in schools that are majority white schools.

This compares with an average, for the 32 States outside the South—I call them the Northern, the Eastern, and the Western States—of 27.6 percent.

In other words, 27.6 percent of the Negro students in those States are in majority white schools. The percentage in Illinois is down as low as 13.6 percent Negro students in majority white schools. I have already stated the figures for Mississippi: 50.4 percent, leaving out these 30 districts.

In the State of California, 22.5 percent.

In the State of New York, 32.3 percent.

In the State of Michigan, 20.6 percent.

In the State of Nebraska, 27.3 percent.

In the State of Ohio, 27.7 percent.

In the State of Pennsylvania, 27.5 percent.

In the State of Indiana, 35 percent.

If I may have the attention of the Senator from Pennsylvania, I have given these figure showing the number of Negro students in majority white schools in Mississippi, excluding 30 special districts, at 50.4 percent, as compared to a figure for his State of Pennsylvania of only 27.5 percent.

Under the amendment that we discussed, Mississippi would come under the de jure classification, and would be condemned on all fours, all over the State, in spite of these favorable figures; whereas, under the amendment brought back by the committee, the State of Pennsylvania would be exempt. According to this amendment, it could not be touched.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. STENNIS. Let me finish my statement, and I shall be happy to yield.

It could not be touched, just because of a legalism, as the Senator from Pennsylvania says, which the Supreme Court has not passed on. And the Supreme Court, in case after case after case, has refused to pass on the question if the case originated outside the South, and in case after case, as the Senator already knows, they have passed on it if the case came up from the South.

If that is fairness, if that is unity, if that is equity, if that is right, then I will have to relearn everything I was ever taught. But that is exactly the situation we are up against here, and that is what we were trying to do something about.

If you want to perpetuate and protect segregation in your schools, you stand with the group that are sponsoring this amendment. If you want to get at the real problem, let us start off with something that is fair, and has equality to it, and get down to where the grubbing is, where the people are, and do something about these hundreds of thousands or millions of colored school children outside the South.

Mr. SCOTT. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield to the Senator from Pennsylvania?

Mr. STENNIS. I yield.

Mr. SCOTT. The Senator from Mississippi knows my very high regard for him. He has spoken of what he learned. He and I were educated in the same schools; we were taught the same things; but I suggest, with great respect, that we learned different conclusions. That is what we are arguing about here.

What I would like to point out, with the utmost respect, since the Senator has asked what is the difference between Pennsylvania and Mississippi—the distinguished Senator from South Carolina has missed his usual opportunity to refer to me as a Philadelphia lawyer; but I would not want that opportunity to be missed, and so I insert it myself—is that there is a difference, and the difference is that de jure segregation, or de jure integration, results because the Supreme Court has said that certain States took certain actions to avoid the voluntary integration of their students and to end the dual school system.

Pennsylvania does not have, and has not had within my memory, a dual school system, nor has it taken any statutory or other evasive methods to avoid the integration of its students. Yet, it does have, woefully and unfortunately, a considerable amount of de facto segregation; I admit that. I agree to it. I deplore it, if those people who are segregated de facto wish to have a different system by which they can gain their education, and many do. But the difference is that the law was passed to remedy something that was wrong, and that is in parts of the country that were not disposed to allow black children and white children to go to school together. It is as simple as that.

The Senator has not only pride of authorship; he also has a right to regret the fact that the conferees changed his amendment. It happens to all of us. But I cannot see where the change in the amendment has done any good—has done any harm or any good. No, I will make it that way, because I really meant to say—it was more than a Freudian slip—I do not think the change has done any good or any harm. I do not think either the Senator's amendment or this one has any bearing whatever on the law.

The Supreme Court has the last best guess as to the law, and the Supreme Court has decided that the law regarding de jure segregation is thus and so. It has not passed on de facto, and when it does, I hope it will do something about Philadelphia and Chicago and all the other places. But until it does, it seems to me entirely nugatory to argue that the condition in Mississippi and the condition in Pennsylvania are different. We know they are different, and it is because we want to catch one wrong situation at a time that we have the civil rights legislation.

Mr. STENNIS. Will the Senator yield to me on the point he has made?

Mr. SCOTT. I yield.

Mr. STENNIS. Does the Senator know of any State program in Pennsylvania that is trying to integrate the schools? Does Pennsylvania have a State program?

Mr. SCOTT. Yes. We have a Civil Rights Commission, which is a State organization, and we have local civil rights commissions using different designations in each community, all of whom are engaged, in one way or another, wherever the difficulty exists, in seeking to make sure that we have real quality education for all our children. It is imperfect.

Mr. STENNIS. Does the Senator know of any school that has been integrated?

Mr. SCOTT. Yes. The Henry School, which is near where I live in Philadelphia, has been integrated, for example. It is an elementary school.

Mr. STENNIS. Does the Senator object to HEW investigators and Department of Justice investigators coming in and checking these schools?

Mr. SCOTT. I personally have no objection, because they will not find any de jure violation of the law. What they will find is a residential pattern which has led to de facto segregation. That is wrong. I wish it were not so.

Mr. STENNIS. De jure segregation can come through manipulation of a school board——

Mr. SCOTT. Not in my city.

Mr. STENNIS. —by gerrymandering and resort to practices of that kind.

Mr. SCOTT. Not in our city.

If the Senator thinks I am liberal, he ought to see the head of the Philadelphia School Board, the Honorable Richardson Dilworth. I assure the Senator that there is no such deviousness in our school board.

Mr. STENNIS. Mr. President, I did not intend to get the floor. I wanted the Senator from Rhode Island to finish.

Mr. SCOTT. I am through.

Mr. STENNIS. Let me point out that what we are dealing with here is not Supreme Court decisions. This is a matter of policy to be determined by Congress. What is Congress going to do about all these segregated conditions all over the Nation? What is Congress going to do? What is HEW, which is an agency of the executive branch, going to do? What are going to be some of the guidelines that Congress would propose for the operation nationwide?

We already have Federal officials and their policy guidelines operating in all the Southern area of the country. Why is there opposition to their going in other parts of the Nation with somewhat the same standard, the same test, the same requirements? Make a start, anyway. That is what the amendment as adopted by the Senate would have done. But when it comes back here, we find that it applies to the South but protects the North.

Mr. President, I yield the floor.

Mr. PELL. I thank the Senator from Mississippi.

My recollection is that there was a case in Los Angeles, where there was some gerrymandering on the part of the school board. I believe the State court took action, and found de jure segregation.

I know that in Providence, the capital city of my State, an effort is now being made to make sure that there is no more than 20 percent minority children in any school.

Mr. MONDALE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Rhode Island yield to the Senator from Minnesota?

Mr. PELL. I yield.

Mr. MONDALE. I want to make one point. The statement is often made that to limit one's self solely to the enforcement of constitutional prohibitions against official discrimination is simply an anti-South position. In fact, several lawsuits have been brought against de jure discrimination in northern communities throughout this country. I placed the names of several of those in the RECORD in the debate on the original Stennis amendment.

The Los Angeles case, to which the Senator has made reference, was a State court case, but it involved the application of the Federal prohibition against official discrimination. There was a case in South Holland, Ill., and a case in Michigan. In several other places as well official discrimination has been successfully found and attacked outside the South.

It is true, as the Senator from Mississippi has said, that what may appear to be de facto discrimination, upon close examination can in fact be official discrimination. But the same constitutional point applies—that it is illegal and must be eliminated, wherever it is found.

The same is true about enforcement under title VI. Title VI does not precede the Constitution. It follows the court decisions. Under title VI there have been investigations and enforcement proceedings brought throughout this country. It is not simply a southern matter at all.

Once again, these efforts are striking at official discrimination. It is not simply a regional matter. We are talking about national uniformity.

Similarly, there may be a good deal of de facto discrimination in the South as well as the North. If we can eliminate official discrimination, we will be left with this knotty, complex, undesirable although not illegal matter of racial isolation, which is what the newly created Select Committee on Equal Educational Opportunity is designed to explore and seek to understand.

Mr. PELL. I thank the Senator from Minnesota.

Mr. DOMINICK. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Rhode Island yield to the Senator from Colorado?

Mr. PELL. I yield.

Mr. DOMINICK. Just for the purpose of the record, Mr. President, and to give some backing to the conference, when we were debating this issue originally with the distinguished Senator from Mississippi—who is my chairman on another commttee and for whom I have great affection—I pointed out to him that the problem with his amendment as it originally read was with the words "without regard to the origin or cause of segregation." I pointed out that this was the very issue that was being tried before a Federal court in Colorado at that moment.

This was the same issue, really, that we were fighting in committee. In trying to maintain the position of the Senator from Mississippi, over and over again, we continued to reject the House efforts to try to change this amendment, as the chairman will remember. Finally, it became apparent that we either were not going to get a bill or we had to do something which would reenforce the general emotional tenor, which was that rules should be applied uniformly across the country, while still maintaining a constitutional differential between de jure segregation and de facto segregation. I note in the President's message today, on page 14—I will read it into the RECORD if the chairman will permit me. It states in part:

> Racial imbalance in a school system may be partly *de jure* in origin, and partly *de facto*. In such a case, it is appropriate to insist on remedy for the *de jure* portion, which is unlawful, without insisting on a remedy for the lawful *de facto* portion.
>
> *De facto* racial separation, resulting genuinely from housing patterns, exist in the South as well as the North; in neither area should this condition by itself be cause for Federal enforcement actions. *De jure* segregation brought about by deliberate school-board gerrymandering exists in the North as the South; in both areas this must be remedied. In all respects, the law should be applied equally, North and South, East and West.
>
> This is one nation. We are one people. I feel strongly that as Americans we must be done, now and for all future time, with the divisive notion that these problems are sectional.

Mr. President, I subscribe to that 100 percent. It seems to me that this is exactly what the conference committee was trying to point out in its report; namely, that to the extent they are illegal de facto situations will be dealt with uniformly in all areas, and de jure situations will be dealt with uniformly in all areas, that the two policies, by necessity, must be different because they are different in their origin and different in their pattern.

I thank the distinguished Senator from Rhode Island for yielding.

Mr. PELL. Mr. President, I thank the Senator from Colorado very much. Another point backing up what the Senator from Colorado said is that subsection (b) of the amended Stennis language was inserted in the conference, recognizing that there are two types of segregation in our country, as the original amendment did, and that they exist, and that while the law of the land goes to de jure segregation, it does not go to de facto segregation.

(At this point Mr. CRANSTON took the chair as Presiding Officer.)

Mr. PELL. The conference amendment goes further and by implication says that if there is one policy for de facto segregation which at the present time is not touched by law, the policy or lack of it should be applicable in the South and the presumption that all segregation in the South is de jure segregation will no longer be in effect. What this means in practical terms is that if a school district no longer runs a dual school system and does not bus black children by a white school, or vice versa, but does have segregation by neighborhood and economics; then such segregation is not presently touched in the North and it cannot be touched in the South.

Nevertheless, Mr. President, earlier, I yielded for what I thought was a few minutes, to convenience one of my colleagues, prior to making a presentation of the conference report. I would like to return to a discussion of the conference report, for this is a major bill and carries with it some bell ringing legislation.

Members of the conference, from both Senate and House, believe that this is a great educational bill which will return great benefits to our children both from the viewpoint of improving the quality of education, and also the making of education available to more people.

There were various innovative ideas adopted, which most of us—in fact I would say all of us—were quite proud of.

Mr. President, the conferees on the part of the Senate, Senators YARBOROUGH, RANDOLPH, WILLIAMS of New Jersey, KENNEDY, MONDALE, EAGLETON, PROUTY, JAVITS, DOMINICK, MURPHY, SCHWEIKER, at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, submit to the Senate a report of the committee on the conference and recommend its adoption by the Senate.

The Senate amendment struck out all of the House bill after the enacting clause and inserted a new text. The House receded from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment.

In this brief opening statement I shall not attempt to deal with each point of substantive difference, of which there were approximately 100, while an actual count of technical differences would bring the number to well over the thousand mark. Rather, I shall touch upon the major points of difference and their disposition. At the conclusion of my oral statement, I will insert into the RECORD a detailed discussion of the conference action.

TERM OF THE BILL

The Senate amendment to the House bill provided for an extension of the Elementary and Secondary Education Act and the other matters contained in H.R. 514, for a period of 4 years with provision for contingent extension for 1 extra year. The House bill contained a 2-year extension, with no provision for contingent extension. Both bodies receded from their respective positions, and the conference report contains a

3-year extension, with a provision for contingent extension for 1 additional year.

The longer term was deemed necessary in light of the need of the local school officials for leadtime in their planning and budgeting. The already legislated authority for forward funding by the Appropriations Committee would, if implemented, mean that for the next 3 school years, the local school officials will have the needed time to plan imaginatively.

The retention of the provision for a contingent extension was discussed at length. The Senate conferees held firm to the view that such a provision was necessary to insure continuity of operation if for some reason the needed authorization legislation was not completed prior to the work of the Appropriations Committee. The managers on the part of the House objected to the contingent authorization provision and only accepted it with a provision that such authority would become inoperative if the Congress had passed or rejected a bill on the related subject matter or if either body passed a resolution which would nullify the contingent extension. This ingenious compromise was one of the many contributions of the senior Senator from New York to try to bring to resolution the differences in the conference.

INCREASE IN LOW INCOME FACTOR

The Senate amendment but not the House bill contained an increase in the low income factor, by which title I ESEA entitlements are figured, from the present $3,000 factor to $4,000 to commence in fiscal year 1973. This amendment was adopted to reflect a more meaningful low-income level, which is necessitated by the general rise in the costs of education and the cost of living. The managers on the part of the House accepted the Senate amendment.

COMPARABILITY

The Senate amendment contained a provision which would have required the State and local funds to be so used in title I project areas as to provide services in those areas which are at least comparable to the services provided from such funds in nontitle I project areas. The language of the conference report differs from that of the Senate amendment substantially. During the course of the conference it was found that the Department of Health, Education, and Welfare had issued a guideline on the subject of comparability which raised questions with respect to the meaning of comparability. Those aspects of that guideline which dealt with teachers' salaries raised the most controversy. The language of the conference report requires State and local funds to be used in the district of a local agency to provide services in title I project areas which, when considered as a whole, are at least comparable to State and local services in nonproject areas. By the phrase "as a whole" the conferees intend that all the services available to students must be taken into consideration—books, equipment, and instructional staff. Salaries of instructional staff are to be considered only to the extent that salaries are a measure of services available to students. Salary increments based on length of service are not intended to be a measure of the service available. The language of the report also contains two provisos: First, a finding of noncompliance with the comparability requirement cannot be used to affect payments to any local educational agency prior to fiscal year 1973, and second, reporting on comparability is regulated by law. On this latter point, the Senate amendment left reporting to the discretion of the Commissioner, the conference report controls reporting by requiring that a report be filed by July 1, 1971, and July 1 of each subsequent year. These changes in the language of the Senate amendment require a revision of HEW policies on comparability accordingly.

CONSOLIDATION OF EDUCATION PROGRAMS

The Senate amendment contained a provision consolidating part A of title III of the National Defense Education Act of 1958 and section 12 of the National Foundation on the Arts and the Humanities Act of 1965. The House bill contained a provision consolidating titles II and III of the Elementary and Secondary Education Act and titles III–A and V–A of the National Defense Education Act. The conference discussed the various provisions which were offered for consolidation and their effect on ongoing programs. The House Members were adamant in their support of a larger consolidation provision than that contained in the Senate bill. Both Houses receded with an amendment which consolidates title V–A of the National Defense Education Act into title III of the Elementary and Secondary Education Act. The Senate accepted this form of consolidation as one which was the most viable in light of the strongly held positions of each body.

Prior to its agreement respecting consolidation, the conference had adopted a modification of the Senate amendment which authorized a 15-percent set-aside of the title III ESEA funds for special projects by the Commissioner. The consolidation contains the set-aside. The conferees wish to make clear that there is no intention that presently operated projects be disrupted because of the set-aside. In cases where 2- or 3-year commitments have been made for local projects, the Commissioner is expected to honor those commitments in the selecton of the specal projects. The managers on the part of the Senate wish to make clear that the 15-percent set-aside is not a discretionary fund. Applications are to be approved in the same manner as they were prior to June 30, 1969. The set-aside is not an authorization of a new program but a continuation of the earlier set-aside.

GENERAL EDUCATION PROVISIONS ACT

The Senate bill but not the House bill contained a new title which in effect consolidated all the applicable law which controlled the administration of education programs. The Senate conferees believed this was a most important amendment for it makes administration of such programs simpler and puts into one body of law the provisions with which the administrators at Federal, State, and local levels must deal.

The House conferees, recognizing the validity of the Senate position, accepted in general, with minor amendments, the Senate position.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

The Senate amendment contained the following provision, the language set in italic was added to the provision on the Senate floor and can be collectively known as the Ervin amendment.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 422. No provision of any law which authorizes appropriations for any applicable program (or respecting the administration of any such program), unless expressly provided for therein, shall be construed to authorize any department, agency, officer *or employee of the executive branch* of the United States to exercise any direction, supervision, or control of the curriculum, program of instruction, administration, or personnel of any educational instution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance *or alter racial composition.*

The House adamantly refused to accept the language amending the basic provision. Discussions indicated that there was fear that acceptance of the additional language would impede any further compliance action under the Civil Rights Act of 1964. The Senate conferees attempted to maintain the Senate position but were unsuccessful. However, the House managers did recede from their position with an amendment and accepted the Senate language as printed above. It deletes the Ervin language and also lists the law this section is applicable to.

ADULT BASIC EDUCATION

The Senate amendment but not the House bill contained a new title III which amended the present law pertaining to adult basic education and redirects that area of Federal assistance so that a complete program of education for adults from the basic grades through high school will now be available. Previous law only spoke of basic literacy. The House receded from its position and accepted the complete Senate amendment.

CONSOLIDATION OF STATE ADMINISTRATION FUNDS

The Senate amendment authorized the Commissioner of Education to make a consolidated grant of State administrative funds for education programs, except those authorized by title I of the Elementary and Secondary Education Act and the Education of the Handicapped Act. The Senate receded on this point with the result that legislative history is created to the effect that no consolidation grants may be made. It is understood that the Department of Health, Education, and Welfare has proceeded to make these consolidated grants without statutory authority in anticipation of the enactment of the Senate amendment. This is an unfortunate presumption on

the part of HEW. I am sure that reversal of policies will cause some disruption at the State level which would not have occurred if the Department had waited for final action on the bill.

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW—STENNIS AMENDMENT

The Senate amendment provides that guidelines and criteria established under title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation. The House bill contained no comparable provision.

It was on this provision that the conference had its greatest difficulties. The House conferees absolutely refused to accept the original Stennis language. The Senate conferees held firm to the Stennis amendment language and indicated to the House conferees that in its opinion only a minor amendment to the Stennis language would be acceptable to the Senate. Various provisions were offered to the Senate by the House, some of which had been rejected by the Senate in its floor action on this matter. The language contained in the conference report is, we believe, the only means by which such an amendment would have been accepted by the House. For example, in the action immediately prior to acceptance of this provision the Senate offered the original Stennis language to the House and this was rejected by the House.

As brought before the Senate the conference report provides that it is the policy of the United States that such guidelines and criteria dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied unformly in all regions of the United States whatever the origin or cause of such segregation. It provides that such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found. It is stated that nothing in the section can be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to eliminate discrimination in federally assisted programs and activities as required by title VI of the Civil Rights Act of 1964.

The Senate amendment further provides that it is the sense of Congress that the Departments of Justice and of Health, Education, and Welfare should request such additional funds as may be necessary to apply the policy described above throughout the United States. This provision, which has no counterpart in the House bill, is included in the conference report.

Mr. President, I ask unanimous consent that at this point in the RECORD there be printed an additional statement containing the discussion of other actions of the conference committee.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

OTHER PROVISIONS

The following is a statement of other differences respecting provisions of the conference report which were not included in the Senate amendment and provisions which are not in the conference report which were contained in the Senate amendment.

Section 102(b) of the Senate amendment contained a provision which barred the use of 1970 census data for the purposes of establishing entitlements under title I of the Elementary and Secondary Education Act prior to January 1, 1973. The House receded to the Senate amendment on this point with an amendment which made the date July 1, 1972.

The Senate amendment contained two provisions requiring public hearings with respect to applications under title I of the Elementary and Secondary Education Act. The House receded with respect to these two provisions with an amendment which requires that local educational agencies make applications and all pertinent documents related to applications available to parents and the general public and that all evaluations and reports be made available to the public.

The House bill contained a provision which authorized bonuses for teachers in schools serving high concentrations of educationally deprived children. The Senate receded from its difference with the House bill with the understanding that salary bonuses should be available only as a part of a title I project upon application in the same manner as any other title I project and that salary bonus projects would only be used in schools in which there was an extremely high concentration of children from low income families.

The Senate amendment contained a provision which provided for State advisory councils to advise the States with respect to the administration of the title I program. The Senate receded from its position on this amendment.

The Senate revised title V of the Elementary and Secondary Education Act considerably by adding new programs of grants to local educational agencies and grants for planning and evaluation of education programs as well as the establishment of Councils on Quality in Education. These revisions were accepted by the conference with two modifications. Those provisions of the Senate amendment which authorized a set-aside of funds for use by the Commissioner were deleted and the provision of the Senate amendment which required the establishment of State advisory councils was made optional with the States.

The Senate amendment contained several amendments relating to special programs for gifted and talented children. These amendments were accepted by the conference.

The House bill contained a provision which revises the Federal administration section of ESEA. The revision places primary control of coordination within the Office of Education. The conference agreed to the House provision.

The Senate amendment contained a new program authorizing grants to local educational agencies to support demonstration projects designed to improve nutrition and health services in schools having high concentrations of children from low income families. This program is intended to be administered in conjunction with title I of ESEA. The conference report contains the Senate provision.

The Senate amendment also contained a provision which authorized the Commissioner to make grants to State and local educational agencies and other educational and research agencies and organizations for research and demonstration projects relating to juvenile delinquency and education services in correctional institutions. The House receded from its difference with the Senate amendment on this point.

The Senate amendment contained provisions to expand the impact areas program to include certain refugee children and children residing in low rent public housing as federally connected children. The conference report retains the language of the Senate amendment in both instances. The conferees agreed to the revision with respect to low rent public housing which provides a separate line item in the budget for payments on the basis of entitlements using computations of children residing with parents working on low-rent housing property. As adopted, there will be two means by which the appropriations will be made available for those entitlements. (1) If an appropriation exceeds the amount necessary to pay entitlements in their entirety without counting children from low rent public housing any excess shall be available for payments on the basis of the latter entitlements and (2) if the appropriations act makes a special line item for payments for entitlements for children residing in low rent public housing then the appropriation shall be used solely for such entitlement.

The Senate amendment also contained provisions related to minimum eligibility under Public Law 815, and school construction assistance where the immunity of certain Federal property from taxation creates a substantial and continuing impairment of their ability to provide minimum school facilities. The conference report retains both of these provisions.

The Senate amendment also contained a declaration of policy that applications on the basis of Indian children contained in P.L. 815 should be given a priority for funding at least equal to that given to applications under section 10 of P.L. 815.

The Senate amendment contained a general provision related to parental and community involvement. The conference report contains the provision but it has been modified by deleting language relating to community involvement.

The Senate amendment contained a provision which authorized a set-aside of one percent of all education programs for evaluation of education programs. The Senate receded from its position on this point with an amendment which limited the amount of money which could be used from appropriations for planning and evaluation of $25 million for any fiscal year.

The Senate amendment extended and expanded provisions of present law relating to cancellation and repayment of student loans for certain public service. The House receded from its disagreement with an amendment which continues cancellation of National Defense Student Loans with respect to teaching in the same manner as is provided in present law and expands such provision to include service in the Armed Forces of the United States. The conference report contains no amendment respecting repayment of insured student loans.

The Senate amendment contained a section which provided for the relief of St. John's College with respect to certain grants made under title II of the Higher Education Act of 1965. This provision is not contained in the conference report. The Senate receded with the understanding that similar legislation would be introduced as a private bill.

The Senate amendment contained two sections creating national commissions to study problems of funding education programs. One commission was to be appointed by the Commissioner of Education to study the financing of elementary and secondary education, while the other was a commis-

sion appointed by the President to study advance funding for education programs. The conference report contains one national commission to be appointed by the Commissioner which will study the financing of elementary and secondary education. Such study may include the question of advance funding. This commission is intended to be a replacement of that which was created by executive order of the President.

Mr. PELL. Mr. President, the conferees worked with much diligence on this massive bill. It was, we believe, an excellent bill in the form that it left the Senate and was considerably strengthened by the agreements made in conference.

I should like at this point to thank each conferee and express my gratitude to Mr. PERKINS, chairman of the House Education and Labor Committee and his conferees for their kindness in the long sessions which we took part in.

I would urge the Senate to accept without amendment the conference report.

Mr. PROUTY. Mr. President, as a member of the conference committee on H.R. 514, a bill to extend the Elementary and Secondary Education Act and other related provisions, I am pleased that the conference report is now before the Senate for consideration. Much deliberation and accommodation on both sides have gone into this bill, particularly since the Senate version of H.R. 514 encompassed what had been contained in four separate House bills.

I am particularly gratified that nearly all of the provisions I have sponsored on behalf of the administration or myself, have been maintained with little or no modification. This is testament to the merit of these provisions, and the deliberative abilities of the Senate conferees. I am very appreciative of the efforts of my Senate colleagues and believe they should be commended for their untiring efforts to produce a most meaningful piece of legislation.

Although I do not wish to elaborate on all the provisions I sponsored, I would like to mention them in the order they appear in the bill, with specific comments on those most important.

Within the first section amending the Elementary and Secondary Education Act itself are several important items pertaining to title I services for disadvantaged students. Three deal with designation of responsibility and additional services for handicapped or institutionalized neglected and delinquent children. Several others refer to improvements in granting and reporting procedures, such as basing grants for migratory children on the number to be served, using the most recent data available for grant applications, and requiring that reports mention relevant research or replication studies as well as be in accordance with specific performance criteria. All these provisions should make the grant application process more efficient and the reporting process more useful to administrators or other interested persons.

One provision that I did not sponsor, but with which the Senate side was greatly concerned, is the prohibition against supplanting State and local funds with Federal funds and the concomitant requirement that State and local funds be used to provide substantially comparable services in title I and nontitle I schools. The purpose of this twofold provision is to insure that title I funds are targeted to the neediest students for provision of supplemental services to overcome the handicap of being disadvantaged.

The Senate has long been concerned that these funds are not adequately concentrated on those that need them most and are very often used for the benefit of nontitle I students instead. One troublesome way in which this can be done completely disregards congressional intent. Many school districts use their State and local funds for the better schools and then use Federal funds in title I schools to make them comparable after using Federal funds. However, the whole purpose of giving supplementary funds is thwarted and for this reason the comparability provision was devised to make local schools comparable before the infusion of Federal funds.

Although the provision does not take effect as soon as might be possible in many areas of the country, I do recognize the hardship that will be caused in those districts most out of step presently. While rapid transition should be encouraged with as much flexibility as possible, I believe the Congress and the Office of Education should stress the intent and benefit of the provision. We need rapid improvement to title I to demonstrate its effectiveness more positively so that the concept can be expanded.

The consolidation of several State grant programs was a major subject of discussion by the conference for the Senate and the House had taken views quite opposed to each other. A compromise agreement combines title III of ESEA for supplementary centers and services with title V–A of NDEA for guidance, counseling and testing services. I believe this consolidation not only increases the flexibility and efficiency of State operations, but also demonstrates the effectiveness of the concept for future legislation consolidation.

Representing a State that has many people of French Canadian background, I have become increasingly interested in programs for bilingual education. Two provisions I sponsored will make the program more effective by increasing the membership of the advisory committee and by allowing more Indian children to participate. At the present time, only Indian children in reservation schools operated by the Bureau of Indian Affairs are eligible. At the request of Senators FANNIN and GOLDWATER, I sponsored an administration compromise that will continue the eligibility of these students and also allow children from reservation schools operated by the Indian tribes themselves to participate.

Another area in which I have long been interested concerns education of those in correctional institutions. I am very pleased that Senator NELSON'S recommendation for extension of research and demonstration programs for these students was accepted in the final version of the bill.

Because of pending reform of the impact aid programs, I had been opposed to changes in existing formulas, but find that the modifications accepted by the conference are quite workable. Payments will now be made for an additional category of students—those who reside in low-rent public housing. Previously I had objected on the grounds that low-rent public housing is not an adequate indication of need and would distort appropriations in an unfair manner. However, setting a priority so that payments for these children will not be made until all other obligations have been fulfilled is more equitable.

Another modification of existing law in which I concur deals with adult education. At the present time, adults may receive education up to the eighth grade level. The provision has been modified to provide for education to the equivalency of a full high school education. I believe the change will increase each State's flexibility to meet local needs and I know how greatly this change was desired in my own State of Vermont.

Within title V of the bill, we have created a new general provisions section pertaining to all education legislation. The efforts of the committee to consolidate and make more efficient existing provisions is most commendable and I am grateful that several of the provisions I sponsored are contained in this section. The major ones concern parental involvement and dissemination of information.

As a long-time sponsor of legislation to provide loan forgiveness for education loans under certain circumstances, I am pleased that the conference maintained much of the original Senate bill. Extension of loan forgiveness to the guaranteed student loan program was rejected on the basis that it might detract from the success of the program and on this basis, I concur.

Title VI contains a codification of existing law for the handicapped. Again, I am pleased with the thrust for better operation of education programs and improved legislative clarity. Also, I am pleased to see that the Senate version of a separate program for children with learning disabilities was retained. I believe this temporary separation will give increased focus to the need for new programs and at the same time prevent funds for other handicapped children from being diluted. I look forward to the day when there has been sufficient acceptance of the problem and development of programs so that the definition of handicapped children can be expanded and all programs expanded to include them.

Title VIII contains several miscellaneous provisions such as extended authorization of the advisory council under EPDA, expansion of Teacher Corps corrections education programs, creation of an advisory council on research and development and consolidation of two other State matching grant programs. This consolidation comprises title III of NDEA and section 12 of the National Foundation for the Arts and Humanities, both of which provide funds for educational materials. Again, I believe in

the concept of consolidating similar programs to increase flexibility and efficiency.

In summation, I ask my colleagues in the Senate to vote for passage of the conference committee report. The legislation it recommends is greatly needed, for much of the current statutory authority expires this June. In addition, we have made many substantive changes for improvement based upon monitoring and analysis of the operation of these programs. It is my hope that the benefits of the changes we recommended will soon be forthcoming.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I join the Senator from Vermont in expressing my deep admiration for the manner and the effectiveness of the Senator from Rhode Island.

The task of the conference committee was difficult and complicated. Anyone looking at the differences between the Senate bill and the House bill realizes how difficult and complicated a matter it was.

I think we have come out with an excellent education bill. We did not get all that we wanted, but I doubt that there have been many conferences that have sustained more of the Senate's position than this conference has.

I note that in 13 specific ways we sustained the Senate's position. In another eight matters, we sustained most of the Senate's position. And in two positions, we necessarily yielded completely to the House.

For example, we held the title I provision contained in the Senate version increasing the low income factor to $4,000, and authorizing extra payments to school districts with high concentrations of disadvantaged students.

We held the Senate position prohibiting the use of title I funds supplanting non-Federal funds in schools.

We sustained the Senate position in increasing the authorizations for titles II, III, V, VI, VII, VIII, and vocational education.

We sustained the Senate position on the gifted and talented children provisions.

We sustained the Senate provision concerning the addition of public housing to impact aid assistance.

We sustained the Brooke school desegregation amendment.

We sustained the teacher corps improvements.

We sustained the programs for children with specific learning disability, so strongly urged by the Senator from Texas (Mr. YARBOROUGH).

We sustained the new school nutrition and health demonstration program.

We sustained the Senate position on authority to carry over unexpended funds.

We sustained the Senate provision providing bilingual eligibility for Indian schools, including Rough Rock.

We sustained the Senate provision on planning and evaluation grants.

We sustained the Senate position on migrant education provisions.

These and other Senate positions were accepted without change in conference.

In addition to that, we sustained most of the Senate provisions affecting the length of the bill. We reached agreement on a 3-year extension with an additional year contingency extension for forward funding.

We were forced to compromise on comparability provisions affecting title I, the services; we developed a compromise on public information provisions, on consolidation of titles, adult education, parental involvement, loan forgiveness, and the Stennis amendment.

In two respects we accepted the House position without change. One would provide bonus salary payments for service in title I schools with a heavy concentration of title students; the other deleted an amendment adding the words "or alter racial composition."

I doubt there have been many conferences with as many differences in which the Senate prevailed in as many instances of a fundamental nature as in this conference.

Mr. PELL. I thank the Senator from Minnesota for bringing up this very valid point because we usually consider we have done pretty well if we come back with half a loaf. I know many of us have seen favorite amendments of our own disappear or come back greatly watered down. But in this case I think we brought back to the Senate considerably more than half a loaf. I would not indicate that the House rolled over and accepted these ideas, they were hard fought for they were based on new concepts, which in many cases, the House Conferees accepted after explanation.

In connection with the controversial Stennis amendment, I think we did our best. We did not get the language word for word, but we got a great deal of it. While it is not what I personally would like to have seen brought back, what we on the Senate side would like to have brought back, it is the best that could be brought back and not have the conference fall apart completely.

For this reason, as manager of the bill, I stand very proud of this conference report and I urge that the Senate accept it.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

Mr. PELL. Mr. President, I would not want to embarrass any of my colleagues who disagree with me. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I realize that the conferees tried to adopt the Senate language of the Stennis amendment as modified by my proposal, but that it failed. Unfortunately, it is my personal opinion that the language of the conferees, as finally adopted, especially section 2(b), is much worse than the situation that prevailed before the Stennis amendment was adopted by this body. As a matter of fact, the conferees would have been much better off if they had dropped the entire section instead of modifying it the way they have.

The conferees, it seems to me, lost a great opportunity to make it clear to this Nation that de facto segregation must be fought as aggressively as de jure segregation.

I am following this debate most carefully. At a later time in the debate, I shall have more to say at length. But as far as I am concerned personally, I find the language of 2(b) completely unacceptable.

Mr. PELL. I understand the views of the Senator from Connecticut, but here, just as in any conference report—and I have gone through this experience myself—I find a portion of the report unacceptable, but then one has to bear in mind that we have perhaps lost sight of the main thrust of this bill. It is an education bill, and I would plead with the Senator from Connecticut to support the conference report, the overall good in the bill, as of greater value than the harm, to his viewpoint, on this issue.

Mr. RIBICOFF. Mr. President, may I say I am sorry that this development is taking place, because I agree with the Senator from Rhode Island that the basic education bill is an excellent one. But today, we cannot divorce the problem of desegregation from education. As a matter of fact, the President, in his message today, specifically points out that he is going to ask to have set aside this year $\frac{1}{2}$ billion for schools that are suffering from segregation policies. So it is obvious that the President, too, believes that this entire problem is important.

I know the conferees tried. I kept in touch with the conferees, and I do not question for a moment the bona fides of the Senate conferees.

But I think I should point out to the conferees that what they did accept—and their intentions, I am sure, were proper—was worse than if they had dropped the entire section. I shall have much more to say on this proposal at a later time during this discussion, but I think on the first day of the discussion, I should make it clear that I think this is a very, very bad proposal. It does very little good whatsoever in trying to solve the entire problem of de facto and de jure segregation.

Mr. STENNIS. Mr. President, there are certain questions that come to my mind that I should like to ask the Sen-

ator from Rhode Island, who is the manager of the bill—and by the way, Mr. President, I want to commend very highly the work of the Senator from Rhode Island. I have seen many bills handled here, and his way of handling the entire bill, when he presented it to the Senate, I thought was excellent. He has a good understanding of the matter, he is reasonable, and he is considerate, and I commend him very highly. I am not flattering him when I say I think he is a credit to the Senate.

Mr. PELL. I thank the Senator.

Mr. STENNIS. This is a difficult bill. I appreciate the courtesies the Senator has extended to me personally in connection with the amendment here, and the interest he showed in some conversations we had during the conference, where he was not talking out of school in the least, but at the same time he was very considerate, and I am most grateful to him.

Mr. PELL. I thank the Senator.

Mr. STENNIS. Mr. President, if I may ask the Senator from Rhode Island, to what extent does the Senator think the first part of the conferees' amendment—that is, the part that the Senate passed by a vote of 56 to 36—what part of the Senate's position is still reflected in the amendment as modified by the conferees? I just ask the Senator's opinion about it. What part is still in it; what part of the Senate amendment is still in the conference committee's amendment?

Mr. PELL. As I see it, that portion of the thrust of the Senate amendment which is to the effect that the applicable laws should be applied uniformly all over the United States, without discrimination against southerners or the South; That main thrust is still in the bill, and very much in it.

Mr. STENNIS. Does not the Senator think, though, the main thrust being directed toward segregation wherever found, does not the Senator think that item (b) here, under the present form of the amendment, goes back to the old dual track or double track, and creates one kind of segregation and then another kind of segregation, and leaves one exposed and the other protected? How does the Senator escape that conclusion?

Mr. PELL. This would be the area of compromise, I would think, that before the Stennis amendment was adopted, the whole question was fuzzy. It is my understanding that the Supreme Court had ruled one type of segregation permissible and the other kind not.

Mr. STENNIS. Will the Senator yield to me at that point?

Mr. PELL. I yield.

Mr. STENNIS. The Senator made the statement that the Supreme Court had ruled that one kind of segregation was legal. Did the Supreme Court make an actual ruling on that?

Mr. PELL. I am not a lawyer, as the Senator knows.

Mr. STENNIS. Yes.

Mr. PELL. I believe that the Supreme Court had ruled that de facto segregation was not illegal; I think that might have been a more felicitous way of expressing my thoughts.

Mr. STENNIS. I do not know of a case where they have made a direct ruling to that effect, that de facto segregation was legal. I have been hoping that they would rule on the matter, but directly they have not decided a case.

I think they have declined to pass on several cases. The writ of certiorari, as we lawyers say, was denied; that means they declined to have the records sent up and certified, and hear the case on its merits.

Before the Senator proceeded, I thought that point should be made.

Mr. PELL. But then we in the conference recognized that the South has been treated unfairly, from the viewpoint that in areas where there may have been a de facto segregation pattern, the courts would have ruled against the South just because it was the South, for there was a presumption that such segregation was de jure.

As I understand our amendment, it now means that an appeal can be made, that the segregation does not result from a dual school system or from laws that existed after reconstruction, but is the result of living patterns, then the efforts to desegregate schools in that fact pattern would be illegal, and it could not be done.

This is what I would think would be a midway position between the situation as it existed before the Stennis amendment was adopted and the Stennis position, which is what we as conferees should seek.

Mr. STENNIS. I repeat that I do not know of any case where the Supreme Court has directly taken up a matter of so-called de facto segregation and passed on it, and held it to be legal or illegal. I expressed the desire, in the debate here before, that they would, but I do not think they have ruled on that point yet.

Was the Senator present when I read the figures about the extent of integration in my State of Mississippi, where I gave the figures that covered all the districts except 30, and covered all the Negro students except, in round numbers, 30,000?

Mr. PELL. I was, and they are very striking figures indeed.

Mr. STENNIS. I pointed out that 50.4 percent attend either majority white schools under HEW monitored voluntary plans, or schools which have been integrated by court order based on HEW approved plans.

The Senator realizes, does he not, that the conference report leaves us still under the hatchet, and still guilty of all these alleged wrongs, and we will be monitored and policed, and followed day and night, whereas it exempts States like Pennsylvania, which, for illustration, has only 27 percent of its black students in majority white schools, or New York, with only 32 percent, California, with only 22 percent, and Illinois, with only 13 percent? I believe that the Senator's sense of justice and right makes him regret that the committee amendment leaves that situation unattended to. Is that correct?

Mr. PELL. I see the problem; and, looking ahead, the Senator may be correct. But speaking just from the standpoint of equity—and I am not as deeply grounded in these matters as is the Senator from Mississippi—there is also inequity when one must consider the past. I do think that the history of the past and the wrongs of the past—while we would like to wash them out and start anew can be forgotten. The pendulum swings, and we cannot stop it in midair. By adding part B to the Stennis amendment, we are trying to make sure that in the South those areas with de facto segregation are treated as fairly as other portions of the country with the same type of segregation.

Quite honestly—and I think the Senator knows my personal admiration for him—I do think that one cannot, either from the viewpoint of fairness or equity, wipe off the blackboard the last couple of hundred years. And we are not without sin in the North.

However, the history of a dual school system and its results up to the present day must also be recognized.

Mr. STENNIS. The Senator has said he is not a lawyer, but he is well advised in this matter. In what way does the committee amendment change the law or change the rule? It is a policy matter. In what way does the committee amendment change the rule?

Mr. PELL. Going back to the original Stennis amendment, does it change the law or does it change policy?

Mr. STENNIS. It changed the rules.

Mr. PELL. It changed policy, but not law. We are talking about law, not policy.

Mr. STENNIS. The present policy or rules that HEW follows—in what way does the Senator's amendment change them?

Mr. PELL. Under the Stennis amendment, as originally adopted, its application to specific fact situations was not clear.

Mr. STENNIS. The amendment the Senate adopted has not been adopted finally, so I am talking about policies that now exist and are being carried out by HEW. In what way does the committee amendment change those rules or policies? I do not know of any way, myself. I do not think it does, if weight is given to paragraph (b).

Mr. PELL. I think that one of the points the Senator made in his speeches and in his words at the time of the adoption of the Stennis amendment was that the South, no matter what the cause of segregation, was treated unfairly in comparison with the North. What the conference report does is to say that in the South when segregation is from the same cause as in the North—Chicago, New York, or wherever it is—then it will be treated the same way. I think this is an addition or a change.

Mr. STENNIS. I do not know of any complaint I made, and I never did say that the Court decided a case solely because it was in the South. I said the Court and HEW seized upon these old laws as a ground to just hold you guilty, with the presumption of guilt. But when they got into Indiana and into New York

and other States that had these laws at one time or another, and certainly long enough to have contributed some to these community patterns—I recall that one of them did not repeal its law until 1949—when they got into those States, HEW never really followed up. I do not know of any case the courts have had. That is my complaint—the presumption of guilt applied to us and the presumption of innocence applied elsewhere. And that same rule will come right out of the committee amendment, whether the Senator likes it or not.

Mr. PELL. Let me give the Senator an example of what I am talking about.

If a suburb had been built up outside of Atlanta and it was a recent suburb, starting in the mid-fifties, there would be no grounds for HEW to move into that area, because the dual school system would have ended long before that suburb had even been built; and the segregation that occurred there, regrettable as it would be, would be the result of living patterns.

Mr. STENNIS. The Supreme Court has passed on no case in which it found them innocent. All kinds of charges are made about gerrymandering, and those conditions exist in the North.

Mr. PELL. Exactly.

Mr. STENNIS. Very few of them have been followed and run down; whereas, you create and perpetuate this presumption of innocence here and protect this gross segregation outside the South. I do not mean the Senator personally. But the reason is that the people in those States do not want their schools torn up; and the gentlemen here, representing them, have their viewpoint. I think that is the main reason. That does not impugn their integrity. But that is what the problem is, and it is a problem everywhere in the South and in the North—most of the States in the North.

The Senator's amendment again creates this dual system, travels in two directions at the same time, gives one place immunity and convicts all the South, unless it happens to be some area, as the Senator said, that came into being after 1954. I do not think the Supreme Court or any other court has ever held one of them in violation.

Mr. PELL. I think the reverse of it is that under this amendment, if the Senate adopts the report—the HEW will be more compelled to search out those areas where efforts have been made to gerrymander school districts, in the North as in the South. I think this would be one of the effects of the adoption of this conference report.

Mr. STENNIS. With all deference to the Senator, I do not see where in the world HEW gets any impetus or any directions or any instructions under the committee amendment, unless it be a suburb somewhere in the South that, according to the Senator's argument, they have been told to leave alone.

This is tragic. Let me point out the whole burden of the committee's argument, as I understand it, that the courts have not passed on de facto segregation.

This is not a court sitting here today. This is a part of Congress. Congress has passed on these matters. We have the Civil Rights Act of 1964. When it was passed, I said it would have to be obeyed, and I still say that, even though outside the South they found a way to get around it, and I will develop that later. But we are not a court, and we are not going to be a court. We are Congress. We make these policies; we appropriate the money. Why cannot Congress move into a field, exercise some of its own responsibility, pass policies or laws to which the executive branch has to conform when it operates in that field? Why do they have to wait and wait for the courts to invade that field? Congress cannot go in, contrary to a constitutional mandate of the Court. I do not advocate that, and never have, but they have not passed on these matters, so that this is a field where Congress has the responsibility. Let us not put it on the ground that because the Court has not got into it, that we should not get into it. Let us say that we do not stand for it, that we do not think it should apply in the so-called de facto segregation, and we will pass a policy resolution here saying that you are not to go in.

I want to address myself to asking the Senator's opinion as to how is HEW going to operate under section (b) of his amendment?

Mr. PELL. What this means is, that in desegregation activities they will now recognize areas in the South where there is de facto segregation, where it does not come from the past history of events. They will also search in the North more vigilantly and look for areas where there has been collution among the electorate, the school boards, or the governmental bodies to try gerrymandering the school districts. I think that will be the effect of paragraph (b).

Mr. STENNIS. Well, Senator, we have been putting some amendments of some kind to appropriation bills—I mean, I know that to be a fact because I have been a part of it—and I think my figures are correct, that in all of that, we have gotten two administrative actions initiated by HEW and there has been only one action, so far as I can recall now, by the Department of Justice that went to its ultimate end. There are a few others pending and a few have been filed here during this administration.

But, on the other hand, there is case after case after case that I have read about in the newspapers where there has been some probing but never any action. An outstanding one in Chicago, where 4 years ago they sent a notice out there—some clerk in HEW, I suppose he thought they meant what they said, and he gave them notice, that they would have to mend their ways as to segregation. Mayor Daley came down here or sent a telegram—I do not know which—and it was swept under the rug at the White House. It is still there, that case.

Let me give one more case. Last year, in Chicago, they notified them that they had to integrate the teachers, and the teachers said that they would not do it. Their union spokesman said they would not do it. The school board offered them $1,000 bonus to accept a new assignment, but they would not take that. They wrote some of their representatives here to pay the bill, $44 million, I believe it was, and nothing has been done about it. Now we see those things happening, going on and on and on, year after year after year, and still HEW and the Department of Justice men are going all over the South all of the time, telling the superintendents there who are trying to comply, "You have got to come up to that quota or that percentage."

They will deny that later, but I know they have been saying those things, together with use of the utmost vigilance and surveillance and police power, and now when we come up here they say, "Oh, the Supreme Court has not passed on de facto segregation," so we are right back where we started with this amendment.

Mr. PELL. In the Chicago case, as the Senator from Illinois (Mr. PERCY) brought out, you could have, even after the Supreme Court ruled de facto segregation illegal, you could have mechanical problems, geographical problems, where there is such a heavy concentration of one minority group in a 30- by 20-mile area, that you would have to have more buses than General Motors can produce, practically, to move the students around.

To my mind, you have a rule of reason here, what we are seeking to do is improve conditions, to bring about practical integration—we cannot achieve 100 percent racial balance—but we can try to move along with the times. That is what this amendment would do.

Mr. STENNIS. Well, the Senator did not mean to argue now that the Supreme Court held that the so-called de facto segregation in Chicago was illegal? We are not writing that off by saying that it would be too big a thing to undertake, are we? The Senator would expect them to obey the law, would he not?

Mr. PELL. I would expect them to, but it would be a tough one to work out.

Mr. STENNIS. Would it be any tougher in any other part of the country? What about Charlotte, N.C., where 20,000 children were ordered bused from one side of the city to the other?

Mr. PELL. As a nonlawyer, but as an amateur historian, I do think there is a difference in equity between the patterns in the different areas in the country. Should we follow the free will of the human being when his will on this matter developed as a result of laws which were discriminatory.

Mr. STENNIS. How long does the Senator think that situation—that penalty which he has just outlined should prevail? How long should it apply to our children?

Mr. PELL. It should, in equity, have ended in 1865, I guess. It should not exist now.

Mr. STENNIS. I mean the penalty now on our children. We cannot erase history. That century has passed. I am talking about the penalty applied now, with all the terrific disruption in our schools. If the Senator does not believe there is terrific disruption among the faculty and the children, he should go and see for himself. How long are these children, who were not even born until 8 or 10 years ago—how long must that group suffer?

Mr. PELL. I would hope not at all. I would hope we could change human nature and that the problems would iron themselves out; but, in the meantime, we are left with the Supreme Court's rulings which we follow here. There is a difference.

(At this point Mr. GRAVEL took the chair as Presiding Officer.)

Mr. STENNIS. Does the Senator advocate that the Supreme Court's holding on de facto segregation is legal or illegal?

Mr. PELL. I would like to see the day come when the Supreme Court would rule de facto segregation illegal, too.

Mr. STENNIS. Does the Senator advocate that now? He says he hopes the day will come. How long must we wait, Senator?

Mr. PELL. Well, speaking as a modest amateur historian—I am not a soothsayer—I just do not know. I think it would be impossible to work that out now.

Mr. STENNIS. One hundred years?

Mr. PELL. I just do not know.

Mr. STENNIS. Was not one part of the reasoning of the Court's decision in 1954 that colored children—black children, as they would rather be called now—would get a better education and fare better in a mixed group, in a mixed society, in a mixed school? Was that not a great part of the reasoning of that case?

Mr. PELL. It was also the conclusion of a Professor Coleman in his report as well.

Mr. STENNIS. Well, but that was a part of the Court's reasoning, was it not?

Mr. PELL. I am informed that it was.

Mr. STENNIS. That benefit—why deny that benefit to all the children in Chicago, Detroit, Pennsylvania, and New York, and all of these other places?

Mr. PELL. I would like to give them that benefit.

Mr. STENNIS. The Senator has an amendment here that will not do a thing about it, but will perpetuate segregation in the areas of those States. Why is the Senator consigning those black children to this defect, this default, or this added burden in life, and restrict the advantages of integration to just one area of the country?

Mr. PELL. I have sought to make the point that under this language we are not singling out one section of the country. That if the same set of circumstances occurred in other States, and we make the policy nationwide, then it would be treated in the same manner.

Mr. STENNIS. That is what the original amendment undertook a start in—just a start. Now, under the Senator's amendment, what is Mr. Finch going to do? I have never said anything except something complimentary about Mr. Finch. He has the worst job in the city except that of the President of the United States. I do not try to discredit him, but if he is quoted directly by a recent news item—and I think he was—which was published in the Washington Post on March 2, 1970.

He said the Nixon administration, "is confused by what the courts have said. There are a number of areas where the Supreme Court has not spoken at all. They have never said what a unitary system is, he continued."

He said:

They still cling to the distinction between de jure (by law or formal regulation) and de facto segregation, which I happen to believe as a lawyer is no longer valid.

I think segregation or racial isolation, whatever it appears, is one and the same.

Does the Senator agree with the last point?

Mr. PELL. As a matter of fact, it is one and the same. The causes for it may be different, but it is a fact.

Mr. STENNIS. And as far as the children are concerned, they ought not to go back to history to determine whether they will have the benefits of integration.

Mr. PELL. No. But we have to follow the law. And this is what the courts have ruled.

Mr. STENNIS. Let us leave the courts out, because we can do this ourselves. We are not restricted by the courts in this field, not at all. That is what Mr. Finch said.

Mr. Finch said:

I think segregation or racial isolation, whatever it appears, is one and the same. We have a very confused set of decisions—that go to both ends of the spectrum with regard to the question of busing, for example.

Does the Senator agree with that point? There is no entrapment about my questions.

Mr. PELL. The questions are confusing.

Mr. STENNIS. I read further:

Finch said of the Charlotte school system: "Then you have problems like Charlotte . . . which I think are totally unrealistic, because they say that you shall take the percentages in the district as a whole and apply those and force those on each district—or each school within that district.

"And in the case of Charlotte, they have to buy 400 new buses . . . when you have that kind of a situation, that's not the best of your resources because you're desperately trying to keep the doors open, to pay faculty, to pay janitors. But beyond that it's not the best educational experience, because to haul young children, for an hour or more, across long distances . . . means that they can't get any tutoring after school, the parents can't—have great difficulty—in getting to the teacher to talk about their child . . ."

That is just old, common horsesense. That is said by the Secretary of HEW. He does not believe in these extreme demands of the courts. That is not Stennis criticizing the court. It is Secretary Finch telling what it means to the people and to the children.

I think Mr. Finch is right. I think we have an obsession here. We are trying to rush these people, children included, in order to destroy the school system. But we say, "Don't touch any schools outside of the South."

And the Senator comes here today and discusses doing it by the amendment.

It is not fair. It is not right. And somewhere, sometime this wrong will be corrected.

I thank the Senator.

Mr. PELL. Mr. President, I understand the feelings and the conviction of the Senator. I do not think I am an unfair man. However, I do not agree with his views.

Mr. STENNIS. I was not suggesting that the Senator is unfair.

Mr. PELL. This is a point of disagreement. I know the situation in Mississippi is very different from that in the State of Rhode Island. But basically I stick to the language we have. And the Senate may well sustain the Senator from Mississippi in his view. However, I would hope not.

Mr. STENNIS. I was not suggesting that the Senator is unfair at all. I think the basic concept of the amendment as amended perpetuates an unfairness that has been going on and brings about very unfair results to the children—the black children, the white children, the parents, and the teachers. It does this by an extreme application of integration.

I am not arguing about integration. I know it is here. And it is here to stay. But this is an obsession with some.

Mr. President, I am really surprised that in these premises time after time—and I am not referring to any individual Senator—we protect the massive segregation that exists in these States beyond the South.

The courts will not touch them, or have not. And so far Congress has not touched them.

Let us not blame it on the Court. This is a legislative matter that we are dealing with here.

I thank the Senator. I admire his handling of the bill and the hard work he has done all this year.

Mr. President, I have remarks to make that are more or less along the same lines that I have made before.

This amendment gives this entire matter a new start.

As fine and respected and loyal as the members of the conference were to their obligation as conferees, it made it doubly hard on them to make the strongest fight that could be made for the Senate amendment when really they were honestly on the other side and so argued and voted on the floor.

That was known by the other conferees. I do not blame them one bit. I point out that that was the handicap they were under.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. STENNIS. I will yield to the Senator in a minute. However, let me finish my thought on this matter.

The House conferees that the Senate conferees were up against knew how these conferees had voted. It is just one of these things in the legislative formula of passing a law. I do not blame them one bit.

I was told consistently that the conferees would stand by the Senate position. And I think they meant it. I was told repeatedly by some of the conferees of the argument made by the Senator from New York. I think he is to be commended.

Mr. JAVITS. Mr. President, I thank my colleague.

I shall debate the issue concerning which the Senator from Mississippi has asked questions of the Senator from Rhode Island. The Senator from Rhode Island is not a lawyer. There are very great legal connotations involved here. I

will not do that at this time, because I would not want to interrupt the Senator.

I asked the Senator to yield so that I might state a fact which should be of interest.

There were four Senate conferees who voted for the Stennis amendment. They were Senators YARBOROUGH, RANDOLPH, PELL, and MURPHY. The only Representative from a southern State was Representative RUTH, of North Carolina. He signed the conference report.

I thought that was a fact which should be before the Senate.

Mr. STENNIS. I thank the Senator. I want to make it clear that I am not attacking any individual conferee. I know what they were up against.

We have talked about the confusion here and talked about not knowing what the amendment meant that the Senate passed originally.

We talk about these court opinions. With all deference to the conference committee, this being just a policy matter anyway—they could not get the Senate amendment adopted in conference and they were forced to resort to other means—when they left in the language of the Senate amendment and then wrote this paragraph 2, they really created a confusion.

My humble opinion is that if a court were passing on this legislation—should it become law, which I hope it will not—a court just could not place a judicial opinion on that basis, except in one way. They would have to say that the preponderant intent is expressed by paragraph (a) and, "therefore, we follow paragraph (a)." All they would have to say is that the preponderant intent is carried in paragraph (b), and then they would say, "We will follow paragraph (b)."

They could not straddle and base any ruling upon both of those sections at the same time because they contradict each other.

The first paragraph, paragraph (a), states:

> It is the policy of the United States that guidelines and criteria established . . . whether de jure or de facto in the schools of the local education agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

It does not say one region; it says "all regions of the United States whatever the origin or cause of such segregation."

That strikes out that history clause. It was written for that purpose. Those words were attacked on the floor of the Senate and by a large majority those words were kept:

> Whatever the origin or cause of that policy.

That is what the Senate adopted. The conferees left that provision in the bill.

Now, subparagraph (b) states:

> Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

Two policies, going back to the same old track, the same old dual system, the some old two-way street—

> Such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

Two kinds of segregration restored; two kinds of policy formulated, when the first section of the same provision states that there shall be one policy regardless of the type of segregation required uniformly to all areas of the Nation.

Now, with all deference to everyone, if anyone can reconcile those two sections in logic and common sense, I have not found it to be so. I do not believe that it can be done. That is why I say a court would have to take one or the other.

HEW—and I am not referring particularly to Mr. Finch, but HEW—can take either one they want. I can tell Senators the one they are following. Generally they are following (b). I do not doubt they might have written that paragraph in here, after being requested to do so, of course, because they would not intrude. They would do that if requested. I do not know. I am not saying they did. But it sounds so much like them. It is the pattern we are trying to get changed and modified a little.

I know what HEW is going to do. They are going to tell the people of the South, "The Congress made us do this and made us write this in black and white."

Mr. PELL. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. STENNIS. I yield to the Senator from Rhode Island for a unanimous-consent request.

Mr. PELL. Mr. President, I ask unanimous consent that the RECORD be corrected to include the name of Representative ROMAN PUCINSKI as one of the conferees on the part of the House in the report filed this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. So, Mr. President, let us not be mistaken. I am speaking now to the 64 Members of this body beyond the Deep South, from States in which this rule, which we live under, has not been applied, but they, nevertheless, said, "We are willing to take it in our area of the country in a sense of fairness." I want them to know what this amendment does. There is a different point of view from the other side, it is true, but I want them to know how this matter fits in, in my mind at least. I have certainly been connected with it for a long time and certainly I have been working on this matter for a long time, although many others have worked on it also. I deserve no more credit than many others but I am familiar with it and in my mind and in my heart I know there is not a thing in the world to paragraph (b) except the same old formula, ritual, and practice that has been followed so far by HEW for many administrations. Try as Congress could with some mild proviso, they have gone out of bounds on this section.

I know that in some areas it is politically unpopular to try to enforce any rule that tries to destroy segregation. I think some people are trying to continue to protect it. I do not know that it will ever be destroyed, not in our time. I do not know why the Supreme Court over and over again refuses to pass on that matter, even though in my humble opinion they have had plenty of chances on that same question outside the South on so-called de facto segregation.

I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Mississippi. Earlier this morning a point was made by the distinguished Senator from South Carolina (Mr. HOLLINGS) that actually the addition of section (b) here, to which the Senator has just referred, such uniformity refers to one policy applied uniformly to de jure segregation wherever found, and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

In essence, if I recall correctly, I think the point made by the distinguished Senator from South Carolina was that by adding this language to the conference report the Congress has, in effect, reestablished segregation as the policy of the Congress. I think the reasoning went along these lines; that with the adoption of the Stennis amendment, the Senate, in effect, said that it was the finding and belief of members of this body—as I recall the vote was around 50 to 30.

Mr. STENNIS. Fifty-six to thirty-six.

Mr. HANSEN. Fifty-six to thirty-six. That if segregation is exercised, as a great many believe it is—and the old concept of separate but equal, having been struck down by the court, no longer can apply in this country—then, with the leadership provided by the distinguished Senator from Connecticut (Mr. RIBICOFF) the country at long last had faced up to the facts and said that if the law of the land is that segregation no longer can be tolerated, the Senate has, in effect, said, "We will see that segregation is dealt with by the Federal Government uniformly without respect to any historical relevance or without respect to anything else."

I think what the Senator was saying could be compared to our efforts to strike down a certain disease. If I may, for the purposes of illustration, carry the analogy forward, I would say that the disease perhaps could be communicated in two or more ways. It could be communicated by a vector, by a mosquito. It could also be communicated by a germ that could be passed through the air from one person to another.

As I understand it, the Federal Government was instructed by the actions of the Senate that, it does not matter how this disease was communicated; we do not think it is good; we are going to bring the full force and effect of the Government to bear to see that it is stopped.

I was hoping that that would be the policy of this Congress, just as I felt that what the distinguished Senator from South Carolina said had great validity. At the moment when we passed the measure by a vote of 56 to 36 we said, "We are not going any longer to be blinded by what brings about segregation, whether it be de jure or de facto.

If it is not good, we are going to see that, so far as the actions of the Federal Government are concerned, we will do what we can to stop it."

Now with the addition of subparagraph (b), it seems to me, as the Senator from Mississippi has so clearly pointed out, we have in section 2, two subsections (a) and (b), which cannot be reconciled one with the other. Either one is right or the other is right. They cannot both be right.

We have said in subsection (a)—

Whether de jure or de facto in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

That, it seems to me, is abundantly clear. It seems to me to state a policy which I helped the Senate to enact by a vote of 56 to 36, because I thought it was right. I think it is right for this Government to say, as a matter of an expression of public policy, that we should apply the laws of this country uniformly to all 50 of the States. I can see no reason at all to make any distinction other than that they shall be applied uniformly to all 50 States.

To get back to the example I was making about the disease, it seems to me that we are about to pass a law which says if the disease happens to be measles, and you contract it by a vector, we will do something about it, but if you get it in any other manner, we will not do anything about it. That is what it seems to me subsection (b) of section 2 now says.

Having just said that we are going to see that the laws of this country are going to be applied uniformly in all 50 States against something the Supreme Court of the United States has said must no longer be tolerated, we now turn around and, with doubletalk, present an impossible situation, I would think, for any court to find sense in it by adding subsection (b) to subsection (a).

Does the Senator think it will make one whit of difference to a little black child, to a little Indian child, or to a little white child to be in a school where certain policies are enforced or are not enforced simply because his presence happens to reflect de facto or de jure segregation, insofar as the long-range objectives that hopefully will come from that educational experience are concerned?

Mr. STENNIS. Not a bit of difference in the world, as the Senator has so clearly put it. It could not possibly make any difference. This amendment abandons the idea of bringing to those children whatever benefits they would get out of the mixed schools, and it has gone off and been based on historical grounds that have no relevance whatever to education.

Mr. HANSEN. Can it also be said that, actually, despite all the rhetoric, despite all the discussions, of what the Supreme Court may do or may not do—and, if I recall correctly, and I hope I do not misquote my distinguished colleague from Rhode Island, I think he said earlier today that, hopefully, the Congress of the United States would pass laws which the Supreme Court would find constitutional—Was that essentially what my distinguished colleague said?

Mr. PELL. That is correct.

Mr. HANSEN. I thank my distinguished friend.

I simply want to say that I believe it should be the responsibility of the Congress—and it shall be my objective—to try to look at this country of ours, to try to look at the problems that are presented to us, and to try to pass such laws as we feel may be in the public interest, and that we shall not be overly concerned always with trying to anticipate what the Supreme Court may say. I am old enough, as I am certain most Members here are, to know that the Supreme Court, down through the course of history, has decided one way once, and then another. Oftentimes, our learned scholars have said that the Supreme Court may be a couple of decades behind the popular sentiment, the national will, but sooner or later it seems that the Court has a way of reflecting what a majority of the people feel must be done.

With that thought in mind, with that observation in mind, it occurs to me that our objective should be: What may we do better to bring about that equality of opportunity, that equality of individual rights, which will make for the greatest possible achievement, individually and collectively, we can have in these United States?

Sometimes, to the surprise of many Members of Congress, actions by the Congress have been struck down as unconstitutional. If we were to be circumscribed in our actions by what we thought the Court might do, I would say we would lose sight of real objectives. Although obviously we will have to be answerable, our laws will have to be subjected, when they are brought before the Court, to the impartial, searing light of examination by the Supreme Court, I do not think our objective ought always to be to try to anticipate what the Court may say on a matter, but, rather, to address ourselves to the problems that are important to the people of this country.

I think that is what we have been doing here, and it seems to me that, having taken such a courageous step forward, having responded to the fairness, the courage, and the objectivity of the distinguished Senator from Connecticut (Mr. RIBICOFF), in following his lead, and having said we will no longer have a policy in this country spelled out by the Congress of the United States which will bring about an automatic type of segregation, which I submit subsection (b) would bring about, we will have taken a backward step now, if we adopt the language that has been brought forward by the conferees.

When I say these things, I mean to imply no criticism at all for the very able and dedicated leadership that was presented to the conference by the leader of the Senate conferees, my very good friend the Senator from Rhode Island (Mr. PELL), but rather to say that I hope we will not do what we are now asked to do, because I think it would be a step in the wrong direction.

I believe that if segregation is an evil, the laws of this country and the full force of the executive branch of the Government—and I have not yet had an opportunity to read the President's message—should seek to correct it. I would hope, first of all, that if there is an evil—and in the opinion of the Court there is one—I would hope we would do whatever we can to make these laws apply everywhere equally, just as the Senator's amendment so clearly prescribed would be done; and second, that we will give all of our children the assurance they are going to be treated fairly, that whether they live in the South or in the West, in Detroit or in New York, the same laws that apply to one section of the country are going to apply in every other section.

I think if we do this, we will have taken a major step forward in carrying out the mandate of our times.

Mr. STENNIS. Mr. President, the Senator has made a splendid statement. I subscribe to it wholeheartedly. I think he has made a major contribution to the debate.

Mr. HANSEN. If the Senator will yield a bit further——

Mr. STENNIS. Yes, excuse me. I thought the Senator had finished.

Mr. HANSEN. Well, I had, but I am reminded that I inserted in the RECORD some few weeks ago a rather lengthy column by Vermont Royster published in the Wall Street Journal, which discussed, as I recall, in considerable detail the proposition of the immorality of imposing a desegregation order on young children—school children—which we would not think of imposing upon older citizens. His excellent article prompts us to observe: We are insisting that our schoolchildren, our little children, be treated in a manner that we would not tolerate 5 minutes if the Supreme Court of the land, or this Congress or anyone else in authority, were to say that the same policy and the same principle shall be imposed upon adult people.

Mr. Royster went on to point out what, in his judgement, is wrong with efforts to integrate our society by applying these very harsh measures to the schools of this country; and he asked, if segregation is an evil, would it not be just as defensible to say to adults living in a community, "We have to have a certain degree of racial balance here, so you cannot continue to live in this part of the city; the court is going to tell you to pack up lock, stock, and barrel, and move out to another part of the country"?

That is the point he made.

How long would my distinguished colleague from Mississippi expect that the people of this country would tolerate such a proposal, if one were ever to be made, either by the Court, by Congress, or by any other authority? Does my friend think for a moment that any person in the United States, in peacetime, or in wartime either, for that matter, would willingly submit to such an order or edict?

The last time that I can recall that such a thing did occur was back in World War II, when we said to our Japanese-American citizens, "You cannot live

here; we are at war with Japan, so we are going to move you out." The legal scholars, as I recall, are still debating the legality of that move; and I have no doubt in my own mind that, had it not been that we were at war and that the overwhelming sentiment in this country supported the Government in its position, a good legal test could have been made of that, and it would have been struck down by the courts of this country as an unwarranted invasion into the rights of citizens.

But nevertheless, to get back to Vermont Royster, he makes the point that adults would not tolerate for one moment a court ordering them to leave one place and move to another place in order to achieve a certain degree of racial balance. The immorality of such an action would be too patent—too obvious—to be tolerated.

But I think that is precisely what we are saying to our schoolchildren, these little youngsters who are subjected to all of the frustrations and the tensions and the anxieties that may cause them many problems. Do we need to add to all of those things, which are part of growing up, yet another dimension, which I think can be most damaging of all, by uprooting them from their own communities, their own homes, their own friends—those youngsters of many races with whom they have grown up—and moving them out, taking them by bus, certainly oftentimes involving a considerable amount of time, to be transported to another part of the city, so as to achieve a racial balance among schoolchildren, that I cannot believe would be tolerated for 5 minutes if we were to try to apply the same techniques to grown, mature people?

Mr. STENNIS. The Senator has spoken well again. I thank him very much for the part he has taken in the debate. He understands human nature and the practical side of life very well.

I wish more of our Members had a chance to see the real results that this busing has caused the children in the tearing of little neighbor children apart and sending them off to different schools, and also the teachers, in invading the province of their contracts and the professional prerogatives of that great profession that is second only to the ministry itself.

Mr. President, I was referring a few minutes ago to the confusion that I thought this amendment, as written now, would bring about, with the double-edged operating blades that it has. I was impressed tremendously by remarks made by Chief Justice Burger, in a case that was decided on March 9, 1970, since the original debate on the amendment in this Chamber, which was in February.

This was in the case of Northcross against Board of Education of Memphis, Tenn., city schools. The Supreme Court sent that case back. Chief Justice Burger made these special remarks:

> Save for one factor, I would grant the writ and set the case for expedited argument at a special sitting, if necessary.

He went on and concurred in the results, but he gave his reasons why he saw other points in it. He said:

> I would do this on the basis that the time has come to clear up what seems to be a confusion, genuine or stimulated, concerning this court's prior mandate.

I say that this is relevant here, directly involved in this debate. We are told so many things to do and what not to do and are given so many orders and so much policing in our area of the country, although it is not involved elsewhere, that here is the Chief Justice of the United States saying that the time has come to clear up confusion. He cites those cases, and then he makes this statement in that brief opinion:

> From what is now before us in this case, it is not clear what issues might be raised or developed on argument. As soon as possible, however, we ought to resolve some of the basic practical problems when they are appropriately presented, including—

It is very unusual for a Chief Justice to make a statement such as this about the Court—

> whether as a constitutional matter any particular racial balance must be achieved in the schools, to what extent school districts and zones may or must be altered as a constitutional matter, to what extent transportation may or must be provided to achieve the ends sought by prior holdings of this court.

I am sure that any reasonable person who thought about it would have assumed that these matters have already been decided.

If the Chief Justice of the United States says there is confusion and the Court has not decided matters it should, how can they be understood by a little school board way out yonder in Timbuktu, five men elected to the board, serving without a salary, in a school district in which the assessed valuation perhaps is not over $5 million, where the superintendent perhaps is the executive member of that board, and they have one lawyer? Under a penalty of contempt of court—I know what I am talking about—these ladies and men have to make grave decisions as to what they will do about running their schools and the court proceedings against them, when the matter is so confused that the Chief Justice of the United States says that these matters ought to be decided.

It is downright ridiculous, the requirements that are being imposed on these little school boards, with their limited opportunities, without their knowledge of what the law is, without the resources to have these questions researched. Here is the Chief Justice of the United States saying "confusion," and it is confusion compounded.

Still, when the Senate, by a 56-to-36 vote says we ought to have at least a uniform policy, the same old bugaboo is raised for more confusion. They say, "No, we have to have two policies—one for the North and one for the South." I just cannot understand it. I do not know how far we are going.

I do not want to detain the Senate, but I have four cases which I will present before this debate is over.

These are four cases that have been decided by the Supreme Court of the United States, and Chief Justice Burger is Chief Justice of the United States. These cases have come to the Supreme Court from areas outside the South, and for some reason they have rejected them, they have not passed on them. I do not know why. I do not impute any bad motives to them. But here is the Chief Justice crying for decisions, and I think de facto segregation is the big thing involved in every one of them.

If they are going to hold that nothing will be done about it, they owe it to the country to say so. If they are going to hold that it is illegal, I respectfully say that they owe it to the country to say so. I think that is one of the things to which Chief Justice Burger was referring. He has said that other matters are involved. I hope it means something that the Court is going to move out of this field, which he called a field of confusion, and bring more common sense along with more law to bear on this insoluable problem. You people from other areas of the country do not know how it is, but you know enough about it to decide that you do not want it, and you are fighting hard to keep in the deep freeze your segregated schools.

Mr. President, the original amendment requiring that there be one national policy on segregation applied equally throughout the Nation, as I have said before, was adopted by this body by a vote of 56 to 36. That amendment made clear and definite the intent of the Senate to set a single national school desegregation policy to be enforced uniformly in every section of the United States.

The issue throughout the debate on that amendment was, simply: Should there be a single national policy; and if so, what should that policy be?

The debate really started on January 27, when the amendment was submitted, and it continued off and on until February 18, when the Senate voted overwhelmingly that there should be one national policy, that that policy should be "that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Educational Amendments of 1966 dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation."

The words "de facto" and "de jure" were added there through an amendment—a very timely amendment—by the Senator from Connecticut. Then, another amendment sought to strike out the words appearing therein after the words "United States," and that amendment was rejected. So we had the proposition of making all kinds of segregation one so far as policy was concerned.

The proposition now before the Senate, in the conference report, is as different from what the Senate voted on February 18 as night is different from day. The conference report proposes that there shall not be a single policy but that there shall be two policies. It provides one policy for what is described or classified as de jure segregation and another

for what is described as de facto segregation.

The fact that the conference report proposes to establish two policies is bad, but it is worse that one of the policies established—the policy relating to de facto segregation—is established without definition or even a suggestion of a definition. In fact, that issue is completely evaded by a declaration that the de facto policy shall be whatever is provided "pursuant to law." The report, therefore, not only rejects the original proposition established by the Senate amendment, but it would, if adopted, legalize the inequity the Senate sought to correct.

Mr. President, I think there is a good chance that if the court is passing on that section (b), should it be adopted—which I hope it will not, and I believe it will not—then I believe that clause, right there, would knock it out and be the basis for holding that it had no meaning.

In addition, the failure to define the remedy for de facto segregation compounds the confusion that has made equal application of the law difficult, if not impossible.

The duplicitous policy of having one integration standard in the North and another in the South has confounded every public official from the school superintendents to the President of the United States.

I read from one of Secretary Finch's recent statements a few minutes ago, that someone had brought in a statement from the President today—I have not had a chance to read it yet, but I know that he found a lot of the facts there that were not to his liking and a lot of conflicting, duplicitous policies that he has had to deal with. This merely adds to it. This original amendment was just a beginning, a light brightly lit, that would help to lead the way.

School officials in the South are at a complete loss to understand the content of the national policy or the method of its application.

The President said on March 21, 1970, as reported by the Washington Evening Star of that date:

> The law at all levels is confused.

The Secretary of Health, Education, and Welfare, Mr. Robert Finch, said on March 2, as reported by the Washington Post:

> The Nixon administration is confused by what the courts have said. There are a number of areas where the court has not spoken at all.

He went on to say:

> They (meaning the courts) still cling to the distinction between de jure and de facto segregation which I happen to believe, as a lawyer, is not longer valid. I think segregation, or racial isolation, everywhere it appears to be one and the same. We have a very confused set of decisions. . . .

With all deference, this amendment brings forward all the confusion, all of the uncertainty, and all of the duplicity that we have been finding here. The people outside the South cannot feel it or realize it, that we have been having in connection with this problem.

Chief Justice Burger said in the opinion in Northcross et al. against Board of Education of the Memphis, Tenn., city schools et al. handed down March 19, 1970:

> . . . the time has come to clear up what seems to be a *confusion*, genuine or simulated, concerning this Court's prior mandates.

That is a highly extraordinary statement to come from the Chief Justice, and a proper one, though.

The confusion referred to by these high officials and which exists throughout the public school system is mainly caused by the failure of Congress to set forth a clear and definite national policy.

The way it has been applied is almost the same as if one had written another section to it and gave the order, "You shall apply this only in the South." I do not have to say anything more about the court's decisions. I just let the Chief Justice's remarks speak for themselves.

In the original amendment adopted by the Senate on February 18, the Senate spoke clearly, firmly, and plainly.

The Senate said there should be one policy, uniformly enforced throughout the Nation and that policy should be that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 dealing with conditions of segregation by race whether de jure or de facto should be the same in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

That language is clear. The intent of that language is clear. Simply stated, it says it is national policy to deal with segregation wherever and whenever it occurs under the same rules.

We were talking about the granting of money, something specially within the jurisdiction of Congress. Still this report comes back from the conference to say, "Well, the Supreme Court has not passed on de facto segregation." The court does not have to pass on de facto segregation—whatever it is—prior to Congress' adopting whatever rules it wants to adopt with reference to the granting of Federal aid to education. That is all involved in the amendment. It relates solely to the Federal grants on aid to education.

If the proposal in the conference report is adopted it will by law establish two policies: One for de jure segregation, however that may be defined and applied; and another for de facto segregation, "as may be provided pursuant to law."

If adopted, the conference report will give official status to the present practice of enforcing desegregation in one part of the country, while ignoring and overlooking it in another part of the Nation.

Now this is not hard law. It is a statement of policy, but, nevertheless, it has official status. If it should become law, our friends here who have changed the amendment, some Senators here who are trying to keep the "great hand" from reaching their segregated schools, will cite this report and every word in it to back up their position, if this should pass.

The record of the Senate is heavy with facts collected and verified by the Department of Health, Education, and Welfare that show the extent of segregation in the North. The location of the figures by States in the RECORD is listed on page 1266 of the CONGRESSIONAL RECORD of January 27, 1970. The figures show indisputably that segregation in the North in many places is worse than in many places of the South.

Facts available since those figures were compiled show the schools of the southern and border States are far more integrated today than those in the northern and western States.

For example, in Mississippi 50.4 percent of the 223,784 Negro students attend either majority white schools in HEW monitored "voluntary plan" districts or school districts which have been integrated under court order, based upon HEW-approved plans. These figures do not include the 30 school districts where Federal funds have been terminated and for which HEW figures are not compiled.

This compares with an average of 27.6 percent for the 32 Northern and Western States. The percentage of Illinois is 13.6 percent—22.5 percent in California, 32.3 percent in New York, 20.6 percent in Michigan, 27.3 percent in Nebraska, 27.7 percent in Ohio, 27.5 percent in Pennsylvania, and 30 percent in Indiana.

During the debate on this amendment the segregated conditions of the North were stated and emphasized repeatedly. The conditions were condemned by Senators representing the North as well as by Senators representing the South. Segregated conditions in the North were described as "deplorable."

The failure to move against segregated conditions in the North while moving vigorously in the South was described as "monumental hypocrisy."

After full debate the Senate moved with courage, logic, and a deep sense of fairness to establish a doctrine of equity laying down the rule that every citizen in this country should be treated the same under like circumstances.

Mr. President, let us not be mistaken about it. If the Senate adopts the conference report, it will have repudiated the action it took on February 18 in establishing equal treatment for all people under the law.

There is no other way, as I have said, to read those two sections together, from a legal standpoint, at least, without finding one contradicting the other.

There was no way for paragraph (b) to have life and at the same time for paragraph (a) to have life.

This applies primarily to HEW and would give HEW a choice, to follow (a) or follow (b). However, we know what they will follow. They will follow (b). They will follow (b) because they have followed it all along and they would run into a stone wall if they tried to apply (a) with (b) in existence—outside of the South.

It will not only condone but will place the stamp of official approval upon the inequities that were so vigorously condemned on the Senate floor less than 60

days ago. The question is simple. Will the Senate reverse itself?

That is the question and that is the only question. It can be painted and varnished, and explained and discussed, with ambiguous language but the issue is clear. Will the Senate stand firm in its opposition to and condemnation of "monumental hypocrisy"?

Mr. President, I do not want to take too much of the time of the Senate. This is a matter of the gravest concern. It has had the utmost attention of the Senate. When we were here in February with this amendment, the burden was on those who proposed the amendment to make out a case, to bring forth the facts and the logic and conditions and figures that would make out a case.

I had very little part in that, but when that debate was over, the vote was 56 to 36 in favor of the amendment.

I would just make a calculation here and point out that those who voted in favor represent approximately 60 percent of those present and voting.

It is a large percentage of the membership in favor of the amendment on a vote on a subject matter of that kind. It was the first one that had been decided from that viewpoint since the Supreme Court decision of 1954.

I cite that to show that the Senators felt conditions called for a change.

The amendment swept through this Chamber like a spring breeze. Now the presumption is still in favor of that amendment because it passed the Senate by such an overwhelming vote. The burden is on those who propose new remedies. And I respectfully submit they have not carried the burden.

They kept the Senate amendment in here. I do not know why unless it is part of the two rule system or for sentimental reasons. However, if we follow (b) and put it in there, we would cancel out a great part of what the Senate did a little over 30 days ago.

Mr. President, I have the cases I referred to as well as other remarks. However, I will speak later.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. HOLLAND. Mr. President, first, I compliment the Senator upon continuing his good fight, his good battle which he won so effectively in the Senate by a vote of 56 to 36 just a short while ago.

I cannot understand why the conferees from the Senate permitted this amendment to stay in the bill at all, while at the same time they were permitting it to be so mutilated as to make it read and mean something entirely different from what the Senator's original amendment meant.

I call attention to several facts. One is that seven of the conferees of the House did not sign this conference report.

They were Mrs. GREEN of Oregon, Mr. ASHBROOK, Mr. BELL of California, Mr. ERLENBORN, Mr. SCHERLE, Mr. DELLENBACK, and Mr. ESCH.

That indicates anything but full concurrence on the part of the conferees of the two Houses on this particular matter.

Mr. President, I want to go much further than that. First, I want to say that I completely agree with the distinguished Senator from Mississippi that the insertion of subsection (b) in this amendment changes it entirely from its original form when it did prescribe uniformity in the treatment of desegregation, regardless of how it may have arisen and regardless of whether it was de jure or de facto. It changes it entirely by prescribing nonuniformity, two rules of uniformity in the treatment of segregasalutary end which the Senate had desired to accomplish in the Senate by the adoption of the amendment, this mutilated amendment brings about exactly the opposite result because it does prescribe complete nonuniformity in subsection (b), which I will now read for the RECORD:

> Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

That makes it very clear that the uniformity prescribed is to be two kinds of uniformity affecting the two different fields. It seems to me that instead of bringing order out of confusion that has existed, this changed amendment brings even greater disunity and even greater confusion.

I wish to speak briefly upon one aspect of the matter that I do not believe the distinguished Senator from Mississippi mentioned, and I wish to get his views. He stated very truthfully that the meaning of de facto segregation was not described by this conference amendment. But assuming de facto segregation means segregation brought about by residential patterns—and that apparently is what the President thinks judging by his message received today, and that is what frequently has been described on this floor as de facto segregation—I am calling attention to the fact that it must apply in the South as well as in the North.

We have segregation that does result from residential patterns in such cities as Louisville, Memphis, Atlanta, Richmond, New Orleans, Jacksonville, Miami, Tampa, and many other cities which the Senator well knows, including the city of Houston, with more than 1 million people in that city.

It seems to me, therefore, that this modified amendment prescribing two kinds of uniformity, instead of uniformity which by its very meaning requires a single interpretation, now prescribes two different kinds of uniformity and will probably bring about in the Southland two different types of enforcement of law.

It seems to me if anything could be more unfair, as well as more calculated to make for greater confusion than even now exists, it would be to have the rural counties, and the counties where the county seats are small towns, affected by one meaning of the uniformity and to have the cities where large groups of Negro people and white people live in separate areas of those cities, affected by a different type of law and a different interpretation of the law applied to them.

I cannot help but think in terms of my own State. It seems to me it would be highly unfortunate and unfair to have the smaller counties in my State and the rural counties in my State, some of which are rather large in terms of population—one of which is the county I live in, which has about a quarter of a million people and is still a rural county—have to obey and have enforced one interpretation of these laws against segregation, and to have the larger counties where there are large cities—and I am thinking now particularly of Jacksonville and Miami—free from the law as interpreted in the rural counties and, instead, subjected to another interpretation of the law.

The city of Jacksonville has something like 110,000 Negro citizens. They live almost entirely in one area of that city on the north side of the St. Johns River. The area south of the St. Johns River is almost entirely inhabited by white residents. It seems to me it would be very unfortunate and very unfair to have the areas in that city of Jacksonville which are inhabited entirely by Negroes or entirely by white people held to be de facto segregated—and there are a great many schools in each of those areas, colored schools in one area and white schools in another area—and yet to have the surrounding counties, much less able to deal with this particular problem than the city of Jacksonville, subjected to another interpretation of the law. I cannot think of anything more unfair or unfortunate than to have such a result.

My question to the distinguished Senator from Mississippi is this. If de facto segregation is held to be that segregation resulting from residential patterns, as I think most of us believe it to be, will it not, by that very fact, bring about a result under which two types of law enforcement, two types of interpretation of the laws against segregation in the schools, will be enforced, even in the Southern States where there are large cities having large residential groups of colored people or white people living together; and, therefore, neighborhood schools in those areas that are segregated either white or colored? Will it not bring about two types of enforcement and will it not bring about two types of laws, even in the Southland?

Mr. STENNIS. Certainly, something like that is in prospect. No one can tell what form it will take now. This is not confined just to the South. We have migrations in various cities. This migrating includes colored people, too. We have the busing problem in some of the western cities that we know about where school boards have been defeated when they came up for reelection. It compounds and confuses the problem.

There must be one general overall policy and that must be and I think it should be declared by Congress and in very emphatic terms. We did make a start in that amendment. Something will have to be sustained by the court. We cannot go on as we have been.

I think the Senator from Florida has made that very clear and I commend him for it.

Mr. HOLLAND. Mr. President, will the Senator yield further?

Mr. STENNIS. I am glad to yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, it seems to me the recent decision of the Supreme Court in the case affecting Charlotte, N.C., indicates rather clearly, although the decision is not yet written to so declare, that this very point is bothering members of our Supreme Court. Otherwise, I cannot see why they would have refused to apply to Mecklenburg County and the city of Charlotte the same rules they have applied in other decisions to more rural counties.

I think the RECORD should show that this very unfortunately worded amendment, as it comes back from conference, is fraught with grave problems and grave possibilities, not solely with respect to the North, East, and West, but also with respect to the South, where I think instead of having something that could be called unitary, we are going to have a dual type interpretation and enforcement which will make vastly worse the confusion already existing.

I want to congratulate the Senator for protesting vigorously upon this rewriting of the amendment, which is offering exactly the opposite objective from that which he intended and that which was approved by a large vote of the Senate.

I thank the Senator for yielding.

Mr. STENNIS. I thank the Senator for his comments. I want to make one correction in what he said. This is not my amendment. This is our amendment. Fifty-six Senators voted to have it adopted. I hope even more Senators this time will vote to sustain it.

Mr. President, unless a Senator wants the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the conference report.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes, with amendments, in which it requested the concurrence of the Senate; that the House insisted upon its amendments, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MCMILLAN, Mr. ABERNETHY, Mr. DOWDY, Mr. CABELL, Mr. NELSEN, Mr. HARSHA, Mr. BROYHILL of Virginia, and Mr. HOGAN were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 15728) to authorize the extension of certain naval vessel loans now in existence and new loans, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled 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, education assistance, and special training allowance paid to eligible veterans and persons under such chapters; to amend chapters 34, 35, and 36 of such title to make certain improvements in the educational programs for eligible veterans and dependents; and for other purposes; and it was signed by the Acting President pro tempore (Mr. METCALF).

HOUSE BILL REFERRED

The bill (H.R. 15728) to authorize the extension of certain naval vessel loans now in existence and new loans, and for other purposes, was read twice by its title and referred to the Committee on Armed Services.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. JAVITS. Mr. President, I have heard with very great interest the concerns expressed by the Senator from Mississippi about what we did in the conference. As one of the conferees who undertook to try to negotiate this matter with the House of Representatives on the Stennis amendment—an amendment which I opposed, but which as a conferee I was in conscience and in duty bound to defend to the utmost, and which in all conscience I feel I did—I should like, first, to make this point, which I think is very important:

Lest the Senate have some contrary impression, four of the Senate conferees had voted for Senator STENNIS' amendment notwithstanding the debate and the controversy which was engendered, and all four of them signed the conference report: Senators YARBOROUGH, RANDOLPH, PROUTY, and MURPHY. A member of the House conferees from the South, Representative RUTH, of North Carolina, who ardently espoused the Stennis amendment in conference, also signed the conference report.

Mr. President, I should like to address myself first, because I, too, think it was of great significance, to an astute and lawyer-like question asked by the Senator from Mississippi (Mr. STENNIS), and that is: "What did you preserve of my amendment in this compromise?"

Mr. President, I think we preserved a great deal. Indeed, I think we preserved everything. In the first place, the concern expressed in the Stennis amendment was that there should be uniformity of enforcement; and that, because it was a statement of policy and not a law, meant not only that the laws would be uniformly applied—which we all understand, and which did not need a policy declaration—but that manpower used, effort exerted, and emphasis in the executive department, and all such things would be borne in mind in laying on evenly, as it were, North and South alike, with respect to the desegregation of public school systems.

That was certainly preserved. There is no question whatever about this matter of uniformity; and because it is a policy statement, uniformity means far more than it would mean if it were simply an operating statute.

Second, Mr. President, we took account of the fact that the state of the law would develop, and that, whereas the Supreme Court had not yet ruled on the issue of de facto segregation—and that is really racial imbalance; as a matter of fact, that was admitted here in the course of the debate on the Stennis amendment, that both terms meant exactly the same thing—but as the Supreme Court had not yet determined that that was unlawful or unconstitutional, we took account of the fact that the law might develop in that way, and we took account of the fact that Chief Justice Burger had, indeed, called on the Supreme Court to take up a case of that kind on a write of certiorari—it having denied such writs heretofore, by the way, as the Senator from Mississippi properly noted.

Mr. President, the much maligned part (b) of this compromise deals with precisely that question. It says, for practical purposes, that the Federal law is expanded to include de facto segregation of any kind, wherever found, North or South; that the policy of uniform administration should apply to de facto segregation to the extent that it becomes unlawful, as the law progresses in the future. So I think that is a very clear accomplishment.

My third point, which I think is most important of all to Senator STENNIS and to his colleagues who so vigorously and successfully fought for the Stennis amendment, is the preservation, in clause (a), of the language which reads "whatever the origin or cause of such segregation."

That, I think, Mr. President, is a very big concession which was obtained by the Senate conferees; because, with all respect, I do not agree with the Senator from Mississippi—and I have the privilege of disagreeing because I, too, am a lawyer—that clauses (a) and (b) are antagonistic, and that the courts will choose (a) or (b).

On the contrary, it is hornbook law that the courts will do their utmost to reconcile (a) and (b), and obey them both if they can. I believe they properly can, and I think the key to the matter is this phrase, "whatever the origin or cause of such segregation."

I do not see anything whatever in item (b) which is inconsistent with that policy declaration.

Mr. President, what does that mean?

That means, in my judgment, that the courts will now cease to look for the origin of the segregation, which, in the South—because that is where it has been, in contemporary times—were dual school systems, and will, as it were, call them as it sees them.

In other words, if you have a situation of segregation which is attributable to the dual system, or its remains or vestiges—obviously a dual school system is unlawful now, so that we cannot say that the courts can act only if the system exists now, because it is unlawful now, and the court will not take action except to redress unlawful things—the courts have held a right to look at the system and say that the segregation arises from the fact that at one time they ran a dual school system, and therefore, to undo that wrong, they will make the following remedy—but the courts can no longer assume it. The courts can no longer assume, as I see the meaning of this policy statement, that because there was at one time a dual school system, then it follows as a matter of law—we lawyers use the words "ipso facto"—that the segregated system is the result of that dual school system.

This, as a matter of fact, will complicate proof for the Department of Justice. It will certainly, in fact, cause a uniformity of application of the policy, which is all we passed on here, to both North and South, and in my judgment the Senate gained a great deal more than the other body, with all respect to them, in respect to this vital matter, which goes to the actual taste, color, and nature of the desegregation of public school systems of the South, and I think equally with regard to the origin or cause of such segregation. When the court extends the doctrine to include de facto segregation, in whatever form it may extend it, it will also apply there, and again the court will not assume that because a housing pattern or a working pattern is involved, that that immediately takes it outside the law, but the court will go through, because it will disregard the origin, and actually try to determine whether or not the segregation actually is, as it were, manmade in one way or another, by gerrymandering school districts or as the result of some other educational policy.

There again, from both the negative point of view—that is, of treating the South differently—and the positive point of view—that is, of approaching the thing more vigorously in the North—I think this policy statement will help accomplish both.

Finally, Mr. President, one thing that is omitted in Senator STENNIS' very eloquent and powerful argument made a little while ago is that this is a policy declaration. It is not a law. If we wish, Mr. President, to deal with de facto segregation by law, Senator STENNIS is absolutely correct: We have the right. The courts may declare it unconstitutional. That is possible. They may declare that education is a matter for the States, that it is beyond our reach in terms of the application of Federal law, and that all we can do is condition the use of money on whatever our ideas are, but we cannot actually direct State school systems as to how they shall organize and operate.

That may very well be. But even in conditioning the use of money, we could deal with de facto segregation, and say, "None of this money can be used, or it can be used only under given conditions, when, as a matter of fact, there is a preponderant pattern of one race or the other in given school systems."

We could set a percentage—which is what we tried to do in New York, by the way—and certain guidelines with which we had a great deal of trouble when Dr. Allen, now the Commissioner of Education, was our education commissioner in New York. So we could set percentages. But if you get into that, then you have to go a lot further than anybody around here seems to be willing to go. For one, you are face to face with the busing issue. There is simply no way to desegregate areas where you have a heavy concentration, for example, of black population in the core cities except by busing, and you have to face that head on. You have to face a definition of what is a segregated school system de facto, and there you come into the issue of percentages.

You have to face the issue which the Senator from Colorado (Mr. DOMINICK) and the Senator from Kentucky (Mr. COOPER) have always sought to lead us on—the issue of the quality of education. Is it really a fact that this type of segregation does what the Supreme Court found de jure segregation did in the Brown case—to wit, depreciate the quality of education of the individual, or at least have that capability?

All this is a far more complex question than the Senate has yet been willing to deal wtih. I will say, as an ardent advocate of desegregation, that I would be very pleased if the Senate really came to grips with that as a matter of law and tried to decide what is and what is not good educational policy in terms of Federal money, where you have school systems which have concentrations of population in a given area so that the concentration reflects itself in the school population in individual school districts. I doubt very much that the advocates of the Stennis amendment want to get into that, because it would lead right into all the things to which they have been opposed.

So, really, when Senator STENNIS proposed his amendment, he was proposing a compromise; he was proposing a policy declaration because, obviously, those of that point of view were unwilling to get into a statutory declaration which would have to be infinitely more specific and have to face the stern realities which you have to face if you are going to deal with what is called de facto segregation.

I respectfully submit that in working out a policy declaration, the conferees have preserved far more than they have given up. As I see it, the only thing they have really given up from the original Stennis amendment is the failure of the original Stennis amendment to recognize that it was a policy which was not adjusted to the size of the law, that the policy went beyond the law. What the compromise did was to say that the policy will go the extent of the law, and if the law grows, it will go that far, too, but it will not go beyond the law. I cannot see how, in logic, one can fault that kind of compromise.

Where we are dealing with law, we have no right to make policy, except based upon the law we have a right to apply. We are not a legislature of unlimited powers. We have a very sharp circumscription of our powers according to the Constitution.

So it seems to me that we followed out the logic of the Stennis amendment in the compromise we made, and I feel that we gave up, in terms of what the Senate wanted by a majority vote, a lot less than we got. I feel that the conferees have brought home the essential thrust of the Stennis amendment, insofar as it has any right to go, which is to the extent that we have any power—to wit, the law, the Federal law, whether it is made in court or made here in statute.

I was very much a party to this effort, which went on for days, as the Senate knows, and was very hard fought.

In closing, I would like to testify to my feeling—and I make myself the example A—that I really felt deeply impressed in conscience with the obligation of being a conferee on an amendment which I was against, strongly against, and, it seems to me, made me even more vigilant than I otherwise would have been and less disposed than I otherwise would have been to give up anything on it. I felt the duty to stick by it far more tenaciously than one does normally in a conference, whether on my own amendment or anybody else's, because I understood the background and the quality of the obligation we had undertaken as trustees. I deeply believe, in all conscience, that we brought back to the Senate the essential thrust, as Senator PELL put it, of the Stennis amendment.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. ALLEN. The Senator has spoken of following the reasoning of the Stennis amendment to its logical conclusion.

I should like to ask the distinguished Senator from New York if this is not conceivable, following the reasoning of the conference committee to its logical conclusion, the conference committee feeling and reporting that the uniformity required by the Stennis amendment should not be applied to cases of de facto segregation? Is it not conceivable that all presently segregated schools, if there be any, might become desegregated to the extent required by the Constitution as interpreted by the Supreme Court and for those desegregated schools to become resegregated, therefore becoming de facto segregated? Is it not conceivable, then, that there would be no integration in this country, inasmuch as de facto segregation has not been ruled unconstitutional?

Mr. JAVITS. No, I do not believe that, because I believe that the factual situation—that is, the mat on which we lay this template—is not that kind of mat. That is even true, in my judgment, in the areas of the country from which I

come. I think that in New York we have really striven very ardently and honestly to give a better opportunity to the children—mainly black children and Puerto Rican children—but we are by no means perfect. But I am sure that there are areas in this country where much better could be done and where the template even laid down there, if we did have some law on de facto segregation, would result in an improvement in terms of desegregation of schools. But I feel that in many areas of the country there has been a considerable mixture of the racial pattern of living; that modern means of transportation no longer make it necessary to have a little red schoolhouse on the corner. Educational centers, educational parks, the system of concentrating grades in a given school—all of this can be used to great advantage to accomplish the purpose of trying to raise the quality of education by the admixture of children who are concentrated in one place.

Therefore, I cannot accept the proposition that the whole wheel would run full turn and that, having desegregated, you would resegregate because of living patterns.

Mr. ALLEN. Does the Senator take the position, then, that the de facto segregation that exists in the State of New York should not be covered by the uniform standards and uniform policies provided by the Stennis amendment?

Mr. JAVITS. I do not take that at all, so long as the segregation in the State of New York is in any way unlawful.

Mr. ALLEN. That begs the question.

Mr. JAVITS. I do not beg the question at all. If the Supreme Court in any way extends its doctrine to New York or any other State, then the Supreme Court, or the local courts, can reach into that State and tell us how to do it better than we are doing it, and I would accept that. As a matter of fact, I would welcome it. But I say that is no excuse for staying the hand of the Supreme Court in areas to which the law does apply and applying it uniformly. That is why I said what I did about the question of presumption. I think that has been the complaint. I think that is one of the big things which remains and which the Stennis amendment has brought back.

Mr. ALLEN. Well, Mr. President (Mr. BELLMON), the Senator, then, would wish to wait for a Supreme Court ruling that the segregation which exists in the city and the State of New York is unlawful before attacking that problem?

Mr. JAVITS. No. The Senator is not saying that at all. On the contrary, I am doing everything humanly possible, and many others are, who are operating in this field. I said on the floor that when my State passed a law which inhibited local school boards from ordering busing to correct racial imbalance, unless it was an elected school board, that I am opposed to it and I would join with the others in efforts to undo it. I am pleased with the efforts made under Mr. James E. Allen, Jr., when he was our commissioner. I am pleased with the efforts of the courts which have issued decrees in the situation and I shall help to support them in every way I can. All I say is, right now, it is beyond the reach of Federal law or the authority of the States, but I welcome it. In the absence of it, I do not see how we can make a policy which goes further than this authority to decide cases bearing on State or Federal law.

Mr. ALLEN. The Senator states he would welcome Federal law, and where we have an opportunity by adopting the Stennis amendment unadulterated, to have Federal law on the subject. I am delighted to learn, however, that the distinguished Senator from New York favors State action above Federal action and to that extent the junior Senator from Alabama is in hearty accord with the distinguished Senator from New York.

Mr. JAVITS. May I comment on both points. The Senator has put his finger on exactly the right spot when he says that I would welcome Federal law. I welcome Federal law, but the Stennis amendment is not Federal law. If the Stennis amendment were Federal law, then this argument could not be made because that would be the law. It may be declared unconstitutional, but it would be the law. But, it is not. It is a policy. What the conferees have recognized is that we cannot extend the policy of government beyond the Government's authority, and the Government's authority is either law or decision. This was, I think, proper. That is why I think I can say proper, because we have carried out the only thing the Stennis amendment could do. It is a statement of policy. It is not Federal law. Therefore, the policy cannot go beyond the law.

The other part, as to my favoring State action, I favor and approve of State action. I favor it in this instance, in this area, there is no Federal law. I believe, personally, that the Supreme Court is going to move into this area. I really believe that. I think that perhaps this amendment, if the Senate approves it and the House approves it, may very well be the incentive to do that. But it will be an incentive. It is not a statute. The Senator from Mississippi was at perfect liberty to bring a body of law to deal with de facto segregation.

We could have fought it one way or the other, but it would have been in law, what was brought in in conference and approved. The point is, we cannot have it both ways. If we have a statement of policy it cannot go beyond law. If we want to make law, we have to face the hard realism of the right of law, which is enforceable and practical as a law which we must face frontally. The problem of busing faces it frontally. We cannot avoid that, if we want to write a law on the subject.

That is why we have a statement of policy here and not a law. I hope very much that we all understand each other on that score, that this is not a law, that it is a statement of policy. The fundamental belief—my belief as a conferee—and others here who are interested—they can correct me if I am wrong—but this policy represents a policy within the confines of policy—to wit, within the confines of law or decision. But we cannot have a policy which itself makes the law. That is all we recognized as conferees in writing the compromise we did.

Mr. ALLEN. Then the distinguished Senator is not in favor of applying the same desegregation policies to de facto segregation as are applied to de jure segregation?

Mr. JAVITS. I cannot accept that conclusion at all, but I have to apply it in the way in which it can be applied, whoever is there to apply it. Right now, in the present state of law, only the States have power in respect to de facto segregation, because they control educational assistance. Thus, I am doing my utmost to motivate my State, as I am sure other Senators are on that score.

As to the interposition of a Federal law, I would have joined issue on that gladly. As to the practical details of working it out, I think any of my dug-in opponents would not charge me with the thought that I would not join in that. But I would oppose it and would say that I am against it because it would strike at my part of the country.

The Senator from Kentucky (Mr. COOPER) has an amendment to the bill which went rather directly to my part of the country and I had to accept it. I am sorry about that, but that is it.

The President has put troops into the New York post office, although he did not put them into other post offices, which is too bad. New York has the largest post office in the country. The postal workers there are very angry at what they consider to be great injustice. We have to accept that. I feel the same way about this. If we had a law that had been properly stated, I am sure that we could all join issue on it and work on the details, but I would have no objection to it in principle.

Mr. ALLEN. Then the Senator still wants that policy to apply in the State of New York?

Mr. JAVITS. I want that policy applied in my State. I just say that the Federal Government is in no position to apply it without basis of authority. It has no basis of authority. Therefore, I must do my utmost to get it applied through an agency of the State. I am not pleading for any exemption.

Mr. ALLEN. The Senator, then, in that respect, is an ardent states righter?

Mr. JAVITS. I do not think it would warrant that conclusion, but we cannot argue these things with absolute finality.

Mr. DOMINICK. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. DOMINICK. I have listened to this colloquy with great interest because I find myself very much on the side of the Senator from New York, but for totally different reasons.

The Senator from Alabama was talking about whether we were in favor of or against a Federal law dealing with de facto segregation. I am against. I will say flat out that I am against it. I have been a strong advocate of civil rights both prior to and since I first held public office, so far as legislation is concerned. The idea of requiring blacks who have

moved into an area because of fair housing laws, or who desire to reside together, or whatever, to be bused out of that area and taken to a school outside the neighborhood is wrong from their point of view, and wrong from any other point of view.

Thus, I feel that for totally different reasons than those cited by the Senator from New York, we came out with the compromise we did. It is a solution which is viable. We are saying to the country as a whole that the South is not going to be the South, that the North is not going to be North, and that the West is not going to be West, but that we are all going to be part of one country. Wherever there is de jure segregation we will apply one policy uniformly around the country. Wherever there is de facto segregation—when it is determined what that is, what it means, whether it has anything to do with the quality of education and whether it should be illegal—once that is determined, we will apply uniform rules there as well. It seems to me that this makes eminently good sense.

If we had maintained the position that the Senate had passed originally in the Stennis amendment, to which I was opposed, we would have done great harm to our efforts to improve the quality of education around the country.

Mr. ALLEN. I appreciate the remarks of the distinguished Senator from Colorado (Mr. DOMINICK). With all due respect to his statement, I do not believe that the conference committee has come up with anything new, except that they have certainly emasculated the provisions of the Stennis amendment. Actually, what the conference committee has done by adding subsection (b) is to write into the law what is presently being carried out as the policy of HEW—maintaining two sets of rules—one for the South and one for the North.

The Stennis amendment sought to have only one rule to attack the problem. The problem is not whether we will have de jure segregation or de facto segregation. The problem is segregation.

Senators have talked about the evil of segregation and the fact that it should not be permitted. All that the amendment offered by the Senator from Mississippi has done and all that the Senate did in passing that amendment by an overwhelming vote was to say that we will attack the problem of segregation. It is a problem that we want to solve.

And whatever the Federal policy is with regard to desegregation and whatever the Federal policy is with regard to eliminating segregation, we will follow that with respect to all school systems no matter how that segregation came about.

Mr. DOMINICK. Mr. President, I think the Senator is oversimplifying the situation.

Desegregation has never meant, so far as I know, that we must be required to forcibly integrate the races even if they do not want to do so.

Mr. ALLEN. That is where the Senator is wrong. That is what the Supreme Court holds at this time. It did not hold that in 1954.

Mr. DOMINICK. Desegregation has been interpreted continuously since 1954 to mean that one must have the right to go into any public facility whether it be in public accommodations or schools or anything else.

Mr. ALLEN. I wish the Senator were correctly stating the law. If he were, this whole debate would crumble and we would all proceed to adjourn for the holidays and hear no more about this matter.

I stand for freedom of choice. But the Supreme Court unfortunately has said in cases coming before it that the freedom of choice plan has not met the requirements of the Supreme Court, it has not done the integration job. Therefore, on the facts presented to the Supreme Court, the freedom of choice plan was stricken down, not because it was freedom of choice, but because it did not get the job done.

Mr. DOMINICK. The Senator as usual has a quick and astute mind. But, if I may say so, most of the problems involving freedom of choice have involved someone else's freedom of choice.

How do the people in that area want their children educated? If they want them educated in other schools, they should have the right to do so.

Mr. ALLEN. Certainly that right is being offered. We had countless amendments offered on the floor which would guarantee that right to the people of this country.

Since the distinguished Senator from Colorado has joined in the colloquy, I would like to ask him, since he, too, was a member of the conference committee, the question that I propounded to the distinguished Senator from New York.

That question involves the fact that if de facto segregation is going to be allowed to remain in status quo and not to be interferred with by the terms of the Stennis amendment, as amended by the conference report, until the Supreme Court strikes down de facto segregation, is it not possible that segregated schools in this country complying—as I feel the school systems throughout the South are seeking in good faith to comply—with the mandate of the Supreme Court, if those systems do desegregate to the point that their actions do meet the tests required by the Supreme Court, and after meeting those tests, if these school systems once again become segregated, thereby coming under the unique rule involving de facto segregation and all we had in this country was de facto segregation, still not outlawed by the Supreme Court, is it not conceivable that under the reasoning of the conference committee we could end up in this country with all segregated schools again? I assume that the distinguished Senator from Colorado does not want that.

Mr. DOMINICK. I will try to address myself to the question, as I understand it. It is in fact, as I see it, one of the major issues which will be faced by the new Select Committee on Equal Educational Opportunity. It is the basic question where assuming we have a strong fair housing law—and to me this is one of the most important fields in civil rights—if as a matter of choice, one elects within his economic ability to move into a certain area because that is where his friends are and where he wants his children to go to school, should his children then be required to attend school in another neighborhood because of someone's argument that it would enable them to get a better education?

I do not know the answer to that question. This is an issue that the select committee should examine.

I think the Senator has proposed an excellent question. We've got to examine it. I hope that after the select committee has hearings and gone into it thoroughly, we can give a more complete answer. However, I am not convinced the mere fact that we forcibly put whites and blacks together in one school necessarily improves the results in that school.

Mr. ALLEN. I certainly agree with the distinguished Senator. I thank the Senator for his very candid and frank answer.

Mr. JAVITS. Mr. President, the Senator from California (Mr. MURPHY) who has been such a valuable member of the Education Subcommittee and who has contributed so much to the education programs of the country, has once again authored a creative program in response to the urban and rural education crisis that exists in some of our Nation's schools.

Senator MURPHY has succeeded in writing into law a major new education program. I am referring to the new part C, title I, which basically incorporates the Urban and Rural Education Act, which was introduced by Senator MURPHY last year. The Senator has prepared remarks on this measure and I ask unanimous consent that the remarks and insertion be printed in full in the RECORD.

There being no objection, the statement and insertion were ordered to be printed in the RECORD, as follows:

SENATOR MURPHY'S URBAN AND RURAL EDUCATION ACT INCLUDED IN ESEA EXTENSION

Mr. MURPHY. Mr. President, I am pleased that the conference committee included as a new part C to title I of the Elementary and Secondary Education Act the Urban and Rural Education Act, which I introduced on July 15, 1969.

There has been a great deal of discussion across the country regarding the educational crisis that exists in certain urban and rural schools. I believe that the Urban and Rural Education Act is a needed response to the educational distress signals that have been received from these urban and rural areas.

This program calling for special grants for urban and rural schools serving the highest concentration of low-income families provides for a 30-percent add-on or additional resources to title I for identified school districts. The measure incorporated in the final conference report is identical to the measure that passed the Senate in February.

I ask unanimous consent that my floor statement of February 17 discussing the Senate provisions and the modifications made to the original bill, S. 2625, be printed in the RECORD. In addition, I ask unanimous consent that the Senate committee report language discussing this program be printed. Also, I ask unanimous consent that my statement of July 15, 1969, when I introduced S. 2625, the Urban and Rural Education Act be printed in the RECORD.

Mr. President, I am also deeply indebted to these educators and the educational organizations who worked with me and who strongly supported this measure.

STATEMENT OF SENATOR GEORGE MURPHY, FEBRUARY 17, 1970

Mr. President. First, I want to congratulate Senator Pell for his work in bringing this comprehensive education bill to the Senate. This bill, H.R. 514, the Elementary and Secondary Education Act of 1969, is a complex bill with the report accompanying the measure running over 400 pages in length. The measure is a product of extensive hearings and long executive sessions where many amendments were considered. The result, I believe, is a bill that should be supported by the full Senate. I strongly urge its enactment.

There are many provisions of the bill which I am interested and which I strongly support, such as adult education, the new Gifted and Talented Children program, which I cosponsored, the extension of the Teacher Corps program, the codification and extension of the handicapped programs, the supplemental centers, improvements in the migrant education program, the provisions strengthening state and local education agencies, vocational education, the new authority for evaluation of education efforts, and, of course, the extension of the impacted-aid program. I am particularly pleased with the extension of two programs, which are very dear to my heart, and which I believe are so promising. I am referring to the dropout prevention and bilingual programs. Only recently I wrote the conferees of the Labor-HEW Appropriations bill uring that the $25 million level for the bilingual program be retained and that dropout prevention program funds be increased. I was greatly honored that the President of the United States did see fit to single out my program, the dropout prevention program, by requesting that an additional $10 million be provided for this high priority effort.

Today, Mr. President, I will limit my discussion to what I regard the most significant amendment or new program in the bill. I am referring to the incorporation by the Committee of the Urban and Rural Education Act, S. 2625, which I introduced on July 15, 1969, as a new Part C of Title I of the Elementary and Secondary Education Act. I drafted S. 2625 in response to the educational crisis which I believe exists in certain urban and rural school districts across the country. S. 2625 provides a thirty per cent "add on" for the first year and a forty per cent "add on" for second and subsequent years to school districts in both urban and rural America having large numbers or high percentages of children from low-income families. In an accompanying floor statement, I documented how these districts reached the educational and fiscal crisis that they face today. I traced the changes that have taken place across the country in the past two decades, changes I believe we must understand, if we are to adequately deal with the education problems that are confronting our country.

Mr. President, as initially introduced, S. 2625 would have provided additional assistance to school districts where—

—the number of disadvantaged Title I children was double the national rate of low-income children; or

—the number of Title I children was 5000 or more.

These tests were modified in Committee so that to the urban tests of 5000 or more Title I youngsters was added the requirement that that number had to constitute at least five per cent of the total children in the school district.

The rural test—double the national average of Title I youngsters—which would have been thirty-one per cent, was changed so as to now require that the number of Title I children is at least twenty per cent of the total children in the school district. To take care of those cases where local educational agencies miss qualifying under the formula by a relatively small number of children, a total of three per cent for the first year and five per cent for the second and succeeding years of all sums made available under this program is set aside. The initial bill provided for three per cent initially and four per cent for succeeding years. An amendment by Senator Prouty raises the four per cent to five per cent. Under this "relief provision," a local educational agency which narrowly misses qualifying under the above formula may receive a grant under this part if the state educational agency determines in accordance with the standards and criteria established by the Commissioner of Education, that such local educational agency has an urgent need for financial assistance to meet the special educational needs of educationally-deprived children.

I have written various requirements into this Part C program, namely, that funds under this Part will be used solely in preschool programs or elementary schools serving the highest concentration of children from low-income families. The rationale for this requirement was adopted by the Committee as noted in the Committee's discussion of this requirement:

"The Committee believes that Title I funds should be focused on the early years of education. This requirement in Part C was adopted by the Committee on the basis of growing evidence which indicates that the early years of education are of paramount importance in a child's development. Reports based on the experience of classroom teachers and other observers indicate that in general it is extremely difficult to reach the level of achievement at the secondary level if the quality of education at the elementary level has been poor.

"Experience under other federal programs, such as the Job Corps, attest to the difficulty and the great expense of remedial education compared to the expense of education to prevent the need for remedial education. The committee believes that a focus on educational deficiencies at the pre-school and elementary years, the preventive approach, is more likely to be effective and less expensive than expenditures for compensatory education at the secondary level."

In addition, local educational agencies are required to use these additional funds in schools within the district having the greatest need. That is, in those schools having the highest concentration of children from low-income families. One of the criticisms voiced frequently regarding Title I funds is that the district is spreading such funds too thinly to get maximum results. Commenting on the need for concentration of Title I funds, the Fourth Annual Report of the National Advisory Council of the Education of Disadvantaged Children concluded:

"Success with these children (Title I), in sum, requires a concentration of services on a limited number of children."

The Council urged the "adherence to the principles of concentrating funds where the need is the greatest so that a limited number of dollars can have a genuine impact rather than being dissipated in laudable but inconclusive evidence."

Similarly, Mr. President, California's Title I evaluation report for 1967–68 says: "Characteristic of the most successful programs was their concentration of services on a limited number of objectives and a limited number of specifically identified children." The recent California Title I evaluation report for 1968–69 says that the importance of concentrating services comes out louder and clearer from an examination of the individual school districts' reports. I quote: "The most successful programs are those that concentrated services on a limited number of objectives and a limited number of specifically identified children. These projects focused on a few activities, adequately funded. However, there are still widespread cases of ineffective projects which attempted to carry out too many, often unrelated, activities with insufficient funds and scattered the activities over too many children so that the concentration of services was inadequate to improve student achievement level significantly."

I also believe it is important to point out the important requirements spelled out in Section 141(a)(12). This requires school districts desiring to take advantage of the Part C add on to—after the first year—develop a comprehensive plan for meeting the specific educational needs of educationally-deprived children. Included within the comprehensive plan must be provisions spelling out the specific objectives of the program, provisions assuring the effective use of all funds under Title I, and provisions setting forth the criteria and procedures, including objective measures of educational achievements, that will be used to evaluate at least annually the extent to which the objectives of the plan are met.

Mr. President, these are similar to the requirements that are demanded of all dropout prevention programs in this country. I believe the dropout prevention program is demonstrating to the country that it is possible to have accountability in education. Each of the dropout projects must spell out its objectives. Each of the dropout projects is required to have an intensive in-house evaluation. Each of the dropout projects is subjected to an "educational audit" by an outside organization to make certain that it achieves the objectives that it has established. It is this kind of practical hardheaded, no-nonsense approach that I hope will be employed in the new Part C program.

While the new Part C program as reported is not precisely as I would like, I do believe that it is a most significant new program which will bring additional and needed assistance to certain districts in dire need of assistance. While I believe that the formula as originally introduced was probably as good as any formula can be, a compromise was necessary if the Urban and Rural Education Act were to be enacted. I was disappointed particularly with the fifteen per cent limitation adopted by the Committee. When the Committee enlarged the number of eligible districts by using the twenty per cent rural test rather than double the national average, or thirty-one per cent, as in the original measure, the effect was to expand the program. Thus, the adoption of the fifteen per cent limitation will probably preclude the funding of the full entitlement of eligible districts. This runs contrary to the thrust of the program.

That a crisis exists and that the Urban and Rural Education Act is needed can be seen by the fact that some school districts have been forced to consider closing school or reducing programs.

S. 2625 has been endorsed by educators and education oranizations all over the country. Among the groups endorsing it were the National Education Association, the American Federation of Teachers, the National School Board Association, and the Research Council on the Great Cities Program for School Improvement.

In addition, Mr. President, letters urging enactment of the proposal were received from superintendents of schools from all across the country. I am particularly grateful for the strong support given the measure by educators and others from California, including Dr. Max Rafferty, Superintendent of Public Instruction and Director of Education, Dr. Wilson Riles, Director of California's Department of Compensatory Education, Superintendent Jack P. Crowther of Los Angeles, Superintendent Robert E. Jenkins of San Francisco, Acting Superintendent Spencer D. Benbow of Oakland, Assistant Superintendent Bluford F. Minor of San Diego,

and Superintendent Ralph W. Hornbeck of Pasadena, and others.

Also, Mr. President, Secretary of Health, Education, and Welfare Robert Finch and Commissioner of Education Allen both eloquently pointed out the importance of dealing with the educational crisis. Secretary Finch told the Education Subcommittee:

"One of our greatest concerns is to find better ways to meet the educational crisis in the cities. School people and board members across the country are frightened by what they are calling the "Youngstown's phenomenon"—the complete shutdown of their schools for lack of funds. Cities like Philadelphia, Chicago, Baltimore, Los Angeles and Detroit, to name a few, are facing severe financial crises. Some, like Baltimore, have made the most strenuous efforts to obtain additional resources, and still finding their needs to be far beyond their capabilities. . . .

"The core cities contain the highest concentration of the poor and educationally deprived and are experiencing mounting difficulties in finding adequate resources to support their school system. Providing quality education for the disadvantaged children in our cities and in rural areas is apparent not only for the sake of poverty's children but also for the sake of all children of increasingly urbanized America. This problem is among the most important priorities in our search for improved ways to respond to the need of America's schools and school children."

Similar notes of urgency were sounded over and over again in testimony. I believe that a two-pronged attack on the educational deficiencies in both urban and rural and America of the new Part C program is most desirable. The Chamber of Commerce in a study, entitled, "Rural Poverty and Regional Progress in Urban Society," also advocated a twin approach. The report said:

Better education for potential or incoming migrants both at the place of origin—the rural south—and the place of destination—the central city—is necessary to maximize human resources and reduce poverty nationally. An inferior education for impoverished children in rural and urban areas is economically costly to the nation. Education expands life's opportunities. In today's economy, education, jobs and material well-being are inextricably related. The better a man's education, the better his pay and the better his standard of living. To maximize productive human resources, this nation must offer full and fair educational opportunities to all its residents.

The nation is a mobile one. One half of our population changes and one million youngsters cross state lines yearly. Educational deficiencies in one area, in one state, are not only a handicap for that particular state or community, but they also produce problems for other areas. Our cities today offer ample evidence of this truth. I believe it is imperative that additional resources be provided to these urban and rural districts having large numbers or a high concentration of low-income children. The tax bases of all too many of our core cities and rural areas simply do not have the resources to launch the required effort to eliminate or reduce the "gross educational inequities between regions and between impoverished urban and rural areas and affluent suburban communities."

Mr. President, I believe that the new Part C program is a needed response to the education crisis that exists in school districts having large numbers of high percentages of educationally-disadvantaged children, and I believe that the program is essential to the nation's efforts to provide equal educational opportunities to all citizens. This will not be an easy job, but I am convinced that we can do it.

Mr. President, there has been great discussion in our newspapers and magazines, over our radio and television networks, on the educational crisis that exists. I believe that the Urban and Rural Education Act, which has been incorporated as a new Part C to Title I, is a needed response to these educational distress signals.

SPECIAL GRANTS FOR URBAN AND RURAL SCHOOLS SERVING THE HIGHEST CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

The committee heard testimony which indicated that the cost of providing compensatory education in school attendance areas with the highest concentrations of children from low-income families is much greater than providing such education where the concentrations are not as great. In urban areas where large numbers of low-income families are concentrated in small neighborhoods and in rural areas where the lack of local resources have prevented schools from modernizing, educational deprivation is such a serious problem that a greater amount of money is needed to make opportunities available for these children to reach minimum achievement levels.

Children from low income families begin school with a disadvantage. Standardized test scores given to first graders indicate that children from minority groups score on the average 15 percent lower than other children. These children, starting behind, fall still further and further behind as they progress through school. By the time they reach the sixth grade the average student from a minority group is two grades behind other students, and by the time he reaches the twelfth grade evidence indicates that he is four grades behind.

In the laregst 15 cities in the nation the dropout rate varies from 46 percent to 21 percent. However within those cities the dropout rate in schools serving large numbers of children from low income families is a high as 70 percent.

The evidence from rural areas indicates that the need for special attention to schools serving children from low income families in rural areas is just as great as in the urban areas. The average level of education in rural areas is about 9 years of education whereas in urban areas it is 11 years. This average does not include computation of the average level of education for migrant children who seldom complete elementary school. Nearly twice as many urban children attend college as children from rural areas. There are still about 10,000 one room schools in this country, many of which are isolated from the mainstream of progress in improving the quality of education.

In order to deal with this situation, the committee recommends that additional grants be made available for services in schools with the highest concentrations of children from low-income families on the basis of the new entitlements in part C of title I. Part C entitlements become operative only to the extent that the appropriations for title I are in excess of $1,396,975,000, and then only with respect to 15 percent of that excess. Under the provisions of subsection (a) of section 131 two types of eligibility for special grants are created:

(1) The first type of eligibility (section 131(a)(1)) is based strictly on data relating to numbers of children from low-income families in the school district of a local educational agency. If (a) the percent of children from low-income families in the school district constitutes at least 20 percent of the total number of children in the school district, or (b) the number of children from low-income families in the school district of a local educational agency is at least 5,000, and that number constitutes at least 5 percent of the number of children in the school district, a local educational agency is eligible for an additional grant under part C of title I.

(2) The second type of eligibility (section 131(a)(2)) is in those cases where a local educational agency is not eligible under the eligibility standards under (1) above, but which is eligible for a basic grant under part A of title I. If the State educational agency of the State in which that local educational agency is located, determines, in accordance with standards and criteria established by the Commissioner of Education by regulation, that such local educational agency has an urgent need for financial assistance to meet special educational needs of educationally deprived children in its school district that local educational agency becomes eligible for an entitlement. The bill provides that this second type of eligibility is available only in instances where the local educational agency fails by a very small amount to meet the number or percentage requirement in (1) or there may be cases where sparsity of population, distance or other unusual circumstances create an especially urgent need for additional title I funds. In those cases the State may be authorized by the Commissioner to establish eligibility.

Subject to the 15 percent limitation, the amount of the additional grant to any local educational agency, under part C, in the case of eligibility established under paragraph (1) above, for fiscal year 1970, is equal to 30 percent of the grant which that local educational agency is eligible to receive under part A of title I. During any subsequent fiscal year, the maximum amount for which a local educational agency is eligible under part C is an amount equal to 40 percent of its entitlement under part A.

The total amount granted under part C may not be in excess of 15 percent of that part of any appropriation for title I which is in excess of $1,396,975,000. This limitation is provided for in two amendments to title I: (1) The second sentence of section 131(b)(1), and (2) of paragraph (3) of section 144. Intention of the Committee, with respect to those two provisions, is to limit the maximum entitlements under the paragraph (1) eligibility to 15 percent of that part of the entitlements for all parts of title I which is in excess of $1,396,975,000 and to limit allocations of appropriations on the basis of part C eligibility (including both paragraph (1) and paragraph (2) eligibilities) to 15 percent of any appropriation for title I which is in excess of that figure.

In the case of grants under paragraph (2) there is no specific amount set by the legislation, except that no local educational agency may receive more under paragraph (2) than it would have received if it had been eligible under paragraph W. It is expected that the Commissioner in drawing up criteria for part C will establish guidelines for deciding the amount of these additional grants. The bill limits the maximum amount which may be granted under the second type of eligibility to the amount the local educational agency would receive under the first type of eligibility. In no case will the total amount granted for paragraph (2) eligibility be in excess of 3 percent of the total amount granted under paragraph (1) for fiscal year 1970, or 5 percent of such amount in any subsequent fiscal year.

Section 132 of part C limits the use of the special grants to preschool and elementary school projects except in cases when a local educational agency can show that there is an especially urgent need for secondary school projects and that there is evidence that the use of the additional grant is secondary school projects would be at least as effective in meeting the special educational needs of educationally deprived children as it would be if the grant were used in elementary school projects.

The committee believes that title I funds

should be focussed on the early years of education. This requirement in part C was adopted by the committee on the basis of growing evidence which indicates that the early years of education are of paramount importance in a child's development. Reports based on the experience of classroom teachers and other observers indicate that in general it is extremely difficult to reach the level of achievement at the secondary level if the qnality of education at the elementary level has been poor.

Experience under other Federal programs, such as the Job Corps, attest to the difficulty and the great expense of remedial education compared to the expense of education to prevent the need for remedial education. The committee believes that a focus on educational deficiencies at the preschool and elementary years, the preventive approach, is more likely to be effective and less expensive than expenditures for compensatory education at the secondary level.

The bill also requires local educational agencies to concentrate the use of funds available under part C on areas within the school district having the highest concentrations of children from low income families. The Commissioner is expected to develop criteria for implementing this requirement. One of the criticisms most frequently stated with regard to title I is that local educational agencies too often spread title I funds too thinly to get maximum results.

Commenting on the need for concentration of title I funds, the Fourth Annual Report of the National Advisory Council of the Education of Disadvantaged Children concluded: "Success with these children (Title I), in sum, requires a concentration of services on a limited number of children."

The Council urged the "adherence to the principles of concentrating funds where the need is the greatest so that a limited number of dollars can have a genuine impact rather than being dissipated in laudable but inconclusive evidence."

The bill also requires the submission of a detailed and objective plan for the use of funds under part C. Beginning with fiscal year 1971 local school districts must develop a comprehensive plan for meeting special educational needs of children to be served under part C. Included within the comprehensive plan must be detailed provisions setting forth specific objectives to be achieved under the program. Those provisions must assure effective use of all funds under title I and set forth the criteria and procedures, including objective measurements, of educational achievement, that will be used to evaluate, at least annually, the extent to which those objectives are met.

The committee notes that the Commissioner is given more explicit administrative direction authority under the new part C of title I than is explicit in the case of part A of title I. This explicitness is not intended to be construed to limit the direction and approval authority which is implicit in sections 105, 106, and 107 of present law.

The committee wishes to make clear that the authority set forth in the proposed sections 132 and 141(a)(12) is intended to be a direction to administrators at all levels to look to specific educational needs of the educationally deprived children to be served and to plan and operate projects designed specifically to meet those needs. It is also noted that the Commissioner has considerable control of the distribution of part C funds within counties. It is expected that a special effort will be made to target part C funds on areas with the highest concentration of children from low-income families. In no case will funds available to a local educational agency under part A be supplanted by funds available to that agency under part C.

Section 131(c) excludes Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands from being entitled to grants under part C of title I. Moreover, the language of part C does not specifically include authority for payments to the Department of the Interior for projects to meet the needs of Indian children in schools operated by that Department. That exclusion and the omission are not intended to preclude the outlying areas and Indian children from participating under part C. It is intended that they be continued in the same manner as has been the case under part A, since they are unique and the provisions of subsection (a) of section (3) cannot appropriately be applied to them.

Under present law the outlying areas and the Department of the Interior receive funds under special authorization of appropriations in the first sentence of section 103(a)(1)(A). The amount of that authorization is equal to not in excess of three percent of the amount paid to the States under section 107(a) (section 143, as redesignated) which will include payments based on entitlements under part C. Therefore it is expected that the Commissioner will determine the portion of the appropriation for such purposes which is attributable to payments to the States, and designate such portion to be granted under the special standards required for part C.

The committee notes that the third sentence of section 103(a)(1)(A) gives the Commissioner adequate authority to set standards and requirements for the use of title I funds in the outlying areas and by the Department of the Interior.

[From the CONGRESSIONAL RECORD—Senate, July 15, 1969, Vol. 115, No. 117]

S. 2625—INTRODUCTION OF THE URBAN AND RURAL EDUCATION ACT OF 1969

Mr. MURPHY. Mr. President, I send to the desk a bill the Urban and Rural Education Act of 1969. The measure would amend title I of the Elementary and Secondary Education Act of 1965 in order to alleviate and help with some of the critical problems that are besetting the field of education.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 2625) to amend title I of the Elementary and Secondary Education Act of 1965 in order to provide for a program of urban and rural education grants to local educational agencies, introduced by Mr. MURPHY, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

Mr. MURPHY. Mr. President, today I address the Senate and introduce a bill on a most important and vital subject. I am speaking of the educational crisis that exists today in the Nation's big cities and depressed rural areas, where so very many disadvantaged youngsters are concentrated.

Almost daily, from these troubled schools, we pick up educational distress signals—bond issues defeated, cutbacks in educational programs, teacher shortages, classroom violence, dropouts, lack of discipline, drug problems, and an endless number of concerns that beset our educational system. While there is general agreement that these signals are both real and serious, little response has been made to them. The measure I introduce today, Mr. President, is a sorely needed reply to these insistent educational "S O S" signals. It would amend title I of the Elementary and Secondary Education Act to provide additional assistance of these schools in an effort to rescue them from the fiscal straits they are in and to enable them to compensate for the educational deficiencies of the disadvantaged youngsters found is disproportionable numbers and percentages in these areas.

My bill, the Urban and Rural Education Act of 1969, would authorize a 30-percent addition or "add-on" to regular title I funds for the first year and a 40-percent addition or "add-on" for the second and succeeding years to local education agencies with approval by the State education departments in which:

First, the number of disadvantaged, title I children, is double the national rate of low-income children; or

Second, the number of title I children is 5,000 or more.

Because we are in the midst of an educational crisis, first-year funds will go to local educational agencies without any preconditions. For second and succeeding years, however, my bill requires that the local educational agency develop and secure approval of a plan before receiving funds.

I have written into the amendment some requirements, which I am convinced are necessary. These requirements were framed after discussions with both classroom teachers and educational leaders. I believe they are essential to get maximum use out of limited resources and attain maximum results. First, my amendment requires that these add-on funds be used only at the elementary level. Classroom teachers, who daily struggle with this crisis, tell me that it is difficult at best to rescue youngsters who reach the secondary grades trailing their contemporaries by a number of grades. I do provide, however, for an escape clause which would allow funds to be used at the secondary level, with the approval of the local and State educational agencies, if the problems are equally urgent at the secondary level and if it can be shown that such expenditures are effective at the higher level.

Another important reason for emphasizing the elementary school years is the growing realization of their importance to a child's early development. A recent State of California evaluation of the Headstart program demonstrated that this program in California is producing "Dramatic and positive results." This study found that the children participating in the Headstart program made twice the normal gains in language tests. The report also indicated that IQ scores were raised an average of 17 points over a 17-month period. With this program providing youngsters an equal start, it is important that the elementary grades continue this progress.

Mr. President, I ask unanimous consent that a June 13 article from the Los Angeles Times on the Headstart program be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MURPHY. Mr. President, a second requirement is that preference must be given to schools having the greatest need within a qualifying district. Scattering of funds too thinly within a district has been a criticism voiced frequently to the use of the title I funds. It is my hope and intent that the elementary level requirement not only will help prevent the necessity for difficult remedial work at the secondary level, but also, when coupled with the preference provision, will result in the concentration of resources so as to achieve a substantial and a maximum impact.

My bill also would provide an additional 3 percent for the first year and 4 percent for subsequent years, to be used at the discretion of the Commissioner of Education. This is to avoid any inequities in the operation of the formula. While I am convinced that my formula is a fair one and will reach the most troubled schools in the country, I have added this amendment so that the Commissioner will have the needed flexibility to respond to schools in districts, not qualifying under my amendment, but nevertheless having similar needs. Mr. President, this bill will provide substantial new resources to school districts. Had my amendment been on the books in the

last fiscal year, for example, it would have ment, based on the appropriations for title I, approximately $200 million, and for this fiscal year, based on the administration's title I request, it would mean an additional $220 million, which is badly needed.

In 1961, Dr. James Conant, the noted educator, warned:

"We are allowing social dynamite to accumulate in our large cities."

The accuracy of his warning, the explosiveness of the "social dynamite" has been brought home to all Americans. Much of this "social dynamite" results from those who have dropped out of school. The Commission on Civil Disorders reported that the "typical riot participant was a high school dropout." The fact that 1 million youngsters drop out of school yearly, ill-prepared to find employment and a useful place in our competitive society which demands highly trained and educated citizens has greatly alarmed me and I know this is true of all Senators. As a result, I authored in 1967 a dropout prevention program to the Elementary and Secondary Education Act. This program, which was adopted by the Congress and is now part of our education laws, seeks to concentrate resources in an effort to find approaches that will prevent dropouts. Strongly supported by both the Johnson and the Nixon administrations, this program has great promise and potential in finding long-term solutions to the dropout problem. However, it is just getting underway and only $5 million of the $30 million authorized was appropriated. The administration has requested $23 million for the program for this new fiscal year, and I certainly hope the Congress will fully fund it, because I can think of no area where an expenditure could do a better job in connection with the future of our country.

I am convinced, however that existing problems of our cities and depressed rural areas are too urgent to await these results. Our 50 large cities alone enroll one out of every four disadvantaged youngsters in the United States. What we have, Mr. President, is an intolerable situation where large numbers of students with significant education handicaps are found in school districts with resources unequal to the challenge of educating them. These youngsters are harder to educate and we simply must provide additional resources if we are to give them an equal educational opportunity. The following facts clearly reveal not only the enormity, but the severity of the educational problems in both our troubled urban and rural schools.

In our urban areas, Mr. President, youngsters from low-income families begin school with a handicap. Standardized test scores given to first graders indicate that minority children, many of whom are in the low-income group, on the average, rank 15 percent lower than other children. Quite obviously they have a much harder job to get started.

Starting behind, these children fall even further behind. The average minority group student is roughly two grades behind other students at grade 6, three grades behind at grade 9 and four grades behind at grade 12.

In our Nation's 15 largest cities, the school dropout rate varies from a high of 46.6 percent to a low of 21.4 percent. As bad as these statistics are, focusing on poverty area schools within our large cities, it is shocking that 70 percent of the youngsters drop out before completing high school. In California the McCone Commission, established in the wake of the 1965 Watts rioting, found that in three schools in a predominately Negro area of Los Angeles, two-thirds of the students drop out before completing high school.

And in our rural areas:

Youngsters receive less education than their counterparts in other sections of the country. Children in urban centers average 11 years of school whereas rural regions average about 9 years.

Appoximately half of the 415,000 children of migrant parents have been estimated not to attend school on a regular basis.

In 1960 nearly twice as many urban as rural youngsters were enrolled in college.

Rural isolation and inadequate salaries make it difficult to secure trained teachers. As a result, twice as many rural teachers as urban teachers lack proper certification.

A September 1967, Presidential Advisory Commission on Rural Poverty reported:

There are still about 10,000 one-room schools in this country—mostly in rural America.

Mr. President, nearly two decades ago, the late, esteemed Senator Robert Taft, saw inequities in educational opportunities throughout the country, and reversed his earlier opposition to Federal aid to education and became its strong advocate. Senator Taft then eloquently explained this shift:

"Two years ago I opposed very strongly the proposal which then was made for a general passing out of Federal funds in aid for education; but, in the course of that investigation and that debate, one fact became apparent, namely, that in many States the children were not receiving a basic education; and that some of the states although spending on education as much of a proportion of their income as the larger wealthier States, were not able to provide such basic education . . . It has always seemed to me that education is primarily a state function. I have not changed my views on that subject; but I believe that in the field of education the Federal Government, as in the fields of health, relief, and medical care, has a secondary interest or obligation to see that there is a basic floor under those essential services for all adults and children in the United States. I have particularly felt that the entire basis of American life is opportunity, and that no child can have an equal opportunity unless he has a basic minimum education."

Mr. President, as a nation, we have made substantial educational advances in the past two decades, both qualitatively and quantitatively. Sputnik jolted the Nation into enacting the National Defense Education Act of 1958. This was followed by the Elementary and Secondary Education Act, the vocational education amendments, as well as other Federal legislation which, along with a tremendous effort on the part of State governments and local communities, has resulted in more and more people receiving increased and better education.

Yet, education inequities, which so concerned and moved Senator Taft in the late forties, exist today and should, I believe, move Congress to adopt my proposal. Today, the inequities in education are both similar and drastically different than those of Taft's time. They reflect those very changes that have taken place across our country.

These changes have developed from perhaps one of the greatest internal migrations of people in history. Since World War II, a great exodus of Americans from rural to urban America has occurred. Over 20 million Americans have made that march until now, 70 percent of our citizens live in urban areas containing less than 2 percent of our land.

To produce such a dramatic population shift, obviously many factors were at work. Poor conditions and limited opportunities in rural America sent people to the cities, seeking greater opportunities and better conditions. This push-pull phenomenon often resulted in bringing both the best and the worst of rural America to the city. And, rural America, by this process, was stripped of needed educated and trained manpower and the arrival of the worst into the cities substantially magnified the serious situation that cities find themselves in today. The poorest of the migrants, in terms of training, education, and financial resources, and because of discrimination, have tended to stay in the cities while the best trained and educated, making up a rising middle class, joined in another significant internal migration—the movement of 33 percent of these cities' inhabitants to the suburbs. Today, more than half of our metropolitan population lives outside the central city. During the period of 1966–68, an average of 486,000 white Americans left cities. This was almost four times as many as the 141,000 whites who left the cities during the previous 6-year period. Sylvia Porter, the widely syndicated financial columnist commented recently on the consequences to the big cities of this outward migration. She wrote:

"For a high proportion of those moving out of the cities are those in their young to middle, financially able and independent years. A high proportion remaining in the cities are the poorer households—households headed by women or older citizens, households with a lot of children, broken families. These are the people most dependent on welfare, the people who can least afford to pay the taxes to finance the cost of essential public services. No sign of reversal in these new population trends is in sight. The financial outlook for our cities has never been bleaker."

In addition to the migration from cities of such citizens, industry, with its tax base and jobs, both of which are desperately needed by core city citizens, has also been moving out. Mr. Alan K. Campbell, in the January 11, 1969, edition of Saturday Review traced this industry decentralization trend, saying:

"An examination of the central cities of twelve large metropolitan areas demonstrates that the proportion of manufacturing compared to that of suburban areas has clearly declined over the past three decades, especially in the post-World War II period. In 1929, these twelve cities accounted, on the average, for 66 per cent of manufacturing employment. This percentage decreased to 61 per cent by 1947, dropped to 49 per cent by 1958, and has since declined even further."

New jobs being created in the suburban areas, because of transportation problems, are often out of reach of the poor people from the central city.

Mr. President, it is not that our troubled cities and impoverished rural areas have not been trying. Although running as fast as they can, they slip farther and farther behind. With its financially better-off individuals and industry moving to the suburban areas, the tax base of the cities has seriously eroded. Mr. Alan K. Campbell described the meaning of this tax base loss to city education programs, and I quote:

"Translated into educational terms, the tax base in large cities has not kept pace with the most recent growth and changing nature of the school population in the cities. Indeed, an examination of the per pupil taxable assessed evaluation over a five-year period shows that ten large cities out of fourteen experienced a decrease in this source of revenue. Since local property taxes are the major source of local educational revenues, large cities can barely meet ordinary education needs, let alone resolve problems resulting from shifting their population patterns."

The tax base of impoverished rural areas is equally distressing.

Mr. President, the population pattern shifts which we have been discussing have produced great changes in our society, changes we must appreciate, changes we must understand, if we are to deal with the crisis confronting us.

It is useful to recall that there was not always such a dilemma in our cities. On the contrary, from almost the beginning of the free public school education, cities with

their concentration of wealth and talents were in the forefront of the Nation in education. The large cities had higher per pupil expenditures than outlying school districts. Their better education programs were an additional attraction to the cities. Around 1949, which is about the period Senator Taft was urging financial assistance to remove educational inequities, many large cities began to show a decline in the educational expenditures relative to their previous levels and with few exceptions relative to the national norm.

By 1965–66, only New York City of the top 36 cities in the Nation could boast of a per pupil expenditure significantly higher than the national norm. Economist Seymour Sacks, professor of economics at Syracuse University, traces the deterioration of the central city's favored financial position as follows:

"It would not be amiss, however, to state that the period from about 1957 to the present witnessed the most fundamental shift in the fiscal position of large city educational systems in U.S. history. For as late as 1957 central cities were still able to spend slightly more than their own outside central city areas. Based on a representative cross-sectional study of 36 Standard Metropolitan Statistical Areas in the year 1957, the comparable current expenditures per pupil for the two areas were $312 in the central cities and $303 in the outside central city areas. In a short five-year period, that is by 1962, a gap of $64 had opened up between the current expenditures per pupil in the outside central city area and the central city areas, $438 compared to $376. In this short period the historic preeminence of central city education had vanished. And within three more years the gap had widened to $124 per pupil, $573 per pupil as compared to $449 per pupil. With only two exceptions, whatever per pupil expenditures in a given central city area were, those of its outlying areas were higher. In only two areas, Denver and Providence, R.I., were central city expenditures higher than those of their outlying areas, and they were nominal amounts. In two areas the same school districts provided public school education to both the central city and outside central city areas. In the remaining 32 areas the outside areas had higher levels than those of their central city areas. A clear pattern of dominance had been established."

Thus, from 1957, when the central city enjoyed a slight edge in per pupil expenditures, its educational system, compared to the school system outside the city, steadily deteriorated. By 1965, in the 37 largest metropolitan areas, the average per pupil expenditure was $449 for the central city but $573 for the suburbs—a gap of $124. All indications are that this expenditure gap, already wide, is growing dramatically.

Mr. President, also entering the picture and compounding the fiscal crisis of our cities are the noneducation services and demands which confront them. Our cities have monumental problems beside education. Air and water pollution, rising crime rates, transportation snarls, and housing are just a few. That noneducation costs are a greater burden to the city is demonstrated by the fact that noneducational expenditures make up 68 percent of the total public expenditures in the Nation's 37 largest central cities, as compared to only 47 percent in the suburban districts. This excessive demand for services, or what one author has called municipal overburden, on education in our cities has been described by the Fels Institute as follows:

"The high cost of municipal services which produce much higher total tax burden on the urban districts significantly reduces the ability of the urban districts to provide fiscal support for education services."

In addition, Mr. President, State equalization formulas have not kept pace with the population movements and financial needs of the various districts within the States Earlier in our history, the city's wealth was tapped to equalize educational opportunities in less affluent areas. Now that the situation is reversed and the cities are in desperate need of financial help, States must reexamine their allocation formulas in light of these changing circumstances. Mr. Alan Campbell describes the State equalization formulas, saying:

"The shocker, however, is that state aid to schools, which one might think would be designed to redress the imbalance somewhat, discriminates against the cities. On the average, the suburbs receive $40 more in state aid than the cities."

Governor Reagan, of California, is well aware of the failure to properly match resources and need. In a May 11, 1969, report to the people of the State, he said:

"There is widespread agreement that we must overhaul the tax structure used to finance our public schools system. The existing financing program for elementary and secondary schools in California does not provide equal education opportunities for all children in the state. Elementary school district expenditures, for example, range from as little as $289 per ADA—this means per average daily attendance, or $289 per student—all the way up to $2,662 per student per ADA in some school districts. Some low-wealth districts struggle under intolerable property tax burdens, while some high-wealth districts are not so heavily burdened."

There is definitely an imbalance there that needs attention.

My good friend, Governor Reagan also made an innovative proposal to correct these traditions. Certainly he is to be commended for his efforts to right this mismatch of need and resources.

The picture that has emerged from the discussion so far is not a pleasant nor a pretty one. We have traced the great migrations that have taken place in our country. We saw that both the best and the worst of the rural areas poured into the cities. We examined a subsequent exodus from the city to the suburban community by a growing middle class with its higher income and by industry with its important tax base. This has left a high concentration of disadvantaged children with pressing educational needs in our core cities and rural areas which simply do not have adequate resources to cope with the situation.

Mr. President, inadequate fiscal resources are a chronic complaint and concern at all levels of government. But in the case of our central cities their fiscal condition is acute. It is a tribute to our cities, given so many priorities, that they have been able to keep fiscally afloat. But tribute is not enough. We must provide help.

Mr. President, the urgency of responding to the education crisis can be shown by the fact that during an April meeting of the National School Board Associations, as many as 30 of the largest cities indicated they may not have enough money to begin school this coming fall year. I understand, however, that this is unlikely and that they will all open, but what will happen is what is happening in my city of Los Angeles, where needed programs will have to be curtailed or reduced. In a June 19 letter, Dr. Jack Crowther, superintendent of schools, Los Angeles, described the Los Angeles situation to me.

May I say I have had the privilege of knowing Dr. Crowther for a long time. I do not think there is a finer educator or superintendent of schools in this great land of ours. He said:

"The financial crisis of education in large cities has received national attention this past year. The situation in Los Angeles is particularly acute as we find ourselves $27 million short for the fiscal year 1969–70. The resulting cuts have seriously affected the quality of our educational program."

Secretary Finch, in testimony before the Senate Education Subcommittee, discussed this problem as follows:

"One of our greatest concerns is to find better ways to meet the educational crisis in the cities. School people and board members across the country are frightened by what they are calling the "Youngstown's phenomenon"—the complete shutdown of their schools for lack of funds. Cities like Philadelphia, Chicago, Baltimore, Los Angeles, and Detroit, to name a few, are facing severe financial crises. Some, like Baltimore, have made the most strenuous efforts to attain additional resources, and still finding their needs to be far beyond their capabilities."

The Secretary went on to discuss the educational crisis in the cities, saying:

"The core cities contain the highest concentration of the poor and educationally deprived, and are experiencing mounting difficulties in finding adequate resources to support their school system. Providing quality education for the disadvantaged children in our cities, and in rural areas is apparent not only for the sake of poverty's children, but also for the sake of all children of increasingly urbanized America. This problem is among the most important priorities in our search for improved ways to respond to the need of America's schools and school children."

Thus, Mr. President, one of the greatest concerns and priorities of our most capable Secretary of Health, Education, and Welfare is a search for programs to meet the rural-urban educational crisis.

Commissioner of Education, James Allen, in discussing this school crisis said:

"The urban crises in education . . . has shaken society at its very roots. The situation is one which emphasizes a need for bold action at the federal level and there is no problem of higher priority or greater urgency and importance in determining what direction and form this action shall take."

Commissioner Allen has therefore echoed the deep concern of Secretary Finch for help to our troubled cities.

Dr. George Fisher of the National Education Association, in testimony before the Education Committee, emphasized the urban crisis and suggested an approach similar to that which I am making today. He said:

"The major problem facing America's public schools today lies in our inner-city areas . . . We suggest a 30 per cent override on the appropriation proposed by the Administration with such funds to go to those cities with large centers. . . ."

A similar plea was sounded by Boardman Moore, a Californian and president of the National School Board Association, who told the committee:

"Core cities contain the highest concentration of the poor and educationally deprived. There is a dire necessity for providing compensatory education for the children from these backgrounds. Programs aimed at upgrading these educational opportunities are both expensive and are in addition to the regular educational system. At the same time, the tax base of these cities has been eroded. Medium and high-income families have moved from the cities, more and more industry is decentralizing its operation. On top of this, the cost of providing necessary city services, often called municipal overburden, is rising."

So, Mr. President, over and over again in testimony before the Senate Education Subcommittee, and in our communications media, the crisis in the cities and rural areas has been retold. Time is running out, however, and I agree with Secretary Finch, Commissioner Allen, the NEA, the National School Board, Governor Reagan, and so many others that we must indeed take "bold ac-

tion." It is for that reason that I am proposing this bill today.

Mr. President, I am convinced that a new effort is needed to deal with the massive, critical educational problems. Why did I elect a two-prong attack targeted where the need is the greatest—in our core cities and our depressed rural areas? It is no secret that much of the educational problems in our cities today had their roots in rural America. With the mobility of our present population, which sees one-fifth of our citizens change their homes and approximately one million youngsters cross State lines annually, educational deficiencies in one area of the country produce problems in another area. We truly are a mobile people—a nation on the move. My State of California is aware of this mobility as much as any State, for enough people enter California each month to create a town of 30,000 citizens. Mr. President, the Chamber of Commerce of the United States, in a study entitled, "Rural Poverty and Regional Progress in Urban Society," urged a twin approach to eradicate "gross educational inequities between regions and between impoverished rural and urban areas and affluent suburban communities," emphasizing:

"It is unrealistic to expect the eroding tax base of many of our core cities and rural areas to supply the additional money."

Continuing, the chamber's report reasoned:

"Better education for potential or incoming migrants both at the place of origin—the rural south—and the place of destination—the central city—is necessary to maximize human resources and reduce poverty nationally. An inferior education for impoverished children in rural and urban areas is economically costly to the nation. Education expands life's opportunties. In today's economy, education, jobs and material well-being are inextricably related. The better a man's education the better his pay and the better his standard of living. To maximize productive human resources, this nation must offer full and fair educational opportunities to all its residents."

Mr. President, in 7 short years, this Nation will commemorate its 200th birthday. I know of no greater way of honoring this anniversary of the signing of our Declaration of Independence than by an effort to equal what Dr. Wilson Riles of the California State Department of Education, called "American education's most challenging problem in the latter half of the 20th century."

He said:

"The top priority issue facing the city schools and in fact facing all education is how to improve the school achievement of the children of the poor, disadvantaged, groups that have in the past failed to receive the full benefits of American education."

Let us recognize that this has not always been the case. In the fifties, we were concerned over how many made it to college, and following sputnik, over the quality and quantity of our engineering and scientific talent. Our school systems served the country well during this period.

It was not until the sixties that we began to really concern ourselves with the challenge of adequately educating youngsters coming from disadvantaged backgrounds. Many forces converged to bring their education problems to the forefront. Education, always important because of the technical nature of our society which needed skilled and educated manpower, became a necessity. A high school diploma became a passport to employment. In addition, the country set out to reduce poverty and the country was determined to move more minority citizens into society's mainstream.

Providing equal education opportunities to all children, regardless of their background and place of birth, is a necessary challenge to a Nation whose very history is one challenging chapter after another. Those who doubt we will be equal to this challenge might reread the history of the signers of the Declaration of Independence and those who followed them through the pages of history. For those who doubt we can do it, they had better reexamine the fact that our national response to sputnik will place a man—two men, really—on the moon ahead of our competitor. My amendment is in response to the city and rural school crisis—a challenge more difficult and as exciting as the moon race, and there are some who think it may be even more productive. My amendment will help us meet the challenge of providing truly equal educational opportunities to all disadvantaged citizens. As a member of the Education Subcommittee of the Senate, I will do everything I can to see that this program, which I consider to be most worthy and most vital, is enacted this year.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2625

A bill to amend title I of the Elementary and Secondary Education Act of 1965 in order to provide for a program of urban and rural education grants to local educational agencies

Be it enacted in the Senate and House of Representatives in the United States of America in Congress assembled, That this Act may be cited as the "Urban and Rural Education Act of 1969".

SEC. 2. Title I of the Elementary and Secondary Education Act of 1965 is amended (1) by redesignating part C, and all references thereto, as part D, (2) by redesignating sections 131 through 136, and all references thereto, as sections 141 through 146, and (3) by inserting before such part a new part as follows:

"PART C—URBAN AND RURAL EDUCATION GRANTS

"SEC. 131. (a)(1) For each fiscal year beginning after June 30, 1969, for which payments are made pursuant to part A, a payment shall be made to each State educational agency for a grant to each local educational agency in such State in which—

"(A) the per centum which the total number of children described in clause (A), (B), or (C), of section 103(a)(2) of this title in the school district of such agency for such year bears to the total enrollment in the schools of such agency for such year is greater than two times the average such per centum for all local educational agencies in all the States; or

"(B) the total number of such children in the school district of such agency in such year is five thousand or more.

For the fiscal year ending June 30, 1970, such grant shall be in the amount of 30 per centum of the amount which such local educational agency is eligible to receive for such year pursuant to part A of this title, and for each succeeding fiscal year such grant shall be in the amount of 40 per centum of the amount which such agency is eligible to receive pursuant to part A.

"(2) For each such fiscal year the Commissioner may also make payments to State educational agencies for grants to local educational agencies which do not qualify pursuant to paragraph (1) but notwithstanding have an urgent need for grants pursuant to this part. The total such payments for the fiscal year ending June 30, 1970, may be in an amount not in excess of 3 per centum of the total authorized payments for such year under paragraph (1), and for each succeeding fiscal year, the total such payments may be in an amount not in excess of 4 centum of the total authorized payments for such year under paragraph (1).

"(b) Grants pursuant to this section shall be used for the same purposes as grants pursuant to part A, but for elementary education only, unless the local educational agency and its State educational agency determine—

"(1) that the need for financial assistance for such purposes is as urgent in the secondary schools of the area; and

"(2) that the use of financial assistance pursuant to this part for secondary education will be as effective for the purposes of this title as the use of such assistance for elementary education;

and in such event such grants may also be used for secondary education. Preference in the use of such grants shall be given to schools with the greatest number of children described in clause (A), (B), or (C) of section 103(a)(2) of this title and to schools with the greatest percentage of such children in the enrollment.

"(c)(1) The provisions of sections 105, 106, and 107 (except subsection (b)) with respect to applications, assurances from States, and payments for the purposes of part A shall apply to applications, assurances from States, and payments for the purposes of this part, and the Commissioner may establish such additional requirements as may be necessary for the purposes of this part.

"(2) In addition to the requirements of paragraph (1), for the fiscal year ending June 30, 1971, and each succeeding fiscal year, each local educational agency applying for a grant pursuant to this part shall submit with the application for such grant a plan, approved by its State educational agency, for the use of such grant.

"(d) There are authorized to be appropriated such amounts as are necessary to carry out the provisions of this section."

SEC. 3. Section 107(b) of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out "under this part" and inserting in lieu thereof "under this title."

SEC. 4. Sections 132 and 133(a) of title I of the Elementary and Secondary Education Act of 1965 are each amended by striking out "or 121(b)" and inserting in lieu thereof "121(b) or 131(c)".

EXHIBIT 1

[From the Los Angeles (Calif.) Times June 13, 1969]

STATE'S VERSION OF PROGRAM: CHILDREN MAKE STRONG GAINS IN HEADSTART, STUDY CLAIMS

(By Jack McCurdy)

SACRAMENTO.—Children in California's version of the Head Start program made twice the normal gains on language tests after almost a year in the classes, the first evaluation of the project showed Thursday.

They averaged a growth of 14 months in reading ability over a seven-month period, the study indicated.

The evaluation, presented to the State Board of Education, reflects the most dramatic improvement in pupils' achievement of any state program in the nation, state officials said.

The findings are in sharp contrast with conclusions from a widely publicized study of the National Head Start program reported several months ago by Westinghouse Learning Corp.

It indicated that children involved in Head Start summer classes in 1966 had received little benefit from the instruction.

However, California's program is producing "dramatic and positive results," Mrs. Jeanada Nolan, head of the state's preschool program, told the board.

The study of California's preschool classes, she said, is the first since the program began

in 1965. It was recommended by the Legislature two years ago and launched last fall.

About 1,550 children, representing approximately 10% of the youngsters enrolled in the state program, were tested last October and last May in an attempt to measure any changes in their achievement level over the seven-month span.

The pupils were located in Los Angeles, the San Francisco Bay Area, other parts of Northern California and the San Joaquin Valley. All major racial and ethnic groups were included, she added.

The Peabody Picture Vocabulary test, a widely used test to assess the intellectual status of very young children, was used.

The test is reliable, and the children involved were carefully drawn to fairly represent a cross section of the preschool pupils, the report said.

As a result, it added, "it can be safely concluded that the increase (in achievement) can be attributed to the effects of the preschool educational program."

The report also indicated that the children who were tested raised their IQs (intelligence quotients) an average of 17 points over the seven-month period.

On the first test, their average IQ was 88. By the May test, it had risen to 105.

In another analysis of the test scores, the study showed that the average growth in "mental age" of the pupils totaled 16 months over the seven-month period.

This was arrived at by averaging the tested mental age of the pupils in October and May and then comparing them.

They averaged three years, nine months in October when their actual age averaged 4 years, three months.

In May, they averaged 5 years, 1 month in mental age, and in actual age they had remained an average of 4 years, 10 months.

This analysis showed that after seven months in the classes, their mental age as reflected on the test had exceeded their actual age by three months—making them above-average age in language ability.

Max Rafferty, state superintendent of public instruction, told the board that despite what the Westinghouse study showed, "Head Start did make a difference in California."

Mrs. Nolan challenged the validity of the Westinghouse study, pointing out that the children who were tested only were involved in about eight weeks of Head Start classes.

She said no protests were used and that when the children were tested, about two years had elapsed since they had been in Head Start classes.

The study was based on a comparison of their test scores with those of children who had not been in the program, showing little difference.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. COOPER. Mr. President, I feel somewhat hesitant at intervening in this question, at this time as I am not on the committee, and I know the conferees had a difficult task. But I have always been interested in the question of school desegregation. Also, I must admit that the legal questions involved are most interesting.

I must say in reading the section developed in the conference that it is probably the most closely reasoned language that I have observed in a long time. But it does raise some interesting questions.

As I understand the language, it expresses what is the law today, as far as the courts are concerned. Is that correct?

Mr. JAVITS. No. I think it goes much further than that. I think it expresses what the law is today and also what may be the law tomorrow. I find that subsection (b) says, "and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found."

The fact is that we do not have applicable law today relating to segregation on a Federal level.

This contemplates the possibility that there will be such a law and then makes the policy which is declared by this section apply to such law when it comes into being.

Mr. COOPER. As I look at the language, it seems to me that it actually expreses the law at this time. Where there is a de jure situation, the courts and the Department of Health, Education, and Welfare assert jurisdiction to enforce desegregation; and where there is a de facto situation the courts have held they have no jurisdiction to desegregate the schools.

Mr. JAVITS. But when they do, if they hold otherwise, or if we pass other laws, we expect that to be carried out under this policy and uniformly applied.

There are three major points. I sat in this conference and it could be that I am so immersed in it that I have missed the forest for the trees. Three major points arise: "Uniformity," the words "whatever the origin or cause of such segregation," and the use of the term "de facto" in connection with whatever may be the law regarding de facto, even though it does not exist today.

Mr. COOPER. Does the Senator think this language goes beyond the present law; that it proposes and speaks of a change if the court should so rule in a different way?

Mr. JAVITS. That is right.

Mr. COOPER. But it does clearly put forth the law today that uniformity shall be practiced where de jure segregation is found any place in the land.

Mr. JAVITS. I think that is true, but I do not think my colleague is giving adequate weight to the words "whatever the origin or cause of such segregation."

Mr. COOPER. That is helpful. The courts have held, of course, that in connection with de facto segregation they have no jurisdiction.

Mr. JAVITS. So far.

Mr. COOPER. The Stennis amendment did not have the force of law but did express a goal, an objective.

At first impression in looking at the conferees language seemed to me freezing the opinion of Congress in support of the status quo—and might deny the goal of the Stennis amendment—even though it had no force of law. I take it the Senator does not concur.

Mr. JAVITS. I do not read it that way and I state as a conferee that is not the design of this language.

Mr. COOPER. Subsection (b) states:

> Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

We do come to the question of busing as the courts have held and HEW has either followed or initiated a policy of busing in de jure situations.

Mr. JAVITS. Right.

Mr. COOPER. Looking at section (c), requiring in effect the responsible officials shall enforce or comply with such guidelines and criteria necessary to eliminate discrimination in federally assisted programs, would the language direct a uniformity of policy on busing in all de jure situations?

Mr. JAVITS. No.

Mr. COOPER. It does not mean that because busing is prescribed in one de jure situation in the South that HEW should follow uniformly that policy?

Mr. JAVITS. No. The only thing they proposed to say was what the Senator from Mississippi (Mr. STENNIS) said when he argued his amendment; that it is not intended to diminish the extent of enforcement in the South; but it is intended to extend it in the North. That is what we tried to maintain.

Mr. COOPER. I thank the Senator.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NICARAGUA CANAL: NEW TREATY PROPOSED

Mr. THURMOND. Mr. President, recent news stories originating in Managua, Nicaragua, and Washington, D.C., report that the U.S. Department of State has agreed to abrogate the Bryan-Chamarro Treaty of 1914 between the United States and Nicaragua and to negotiate a new one to replace it. The text of the 1914 treaty and correlated diplomatic documents will be found in appendix G of the "U.S. Army Interoceanic Canal Board Report," 1929–31 (H. Doc. No. 139, 72d Congress).

If this treaty is abrogated, we will have reached one more milestone in the withdrawal of the American presence in the Caribbean. Over the years, our diplomats have "solved" the problems of tensions in Central America by surrending our interests in the face of the least pressure.

In 1967, the United States negotiated new treaties with Panama which would have greatly weakened American control and obligations as regards the Panama Canal. Strong objections by Congress and the deterioration of the political scene in Panama prevented these treaties from coming into force. Nevertheless, there is talk once more of reopening negotiations, apparently for the sake of making further concessions.

In such a context, it seems folly to give up our rights along the Nicaragua route. It appears that the Atlantic-Pacific Interoceanic Canal Commission has decided not to press its technical studies of the Nicaragua route. Nevertheless, the retention of our rights in Nicaragua are critical, not only to our future relations with Panama, but also to the future possibility that we may have to build a canal outside of Panama as a result of unsettled political condi-

tions. We cannot base our actions solely upon technical considerations.

With the continually increasing Soviet presence in Cuba, it is a great mistake to withdraw from any of our rights in that area. We enjoy good relations with the present Government of Nicaragua and there is little to be gained by making this unnecessary concession. To do so would appear to leave a vacuum on the political scene which would tempt further interference by Soviet or Castro-style subversion.

We have our rights in Nicaragua "in perpetuity," just as we have our rights in the Panama Canal Zone "in perpetuity." To surrender our rights in Nicaragua would greatly weaken our ability to maintain the same rights in Panama. It is therefore shortsighted to seek some momentary advantage when our long-range interests are threatened.

I would now like to review the history of the Bryan-Chamarro Treaty of 1914.

The evolution of the Isthmian Canal policy of the United States has a long history in which arose two leading rivals in the race for the trans-Isthmian canal. The prime reason for this development was that these two locations are the only ones across the American isthmus in which the continental divides are lower than 600 feet.

Until 1902 the route favored by the United States was that at Nicaragua, which would utilize the natural elevated waterway of Lake Nicaragua of some 3,325 square miles in area at the normal maximum elevation of 110 feet above mean sea level as part of the 172.8-mile-long canal. The total watershed area of the summit level at this site consists of 13,550 square miles of both Nicaragua and Costa Rica in a region of tropical rainfall.

For reasons deemed adequate, after exhaustive investigations by the Isthmian Canal Commission, headed by Rear Adm. John G. Walker, the Government of the United States by the Spooner Act, approved June 28, 1902, decided upon the Panama site.

The Panama Canal, opened to traffic in August 1914, includes the artificial Gatan Lake of 163.4 square miles in area at 85 feet above mean sea level in the Chagres River Basin with a watershed of 1,320 square miles in one of the heavier rainfall areas. The principal problems of the Panama Canal are its maintenance, operation, sanitation, police protection, and defense against aggression.

Despite the completion of the Panama Canal, the United States immediately entered into negotiations with Nicaragua. The main reasons for the negotiation of the Bryan-Chamarro Treaty of 1914 were: First, the fear of European intervention incident to the approach of World War I; and second, the defense of the Panama Canal. In this treaty, Nicaragua granted to the United States in perpetuity "exclusive propriety rights" for the construction, operation, and maintenance of an interoceanic canal by way of Lake Nicaragua and the San Juan River; also provisions for the protection of the Panama Canal and the U.S. rights for a Nicaragua Canal.

In view of the takeover of Cuba by Communist revolutionaries in 1958 and threats to do likewise in other isthmian and Carribean countries, the decision to negotiate the Bryan-Chamarro Treaty was a far-sighted one and in conformity with the principles of the Monroe Doctrine.

An important new aspect of the interoceanic canal problem is that of safeguarding marine life in the eastern Pacific and in the Caribbean. As I have pointed out on this floor before, eminent marine biologists view the proposal for a so-called sea-level canal across the isthmus as the ecological threat of the 20th century. These experts oppose the construction of a sea-level canal and urge the retention of the fresh water barrier between the oceans as contemplated in the Terminal Lake-Third Locks plan for the major modernization of the existing Panama Canal. I refer my colleagues to the article by Dr. John C. Briggs, "Sea-Level Panama Canal: Potential Biological Catastrophe," Bio-Science, volume 19, January 1969, pages 44 through 47, which I placed in the RECORD on July 31, 1969.

As all responsible studies of the Nicaragua Canal problem has utilized the elevated Lake Nicaragua, such a canal would also retain the fresh water barrier between the oceans and provide the next logical canal site after the maximum development of the Panama Canal by means of additional locks.

The negotiations of the 1914 treaty with Nicaragua understood that this agreement did not cover all the problems involved but that it was only the first step. Subsequent experience with the Panama Canal has afforded valuable lessons that cannot be ignored for the successful operation of a tropical trans-isthmian waterway at Nicaragua.

Since 1914, world conditions have changed greatly. Though the specific dangers of that time no longer apply, there are in 1970 far more dangerous developments, with Communist power ready to fill the vacuum that may be created by U.S. abandonment of its treaty rights at Nicaragua. Who would step into the position vacated?

While it is true that a new treaty with Nicaragua may provide for construction of an interoceanic canal by means of private financing as well as by Government appropriations, any treaty that may be negotiated should be fully protective of the interests of the United States and Western Hemispheric security.

Mr. President, I ask unanimous consent that two recent stories regarding the Nicaragua canal treaty situation be printed in the RECORD at the conclusion of my remarks. These articles are as follows:

"U.S. To Cancel Pact on Nicaragua Canal," from the Evening Star of March 6, 1970; and "U.S. and Nicaragua Will Negotiate Canal Treaty," from the Times of the Americas of March 11, 1970.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Mar. 6, 1970]

U.S. TO CANCEL PACT ON NICARAGUA CANAL

MANAGUA, NICARAGUA.—The United States has informed President Anastasio Somoza Debayle it is ready to abrogate the Bryan-Chamorro Treaty of 1914 which gives Washington an exclusive concession to build a canal through Nicaraguan territory.

The treaty is a product of the era when "dollar diplomacy" and the "big stick" governed U.S. foreign policy in Central America and has long been an irritant not only to Nicaragua but to El Salvador and Costa Rica as well.

It lost any significance to the United States when the Atlantic-Pacific Interoceanic Canal Commission ruled out the Nicaragua-Costa Rica route for planned construction of a new sea-level canal.

BIG EMOTIONAL IMPACT

The decision by Washington to abrogate the treaty, therefore, costs the United States nothing, but is a concession of great emotional impact for Nicaragua.

The negotiations were carried out by Ambassador Kennedy Crockett with President Somoza over the past few weeks and Somoza was informed of final U.S. agreement on Feb. 24.

The treaty was negotiated at a time when U.S. Marines were in the midst of the first of two interventions in Nicaragua to end political turbulence. The Marines landed in 1912 and on Aug. 5, 1914, the Bryan-Chamorro treaty was signed, in effect making Nicaragua a protectorate of the United States.

The original treaty signed by Secretary of State William Jennings Bryan contained the so-called Platt Amendment articles, similar to those in the protectorate exercised over Cuba between 1902–1934.

In ratifying the Bryan-Chamorro treaty, the Senate cut out the Platt Amendment articles, which would have given the United States the right of intervention to maintain a stable government and to have naval bases in Nicaragua.

The treaty did include a U.S. lease of Nicaragua's Great Corn and Little Corn islands, a 99-year renewable lease under American sovereign authority of a naval base on Nicaraguan soil in the Gulf of Fonesca. In return the U.S. agreed to pay Nicaragua $3 million to be spent under American supervision to reduce the nation's foreign debts.

ROOTED IN U.S. FEARS

The original purpose of the treaty was rooted in U.S. fears of European intervention in Central American affairs at a time when the Panama Canal and its security were of paramount importance.

The Marines left Nicaragua in 1925 because of cries of "imperialism" in the United States but returned within a few months because of a new outbreak of revolutions.

The second Nicaraguan intervention lasted until 1933. It was during that period that the Marines fought a long campaign against the Nicaraguan leader, Sandino, whose name has been adopted today by Nicaraguan Marxist youths now waging a guerrilla campaign against the Somoza government. They call themselves "Sandinistas."

[From the Times of the Americas, Mar. 11, 1970]

U.S. AND NICARAGUA WILL NEGOTIATE CANAL TREATY

WASHINGTON (UPI)—The United States and Nicaragua agreed on March 4, to negotiate the future of a 56-year-old pact giving the United States the right to build an interoceanic canal across that Central American nation.

A State Department statement intimated that the United States may wish to put an end to the agreement when it said that "it becomes increasingly unlikely" that the United States would exercise its rights and options under the treaty in the future.

The treaty regarding a Nicaraguan canal route, known as the Bryan-Chamarro Treaty, will be renegotiated at an early date at Man-

agua. This country will be represented by its ambassador, Kennedy M. Crockett.

The treaty was signed originally at Washington in the summer of 1914 and went into force two years later. In May, 1939, then president Anastasio Somoza came to the United States and exhorted Congress to build the canal. It is the son of the former dictator-president, who bears his names, Anastasio Somoza, who will be involved in the treaty's end.

Nicaragua's answer to the U.S. note was to accept invitations to talk the matter over "with the traditional feeling of friendship that has existed between the two nations, and in view of the aspirations of the people of Nicaragua."

MANAGUA HAD ACTED

Two days earlier, on March 2, at Managua the Nicaraguan Senate had unanimously voted in favor of abrogating the treaty that had granted rights to the U.S. in perpetuity.

Senator Rodolfo Abaunza said that, since the U.S. was about to end the treaty anyhow, that Nicaragua should act first.

He noted that the U.S. had received five reports from the commission that was appointed to review which would be the best route for the inter-oceanic canal but had done nothing. It did spend a total of $24 million "without spending one cent of the money in Nicaragua." He proposed that Managua act before Washington moved.

NOMINATION OF GEORGE HARROLD CARSWELL TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. PELL. Mr. President, if no Senator wishes to speak on the subject at hand, I will make a statement on another subject.

In connection with the filling of the vacancy on our Supreme Court, I would expect that the President nominate a southerner and a strict constructionist. I think, too, this is what the country expects and the majority of our Nation wish. However, I had hoped that the President's nominee would be of higher caliber and less insensitive to the trends of our times than is Judge Carswell and so oppose his nomination. I found this decision a difficult one and reached it only after considerable perusal of the opposing opinions within the Judiciary Committee and of the material that has been made available in the course of discussions and debate on this nomination.

My first thought was that mediocrity alone was not sufficient grounds for voting against Judge Carswell, particularly when we have already thrice voted to confirm him for lesser jobs. But, the more I looked at the record, the more shaken I became in the thought.

Then, too, when it comes to persuading the blacks and the young to work within our system, rather than seeking to overthrow it, they must be persuaded of the eventual views and lack of bias of those who set the rules for the system. And, the one group of men most responsible for setting these rules is our Supreme Court. In this connection, breadth of view and lack of bias are hardly characteristics that could be used to describe Judge Carswell. In fact he appears insensitive to the trends of the times.

Also, as I considered the nomination I came to the conclusion that our Supreme Court simply should not have men of mediocre ability serving on it, but that a man nominated to it should be of marked merit and superior ability enjoying the respect of his colleagues on the bench. This is obviously not the case when it comes to Judge Carswell.

Judge Carswell's adherence to the law seems lacking, too, as indicated by the unusually high proportion of reversals of his decisions.

I also believe that nominations to our third branch of government, the judiciary, fall into a different category than do nominations to the executive branch of Government. Once a nominee has been confirmed in the judiciary, the President is no longer in a position to exercise the Executive power of supervision or removal. For this reason, we in the Senate must be more stringent in our examination and setting of standards of excellence for appointment to the judiciary, particularly to the Supreme Court with its heavy responsibilities and lifetime tenure. This argument was effectively advanced by the senior Senator from Idaho (Mr. CHURCH) in yesterday's debate.

In opposing this nomination, however, I shall not participate in a filibuster against Judge Carswell. I think the President is entitled to an early vote on his nominee and, unless the circumstances are extraordinary, I do not like filibusters or think they should be used, no matter what the end.

Mr. BAYH. Mr. President, I rise to discuss one of the most troubling aspects of the nomination of G. Harrold Carswell to the Supreme Court of the United States.

As you know, many of us were shocked by Judge Carswell's remark in 1948 supporting racial segregation as "the only practical and correct way of life in our states," and saying.

I yield to no man as a fellow candidate, or as a fellow citizen in the firm, vigorous belief in the principles of white supremacy, and I shall always be so governed.

When this speech became public knowledge, Judge Carswell promptly repudiated it, and suggested that his public record of 17 years belies any racist sentiments. Although I find Judge Carswell unsuitable for the Supreme Court on a number of grounds, I have continued to hope that the record would bear out his recent statement disavowing his 1948 statement. I have continued to hope that Judge Carswell's private and public conduct would show him to be a man, if not committed to equality, at least aware of the racial crisis in our Nation and the crying need for racial justice.

In my view, however, the record does not support my hope. Of the serious incidents we have previously discussed, one of the most troubling is Judge Carswell's role in the incorporation of a private golf course in 1956. The change in the status of the golf course was part of a thinly veiled scheme to avoid Supreme Court decisions requiring integration of public facilities.

On November 7, 1955, the U.S. Supreme Court ruled that the city of Atlanta's refusal to permit Negroes to use municipal golf facilities was in direct violation of the 14th amendment's guarantee of equal protection and ordered the city to desegregate the golf course by making it available to Negroes. *Holmes* v. *City of Atlanta*, 350 U.S. 879 (per curiam). By Christmas of 1955, Negroes were playing golf on Atlanta's municipal course and a series of suits, throughout the South, were instituted to desegregate municipal recreational facilities. One such suit was Augustus against City of Pensacola, filed in the northern district of Florida—the same district in which Judge Carswell was then serving as U.S. attorney. Ingenious local Tallahassee officials were seeking to avoid the necessary desegregation of municipal facilities and obviously thought that by turning over such facilities to private groups they would be removed from the purview of the 14th amendment's guarantee of equal protection. In December 1955, for example, at a meeting of the Tallahassee City Commission the question was raised—and hotly debated—about leasing the municipal golf course to the Tallahassee Country Club, a private corporation. A front-page story in the Tallahassee Democrat of February 15, 1956, at the time the transfer was finally approved by the city commissioners, pointed out that:

The action came after a two-month cooling off period following the proposal's first introduction. At that time former City Commissioner H. G. Easterwood, now a county commissioner, blasted the lease agreement.

He said racial factors were hinted as the reason for the move.

In view of the Atlanta decision by the Supreme Court only a few months earlier and as reported by the only daily newspaper in Tallahassee, it should be obvious that the purpose of transferring the golf course—which was to circumvent the Supreme Court's ruling—was public knowledge. In a sworn affidavit to the Judiciary Committee, one of Tallahassee's most prominent citizens, Mrs. Clifton Van Brunt Lewis, confirmed the racial implications of the proposed transfer. According to the affidavit, Mr. and Mrs. Lewis were invited to join the country club but:

We refused the invitation because we wanted no part in converting public property to private use without just compensation to the public—and because of the obvious racial subterfuge which was evident to the general public.

On April 24, 1956, the Capital City Country Club was formed for the specific purpose of acquiring the municipal facilities and operating a golf club on the premises. The certificate of incorporation lists G. Harrold Carswell, who admittedly is not a golfer, as an original subscriber and as a director of the Capital City Country Club. As the U.S. attorney for northern Florida, Judge Carswell surely knew of the litigation pending throughout the South in the wake of Holmes against Atlanta and of the efforts to avoid complying with the Supreme Court's ruling by converting public facilities into private property.

Indeed, on page 69 of the hearing record, Judge Carswell said that he was "certainly" aware of such problems and of "cases all over the country at that time, everywhere."

Senator BAYH. You weren't aware of other cases in Florida——

Judge CARSWELL. Oh, certainly, certainly. There were cases all over the country at that time, everywhere. Certainly I was aware of the problems, yes. But I am telling you that I had no discussion about it. It was never mentioned to me in this context, and the $100 I put in for that was not for any purpose of taking property for racial purposes or discriminatory purposes.

Senator BAYH. You were aware that the Supreme Court had previously, sometime before that, come down with an order prohibiting this type of thing

Judge CARSWELL. Yes, sir; I am aware of the decision of the Supreme Court.

Could the transfer of the Tallahassee municipal golf course to the Capital City Country Club, following immediately upon Holmes against Atlanta, and in view of the successful suit in nearby Pensacola to open that city's golf course, have been anything but a thinly disguised attempt to avoid desegregating? I think not.

Yet Judge Carswell, a prominent citizen of Tallahassee and a subscriber, incorporator, and director of the corporation formed for the purpose of operating this club on a racially segregated basis, repeatedly denied having any knowledge of the purposes of this organization. He lent his name to this corporation; he served this corporation as director and incorporator, and he subscribed to its stock. Yet he consistently maintained that he had never discussed, and that he had never even thought about, the question of whether the golf course would be operated on a racially segregated basis.

Julian Smith, one of the original incorporators and the man with whom Judge Carswell dealt on this matter, has said that pressure to desegregate the public course "was in the back of our minds at the time the transfer was contemplated. I know I had it in my mind." Affidavits and other evidence has been presented to demonstrate the likelihood that Judge Carswell must have known of these racially discriminatory purposes.

And now we have some additional evidence along the same lines. I would like to read into the RECORD at this time a telegram from a distinguished Miami attorney, Mr. Neal P. Rutledge. Mr. Rutledge is not a fly-by-night citizen. He is not a northern knee-jerk liberal. Mr. Rutledge is a distinguished southern lawyer, with an active commercial practice. He is himself the son of a former U.S. Supreme Court Justice, Justice Wiley Rutledge. And he is also a former clerk to Supreme Court Justice Hugo Black. Mr. Rutledge was a visitor in Tallahassee in late 1955 and early 1956 because of a major trial in which he was participating was being conducted there. Mr. Rutledge's wire reads as follows:

Senator BIRCH BAYH,
Old Senate Office Building,
Washington, D.C.

During late 1955 and early 1956, I lived a great part of the time in Tallahassee, Florida, in connection with the trial of *Seaboard Machinery Corp.* v. *Bethlehem Steel Co.* in the U.S. District Court there. It was common knowledge in the community there at that time, and especially among the members of the Bar, that the dominant motive for transferring the operation of the Tallahassee Golf Club from public to private club auspices was to prevent racial integration of the facilities. The overwhelming sentiment of the white Tallahassee community at that time was to prevent Jim Crow racial segregation as a way of life, particularly in hotels, restaurants, places of social gatherings, and the like. It is impossible for me to believe that any prominent member of the Tallahassee community at that time, such as then United States Attorney General Carswell, was not fully aware of both this general, almost universal sentiment prevailing among the white citizens of Tallahassee in 1956 and the specific dominant motive for leasing the Municipal Golf Club by a private group.

Sincerely,

NEAL RUTLEDGE.

MIAMI, FLA.

And so we have added to the other voices we have heard, the statement of this solid Florida citizen that it is "impossible" for him to believe that Judge Carswell was not "fully aware" of "the specific dominant motive for leasing the municipal golf club to a private group." This motive, incidentally, has so far been successful—from 1956 to this day, the Capital City Country Club has been operated on a racially segregated basis, although I understand that the first nonwhite guest in the club's history was allowed on the premises within the past 3 months.

Mr. President, we had all hoped that Judge Carswell would have a record befitting a Supreme Court Justice. We had all hoped, as I have said earlier, that this nomination could be speedily and favorably passed upon by the Senate. But this golf course incident is just one of a series of incidents of how insensitive Judge Carswell has been to the need for insuring equal rights for all Americans. We have a right to expect more of our U.S. attorneys than participation in such a shabby scheme. We certainly have a right to expect more of nominees to the Supreme Court of the United States.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. GRIFFIN. Mr. President, earlier today I had printed in the RECORD the complete text of President Nixon's historic statement concerning elementary and secondary school desegregation.

This statement of the President is very much a part of, is very relevant to, the debate on this conference report, particularly the debate as to whether the so-called Stennis amendment, or the substitute language proposed by the conferees, should be adopted.

When the Stennis amendment was proposed and adopted earlier by this body, there was more uncertainty than there is today concerning the administration's policies with respect to school desegregation.

The President's statement today, however, raises a question whether we are now debating an issue that is essentially moot.

I call attention to the fact that neither the Stennis amendment nor the substitute proposed by the conferees is in the form of operative law. Both are phrased as sense-of-the-Congress statements declaring policy with respect to desegregation which the administration may or may not follow even if adopted.

I believe it is also accurate to point out that the statement made by the President today does not conflict directly with the essential purpose of either amendment. In his statement, the President recognizes that applicable guidelines must be uniformly applied, whether in the North, South, East, or West. At the same time, the President has recognized a point he could not fail to recognize in light of court decisions that there is a distinction between de jure and de facto segregation.

Mr. President, because I think it would be helpful to this debate to focus the attention of the Senate on the policies announced today by the President, I wish to read some very pertinent portions of his statement.

POLICIES OF THIS ADMINISTRATION

It will be the purpose of this Administration to carry out the law fully and fairly. And where problems exist that are beyond the mandate of legal requirements, it will be our purpose to seek solutions that are both realistic and appropriate.

I have instructed the Attorney General, the Secretary of Health, Education and Welfare, and other appropriate officials of the Government to be guided by these basic principles and policies:

PRINCIPLES OF ENFORCEMENT

First. Deliberate racial segregation of pupils by official action is unlawful, wherever it exists. In the words of the Supreme Court, it must be eliminated "root and branch"—and it must be eliminated at once.

Second. Segregation of teachers must be eliminated. To this end, each school system in this nation, North and South, East and West, must move immediately, as the Supreme Court has ruled, toward a goal under which "in each school the ratio of white to Negro faculty members is substantially the same as it is throughout the system."

Third. With respect to school facilities, school administrators throughout the Nation, North and South, East and West, must move immediately, also in conformance with the Court's ruling, to assure that schools within individual school districts do not discriminate with respect to the quality of facilities or the quality of education delivered to the children within the district.

Fourth. In devising local compliance plans, primary weight should be given to the considered judgment of local school boards—provided they act in good faith, and within Constitutional limits.

Fifth. The neighborhood school will be deemed the most appropriate base for such a system.

Sixth. Transportation of pupils beyond normal geographic school zones for the purpose of achieving racial balance will not be required.

Seventh. Federal advice and assistance will

be made available on request, but Federal officials should not go beyond the requirements of law in attempting to impose their own judgment on the local school district.

Eighth. School boards will be encouraged to be flexible and creative in formulating plans that are educationally sound and that result in effective desegregation.

Ninth. Racial imbalance in a school system may be partly de jure in origin, and parly de facto. In such a case, it is appropriate to insist on remedy for the de jure portion, which is unlawful, without insisting on a remedy for the lawful de facto portion.

Tenth. De facto racial separation, resulting genuinely from housing patterns, exist in the South as well as the North; in neither area should this condition by itself be cause for Federal enforcement actions. De jure segregation brought about by deliberate school-board gerrymandering exists in the North as the South; in both areas this must be remedied. In all respects, the law should be applied equally, North and South, East and West.

Mr. President, I invite the Members of this body to study very carefully the full text of the President's statement. In light of his statement today, it seems to me that further debate on the Stennis amendment is rather academic. We now have a very clear and explicit statement of the policies to be followed by the administration of policies which were not known or were not clearly understood at the time of the adoption by the Senate earlier of the Stennis amendment.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

Mr. TYDINGS. Mr. President, as in legislative session, I ask unanimous consent that the pending business be set aside for 10 minutes, in order that the message from the House of Representatives on S. 2601, the District of Columbia anticrime legislation, may be laid before the Senate.

Mr. GRIFFIN. Mr. President, reserving the right to object, I should like to inquire of the distinguished Senator from Maryland as to whether or not anyone on our side is aware of the action he is about to take.

Mr. TYDINGS. I went over this procedure 2 days ago with the Attorney General of the United States, Mr. Mitchell. What I propose to do is: to substitute for the House bill five bills which the Senate has already passed unanimously, the President's crime bill for the District of Columbia which the Senate sent to the House of Representatives during the last calendar year, and 11 other matters which were approved unanimously by the Committee on the District of Columbia; substitute that group of measures in its entirety for the bill which the House of Representatives has sent over here; and ask for an immediate conference with the House of Representatives on the President's crime bill.

Mr. GRIFFIN. Further reserving the right to object, has it been cleared with the ranking Republican member of the Senator's committee?

Mr. TYDINGS. It has been cleared with the ranking Republican member, or at least with his staff members on our committee.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

What is the will of the Senate?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TYDINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TYDINGS. Mr. President, I ask unanimous consent that the Senate lay aside the pending business for 10 minutes, in order that the Senate may take up a message from the House on S. 2601, the President's District of Columbia anticrime legislation.

Mr. PELL. Reserving the right to object, am I correct in my assumption that when the 10 minutes is up, the Senate will return to the conference report on the education bill?

The PRESIDING OFFICER. That is correct.

Mr. HRUSKA. Further reserving the right to object, would the Senator from Rhode Island give another 10 minutes if 10 minutes is insufficient? This involves about seven major bills. I know the Senator would be gracious enough to agree to that.

Mr. PELL. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maryland? The Chair hears none, and it is so ordered.

Mr. TYDINGS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2601.

The PRESIDING OFFICER (Mr. BELLMON) laid before the Senate the amendment of the House of Representatives to the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes.

Mr. TYDINGS. Mr. President, last July 11, in calendar year 1969, President Nixon sent his long-awaited District of Columbia crime legislation to Congress. That legislation included an overhaul of the court system in the National Capital, revisions in its criminal law and procedures, and expanded authority for the public defender service. Subsequently, on September 26, the President submitted a separate bill on juvenile court procedures.

The Senate acted with great dispatch on each of these Presidential anticrime bills. S. 2601, the bill on court reorganization, was passed by the Senate within 70 days of its submission.

S. 2602, the bill on the Public Defender Service, and S. 2869, the bill on Criminal Law and Procedure, were enacted within 150 days of their submission by the President.

S. 2981, the bill on juvenile court procedures passed the Senate within 90 days.

Last Thursday, the House of Representatives completed its action on an omnibus crime bill incorporating its own versions of these Senate-passed bills. In the normal course, the House then selected one of the Senate bills, S. 2601, substituted its omnibus bill for the Senate text, and returned S. 2601 to the Senate. It is now at the desk.

I believe we should have an immediate conference on this proposed legislation.

The crime situation in the National Capital is so desperate and the need for improvement in the courts and criminal law so apparent that not a day should be lost.

The Senate committee has formulated an amendment in the nature of a substitute to the House-passed bill which is at the desk. That amendment contains the text of all the Senate bills to which I have just referred, which were passed unanimously by the Senate in calendar year 1969. In addition, it disposes of a number of germane and related matters dealt with during our hearings last year, but not incorporated in the Presidential crime bills the Senate passed last fall.

For example, the committee believes that if the backlog of the new Superior Court, which this legislation will create, becomes too great, then the extra judge power of the Federal District Court of the District of Columbia ought to be available to help try those cases. Such an exigency might arise in the case of a civil disturbance or even through the normal growth in the volume of civil and criminal litigation. The committee amendment provides that, upon the presentation of a certificate of necessity by the chief judge of the superior court, the chief judge of the U.S. Court of Appeals for the District of Columbia Circuit is authorized to designate and assign any judge of the District court in this circuit to act temporarily as a judge of the superior court.

The committee has been requested by a committee of Federal judges here in the District and by numerous experts who have appeared before us to give judges the power to impose probation without verdict in appropriate cases. Such a law already exists in Maryland where it has been very successful in rehabilitation of offenders for whom neither jail nor the imposition of a felony record is useful to rehabilitation.

At present, local judges, juries, and prosecutors are sometimes loath to invoke the criminal process, where the mitigating factors surrounding an offense are such as to make actual conviction a useless event in the reform of the offender. At present in such cases, the criminal process is occasionally abandoned—even though society and the defendant might benefit from the deterrent effect of prosecution and from the increased protection of probationary supervision.

The committee amendment is patterned after section 641 of article 27, annotated Code of Maryland (1957). The amendment provides local judges with a further alternative in the disposition of criminal cases, where the offense is not punishable by death or life imprisonment. The amendment gives judges the alternative of suspending a judgment of guilty and placing the defendant on probation. As in all cases of probation, the

judge could subsequently modify the terms of probation. Also, any violation of the terms would constitute grounds, at the court's discretion, for summary revocation, the entering of judgment, and regular sentencing.

The committee has also included a provision for the creation of a Department of Correctional Services in the District government to consolidate correctional activities in the National Capital.

The committee is also recommending deletion of the "emergency" provision from the police mutual aid legislation presently in force in the District of Columbia. The committee believes that this amendment will encourage the interjurisdictional cooperation and especially improve law enforcement along the border between the District and Maryland and Virginia, where merely a curbstone or a river bank divides the jurisdictions.

The committee also recommends extending the Commission on the Revision of Criminal Law created by the District of Columbia Omnibus Crime Act of 1967 for another 3 years. The authority of that Commission expires December 27 of this year under present law. Piecemeal amendment of the criminal law in the District has created a hodgepodge of obsolete, overlapping, and confusing provisions. The need for this Commission is nowhere more clearly demonstrated among the many antiquated provisions of the District criminal laws than in the statute making it a crime to engage in the boyhood activity of kiteflying in the District. At the request of several Federal agencies, including the Smithsonian Institution, the committee is recommending repeal of that particular law at this time, in the form of an amendment.

The committee also recommends explicit authorization for the District of Columbia government to require narcotics testing. I emphasize that the committee believes this power most likely already resides in the city government, but the narcotics crisis is so urgent that we are commending this confirmatory authority at this time.

The committee also recommends a provision like the present law of Maryland to create in the District a criminal injuries compensation board to compensate the victims of criminal acts for their personal injuries.

The committee also recommends enactment of the request by the District of Columbia government to approve the implied consent law for determining drunk driving in the District. The provision we recommend is based upon the Uniform Vehicle Code promulgated by the National Committee on Uniform Traffic Laws and Ordinances. Forty-four other States have enacted similar laws.

The committee also recommends a technical amendment to the District of Columbia Insurance Placement Act to eliminate all possibility of doubt of the Congress' intention that crime insurance is to be available in the District of Columbia.

Lastly, Mr. President, your committee recognizes that the cost of fighting crime and creating an effective criminal justice system is great. The District budget, already in considerable deficit, must be augmented if these programs are to move from paper into action.

The committee is concerned about the cost effectiveness of the District government budget and has taken several actions, both legislative and in the area of oversight, during the past year to institute cost reductions in the District of Columbia activities. The committee also believes, however, that the Federal contribution to the District of Columbia government expenses is clearly inadequate either to the need or to the Federal responsibility toward the National Capital.

In addition to the protection of the people of the National Capital, a major purpose of the President's crime legislation is to make our Capital safe for all our citizens and foreign visitors, too.

Your committee believes that it is only reasonable for the Federal Government to help pay the costs of these new public safety programs. Moreover, the President intends this program to be a model for the Nation. If it fails of that purpose due to underfunding, then we and the President will have failed in our effort. Therefore, this committee recommends an increase in the authorized Federal payment for the District of Columbia of $48,854,000.

Mr. President, your committee has devoted nearly all its efforts for the last 18 months to the enactment of this legislation and other needed anticrime legislation. I commend my fellow members of the committee for their enormous industry and devotion to the task. I deeply appreciate the cooperation of the majority leader, Senator MANSFIELD, and the minority leader, Senator SCOTT, and my fellow members of the Judiciary Committee, particularly Senators MCCLELLAN and HRUSKA, upon whose judgment and advice we have heavily relied.

Mr. President, I move that the Senate concur in the amendment of the House of Representatives to S. 2601 with an amendment in the nature of a substitute.

Mr. HRUSKA. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. HRUSKA. Mr. President, this Senator has not been possessed of the good fortune that the Senator from Maryland has. He is a member of the District of Columbia Committee and also a member of the Judiciary Committee simultaneously. In connection with the legislation before us, that is a happy circumstance for him. I do not have membership on the District of Columbia Committee. I had to forgo that honor some years ago when other assignments were imposed upon me.

Mr. TYDINGS. We will be delighted to extend that privilege to the Senator.

Mr. HRUSKA. All of us are interested in legislation pertaining to the District of Columbia because it is our Nation's Capital. There is a national situation which confronts us by way of trying to restore some semblance of law enforcement that will bear some approximation to the title in the two works. In addition to that, some of the subjects treated in the legislation before us, as passed by the House, are subjects which are before the Judiciary Committee either under contemplation or already enacted into law.

I should like to ask the Senator from Maryland if it is not true that the procedure which he proposes here, by way of a substitute to the House-passed bill, is for the purpose of facilitating the proceedings in the conference which will be held on the pending legislation.

Mr. TYDINGS. That is correct.

Mr. HRUSKA. It will consolidate, will it not, the several measures we passed here in this body——

Mr. TYDINGS. That is right.

Mr. HRUSKA. In this general field, pertaining to the judicial system and related subjects in the District of Columbia. Of course, it will be a counterpart of the collection of subjects that are included in the House passed bill, but all of that, in sum total, will be considered in the meetings and the proceedings of the conference committee.

Mr. TYDINGS. That is correct.

Mr. HRUSKA. I think the Senator from Maryland is to be commended for resorting to this type of procedure because it will result, in my judgment, without passing on the substance and the ultimate form, in a determination by Congress and a selection of those things that should in its judgment become the law in all of these areas. We certainly should consider that time is of the essence, and that the steps taken here and the point at which we have now arrived are long overdue. Thus, I commend again the distinguished Senator from Maryland for having devised this method and for pursuing it.

The PRESIDING OFFICER. The first 10 minutes of the Senator from Maryland have expired.

Mr. TYDINGS. Mr. President, I ask unanimous consent for an additional 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ERVIN. Mr. President, will the Senator from Maryland yield to me, without losing his right to the floor?

Mr. TYDINGS. I yield.

Mr. ERVIN. I am glad to back the motion of the distinguished chairman of the Committee on the District of Columbia, that the House-passed version of the District of Columbia crime bill be sent to conference.

I want to express the hope that the conference will make many changes in the bill.

To put it in plain English, the House-passed version of the District of Columbia crime bill is as full of unconstitutional provisions, unjust provisions, and unwise provisions as a mangy hound dog is with fleas. (Laughter).

THE HOUSE VERSION OF THE DISTRICT OF COLUMBIA CRIME BILL: AN AFFRONT TO THE BILL OF RIGHTS

Now, Mr. President, the House-passed version of the District of Columbia crime bill is an affront to the Bill of Rights, to principles of wise legislation, and to the normal procedures which should govern the actions of the U.S. Congress. The Senate, the people of the

District of Columbia, and the entire country are in danger of being dealt a fast shuffle by the Department of Justice if the House bill is enacted. In my entire experience in this body, I have never seen such outrageous legislative proposals as are contained in this bill.

These are grave charges, Mr. President, but I feel they are fully warranted by the circumstances and by the contents of this bill.

When the Department of Justice presented its long-heralded legislation for the District of Columbia last July, they submitted a package of three bills. One, S. 2601, was a court reorganization bill. The second, S. 2602, was a bill to reform the Legal Aid Agency into a full-scale public defender office. These bills were carefully drawn and were valuable proposals. I supported them and cosponsored each.

At the time of its introduction, Members of Congress were assured by the Department of Justice both informally and in public statements that the court reorganization bill was merely a procedural bill. I was personally assured that it made no changes in criminal procedure or substance, except of the most technical nature, and that there was nothing in the bill to which I would raise objection. On the basis of these assurances, I and many other Members supported the bill and joined as cosponsors.

This massive bill, over 322 pages long, was soon discovered to contain a number of extremely controversial changes in criminal law. These changes were squirreled away in the recesses of the bill where only a careful examination would disclose them. I was particularly shocked to discover, for instance, that the bill made a series of changes in the District of Columbia Hospitalization of the Mentally Ill Act of 1964. This law was developed after long and careful study by the Constitutional Rights Subcommittee. It was a revolutionary reform securing important constitutional and procedural rights to the mentally ill. I was and still am extremely proud of the role I played in getting it enacted.

Yet, I belatedly discovered that, despite the solemn assurance of the Department, the changes proposed for the Mentally Ill Act would have negated the most important advances of that law. They were, in effect, a repudiation of the reforms which I and other members of the Congress had fought so hard to enact 5 years ago.

Fortunately, after a series of hearings by the Constitutional Rights Subcommittee, at which these amendments were unanimously condemned as repressive and a return to 18th century concepts of mental illness, the amendments were withdrawn.

The other important and controversial items in the court reorganization bill were very wisely deleted from the technical and noncontroversial portions dealing with judicial reorganization and were introduced as a separate bill for independent consideration by Chairman TYDINGS.

The Senate Committee worked with great dispatch on this legislation—one is tempted to say, with haste—because of the pressure being brought upon this body by the Department of Justice to enact anticrime legislation, whatever its nature or its usefulness, or its effect on individual freedoms.

In a few short weeks, the legislation was reported to the Senate and passed. Thereafter it slumbered quietly in the other body until the first of this year. Then in a flurry of activity, and in just a few days, a massive new bill was reported to the House, and passed with great alacrity last Thursday. This bill, now dubbed the "District of Columbia Omnibus Crime" bill, totals 439 pages.

This is no longer a simple court reorganization bill. It is literally a garbage pail of some of the most repressive, nearsighted, intolerant, unfair, and vindictive legislation that the Senate has ever been presented. It contains, among other things, broad and general wiretap authority going far beyond the limited authority of title III of the 1968 Omnibus Crime Act; uncontrolled and extremely permissive authority for no-knock searches; some of the most vindictive juvenile offender procedures imaginable; mandatory sentencing for offenders of up to 20 years in some instances; and, finally, the Department of Justice's unconstitutional, unworkable, and unjustified preventive detention bill.

I am certain that if the President were aware of the full contents of this bill, and its broad-scale repudiation of our constitutional traditions, he would disavow it, and join with members of the Senate District Committee and myself in opposing it.

I would like to comment first on the inclusion of preventive detention legislation in this bill, for I think it demonstrates that the Department of Justice, in its zeal for ever more power, whatever the cost to our constitutional principles, has indeed tried to put a fast one over on the Senate and the American people.

The third bill which the Department of Justice submitted last July was S. 2600, a major revision of the Bail Reform Act of 1966, and one containing an elaborate proposal for preventive detention. This bill was the result of an announcement by the President in January 1969, that he would ask the Attorney General to draft a preventive detention law. At the time of his remarks, the Constitutional Rights Subcommittee, of which I am chairman, was already engaged in hearings on this proposal. Yet, despite the interest of the President, and the zeal with which the Department now pursues this legislation, nobody from the Department bothered to testify before the subcommittee.

For 6 long months the subcommittee and the Congress awaited the Department's legislation on preventive detention. Finally, in July, it was introduced. At the time of its introduction, as well as in many public statements before and after, the Department of Justice made it clear that they considered this proposal so important that it should be considered as an amendment to Federal law, and made applicable uniformly in all Federal courts. Pursuant to this judgment, the third bill in this legislative package was referred to the Judiciary Committees of both Houses.

When the bill was submitted to the Senate Judiciary Committee and to the Constitutional Rights Subcommittee, I gave my solemn assurances to the Department that despite my well-known opposition to the bill, I would handle it in due legislative fashion. This I have always done, however much I may have opposed a piece of legislation.

At the same time, however, I reminded the Department that further action on preventive detention depended on the development and submission of factual data supporting the need for such a law. If there was one thing upon which all witnesses were agreed in the January 1969, hearings of the Constitutional Rights Subcommittee, it was that there was inadequate information upon which to judge the necessity for such a gross invasion of the Bill of Rights.

This prerequisite to committee action was well known to the Department from the very beginning of last year. Throughout the 6 months leading up to the introduction of the Department bill, I took every opportunity to remind the Department of the need to present reliable factual data to support a preventive detention proposal. At the time the bill was submitted and referred to the Judiciary Committee, there was no doubt that hearings would be held and the legislation considered promptly, as soon as possible after such data was presented by the Department.

Mr. President, it has been 14 long months since that need was made known, and that demand made. We still await the information we need if we are to consider this proposal intelligently, and not in an atmosphere of fear and panicky rhetoric.

We may not have much longer to wait, however. For after the bill was drafted, the Department began to take steps to get the information to back up their proposal. This was curious procedure, but I fear it is now a trademark of the Justice Department. Normally, one searches out the facts first, assesses the problems, and then develops a legislative solution to meet them. In this case, the Department first wrote the bill and then cast about for a set of facts to support it.

From these first steps grew a major scientific and objective study, the first in the District of Columbia and perhaps the first in the country. The purpose of the study was to gather as much available information on the operation of the criminal justice system, and the Bail Reform Act, to ascertain the amount of pretrial crime actually committed, to develop reliable predictive devices, if possible, upon which to base preventive detention, and to search out ways to prevent and control pretrial crime short of preventive detention. This study was commissioned by the Law Enforcement Assistance Administration and conducted by the National Bureau of Standards. It was designed to gather the facts—and to discover what facts were missing—about every aspect of the criminal process, from arrest to appeal.

If one can predict the quality of an uncompleted study by the past performance of the Law Enforcement Assistance Administration and the National Bureau of Standards, then we can be fairly assured that this project will give us valuable information on the true need for preventive detention, if any. It will also help us pinpoint the weakness in the system which has been the true cause of the problems which are wrongly attributed to the Bail Reform Act.

Perhaps that is why the Department is moving so frantically to enact its preventive detention legislation at this point, rather than await the release of its own commissioned study. Perhaps that is why its preventive detention bill is hidden deep in the recesses of this omnibus crime bill of 439 pages. Perhaps that is why it travels under the nom de plume of "Codification of Title 23" rather than announcing itself unashamedly as "Preventive Detention."

The reason quite obviously is that the National Bureau of Standards—Law Enforcement Assistance Administration study, which is to be completed just a few days from now on March 31, will refute much of the frantic rhetoric the Department has issued about the need for preventive detention.

There can be no other explanation for why the Department has gone back on its original decision to enact preventive detention as national legislation; why it has rushed the bill through the House without any hearings whatever; and why the legislation is hidden under false colors in the middle of a massive bill entitled "District of Columbia Court Reorganization." This bill might better be entitled, "A bill to repeal the Fourth, Fifth, Sixth, and Eighth Amendments to the Constitution."

I believe the Department has dealt this Congress and the American people a "fast shuffle" by hiding preventive detention in the middle of a bill where it does not belong, and by avoiding open and free debate on the merits. I strongly oppose any effort to enact such controversial legislation by these dubious procedures. If this Congress wishes to enact preventive detention legislation after full consideration of all the law and facts and alternatives, then I alone cannot prevent it. But I do not believe we should tolerate the Department of Justice trying to slip one past us and the American people, as it is trying to do through this bill.

If the Department wishes preventive detention, then let it keep to its original position. Let it complete its computer study, analyze the data and present the proper congressional committees with its conclusions and its position. Then let us consider this legislation carefully, deliberately, and on its merits, uncluttered by 400 other pages of legislation.

I strongly oppose the legislation for preventive detention in this bill. But I object even more to the method by which the Department is trying to subvert normal legislative procedure. I strongly support the committee decision to strike the preventive detention sections from this bill. I earnestly hope that the Senate conferees will not yield on this issue. District of Columbia Court reorganization is too important a measure to be held up at the whim of the Department of Justice. But it is not so important that the Senate should tolerate enactment of preventive detention by such suspicious procedures. If necessary, I shall strongly oppose the conferees' report on it if the Department persists in retaining preventive detention in this measure.

This bill contains a veritable flood of other ill-conceived features. Many of them have already been considered and very wisely rejected by the Senate District Committee. Many more, however, have never been presented to the Senate nor have they had a fair hearing in either body. Days, and even weeks, could profitably be devoted to discussing these items. In view of the shortness of time, however, I want to mention some of the particularly objectionable provisions.

At a time when the need for fair and speedy and enlightened processing of juvenile offenders is at its highest point in history, and at a time when the importance of meaningful rehabilitation of young offenders is most acute, the Justice Department has sponsored a bill which is wholly antithetical to these goals. Rather than a model act for juvenile offenders, it is a step back into the dark ages.

For example, when a juvenile is before the juvenile court, the burden of inquiring into the suitability of the child for rehabilitation now properly rests squarely on the court and the administrative machinery it has available for that purpose. However, without justification the Department bill would shift that burden to the child. How a child of 15 can be expected to prove that he can be rehabilitated is beyond understanding.

If trial of a young offender in a juvenile court once is waived and he is tried in an adult criminal court, he can never again, under the Department bill, be tried as a juvenile no matter what his age and no matter what charge is brought against him. Incredibly, that is the result even if the juvenile is found innocent of the initial charge resulting in the waiver of trial as a juvenile. Even if the charge is completely unfounded, or there is a case of mistaken identity, once waived, the child will thereafter be treated as an adult.

The Department proposal makes absolutely no provision for expeditious treatment for juvenile offenders. It would allow a continuation of the long incarceration of juveniles with all the accompanying effects of such detention. Many of our young offenders are irretrievably lost to a life of criminal activity because their cases are not brought promptly before an enlightened juvenile court. Young children are detained under shocking conditions and many of them are simply lost for months. The Senate bill quite rightly requires expeditious handling of juvenile cases. The Department's bill does not.

Not only does the House bill make no provision for jury trial for juveniles, but it also lowers the standard of proof which the Government must satisfy to a mere "preponderance of the evidence." The Senate bill requires that the Government prove its case "beyond a reasonable doubt" against juveniles who are allegedly delinquent or in need of supervision. Certainly there can be no justification for eliminating a standard of proof which is required by the due process clause.

The Department bill totally disregards the protective procedures of the Interstate Compact on Juveniles and instead allows children to be treated exactly like adults in extradition proceedings. Moreover, under H.R. 16196, a juvenile sent to a juvenile treatment facility could easily be transferred to an adult prison facility without benefit of the procedural protections provided an adult before being sentenced to prison.

The Legislative Guide for Drafting Family and Juvenile Court Acts was published by the Childrens Bureau of the Health, Education, and Welfare Department's Social and Rehabilitation Service in 1969. That guide was a cooperative effort based on investigative work, study and comment by the Children's Bureau, the Department of Justice, and State and local juvenile courts and probation services. Instead of using the legislative guide of the Department of Health, Education, and Welfare as a guide for positive action, it appears that the Justice Department has repudiated the administration's position on the handling of juvenile crime and disregarded the collective study and experience of experts in the field of juvenile law.

The Senate used the legislative guide as a model in its consideration of this matter. The provisions of the legislative guide are largely in harmony with the recommendations of the American Bar Association. They come much closer to this kind of enlightened, effective and constitutional procedures we need to deal with the perplexing problems of juvenile offenders. As chairman of the Constitutional Rights Subcommittee, I have long been concerned over the constitutional rights of juveniles. H.R. 16196 is a great step backward at a time when progress is demanded.

The Department of Justice has also sought to eliminate the need for judges in the sentencing of certain offenders by requiring mandatory minimum sentences. Elimination of judicial discretion in the sentencing process cannot be justified. In my judgment, it is absolutely unconscionable to propose legislation calling for sentences such as mandatory life imprisonment with no parole for 20 years and no suspension or probation at all upon conviction of crimes such as purse-snatching, or assault with intent to commit an offense punishable by a year in jail.

Furthermore, the court would have no choice but to send a first offender to prison for 3 years if he were convicted of purse-snatching and had "readily available" a toy pistol, even if it were not used or visible. If a defendant were convicted a second time for such an offense, the court would be bound to send him to prison for 10 years. This bill would make it impossible for a judge

to tailor the sentence in a case to a particular individual and would unquestionably terminate all hope of restoring the offender to a useful life in society. Prescribing severe sentences for offenses defined as "violent crimes" appeals to many at first glance. But included in this definition is purse-snatching, and similar offenses. It is altogether possible that a 15-year-old could be sentenced under this bill to a mandatory life sentence with no parole for 20 years, just for purse-snatching and having a toy pistol in his pocket.

Chief of Police Jerry Wilson, himself, sees the practical objections to mandatory minimum sentences. During the House District Committee's hearing on H.R. 16196, Chief Wilson said:

> I don't know whether mandatory sentences are good or bad. More stringent sentences are good but mandatory sentences present some problems. The way to avoid mandatory sentence is simply not to prosecute on that charge.

A large number of offenses are subject to the mandatory sentence provisions of H.R. 16196. It is quite likely that prosecutors—confronted by the inappropriateness of the mandatory sentence for certain defendants—will choose not to prosecute on those charges. Similarly, juries will free many defendants because they believe the mandatory sentence inappropriate for the particular defendant. The result will be not more—but less—safety for the community.

Mandatory sentences are proposed because of frustration with judges who do not sentence as severely as the prosecutors would like. But we cannot expect a judge to display wisdom in the sentencing of defendants if we deprive him of the opportunity to use his intelligence.

Mandatory minimum sentences are clear demonstrations of prosecutorial zeal to punish criminals. They are worthless as a means of intelligently dealing with the problems of crime.

H.R. 16196 would also authorize the divulgence of a defendant's communication with employees of the District of Columbia Bail Agency. It allows the defendant's statements to be used for impeachment in any criminal proceeding, in perjury proceedings and in the trial of offenses connected with pretrial release. In a very short time that authorization would clearly destroy the effectiveness of the bail agency. All the confidence suspects now have developed in the Bail Agency personnel would be quickly lost, and the agency would no longer have any source for securing the information so vital in its work. In addition, it is obvious that counsel would have to be appointed before the bail agency employees could even talk with suspects to gather essential data for the court's bail determinations.

H.R. 16196 contains wiretap provisions far different from those considered by the Senate. The Senate sought to follow the pattern set forth in the Omnibus Crime Control and Safe Streets Act of 1968 and in the model State wiretapping bill. The Department of Justice has totally disregarded these guidelines. Their bill would allow unlimited governmental intrusion into traditionally privileged conversations. The police could bug confessionals to listen in to the priest and the penitent, they could overhear lawyers talking with clients and doctors with their patients.

The House bill would also allow chemical, scientific and other tests or experiments, provided those tests or experiments were incident to the execution of a search warrant.

The police state syndrome of the present administration further manifests itself by an even broader authority for "no-knock" warrants than it sought in the drug bill. It would also permit unlimited seizure of property not enumerated in any search warrant. In my judgment, both of these provisions in the House bill clearly violate the fourth amendment to the Constitution.

In another unprecedented attack on our adversary system of criminal justice, the House bill would allow the Government to establish case law by ex parte action. Even though the Government's case might be irretrievably lost and the defendant forever acquitted of his alleged crime, the Government could nonetheless appeal rulings made in that case and thereby establish precedents for future cases. The acquitted defendant would have no reason to contest the moot case on appeal in any vigorous manner. The Government appeal would be a ball game with only one team, the Government, represented. The ultimate results of such a procedure are difficult to imagine, but in view of the posture of the present Justice Department, they will obviously militate against the rights of us all.

Although I have come nowhere near exhausting the list of deficiencies in this bill, I will mention just one further item at this time. The Department, in another gesture toward the police state around the corner, would make the policeman the unjustified beneficiary of his own unlawful action. Believe it or not, if any citizen in this city sues a policeman for unlawful arrest and wins his suit by showing that the police officer did indeed violate the law, the innocent citizen must nevertheless pay the lawbreaking policeman's attorney fees. This is not merely discretionary, which would be outrageous in itself. It is mandatory to pay the policeman's lawyer's fees even if the plaintiff wins.

I recognize full well that law and order has become a great political issue. But, in this year of our Lord 1970, and in future election years, it behooves the Members of this body to be chary of broad grants of power to those who control the machinery of Federal justice.

For the security of the individual rights of all generations to come, we must stem the eagerness of aspiring politicians in the executive branch who are charged with fulfilling election promises to fight crime, and who in their zeal, seize upon unconstitutional means to gain temporary political advantages.

I yield to no man in my desire to deal effectively with the crime crisis we face. Yet this crisis cannot justify the passage of bills such as this.

Mr. COOPER. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I am delighted to yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I understand that the pending business is the conference report on the District of Columbia crime bill.

Mr. TYDINGS. Does the Senator from Kentucky understand the procedure which we are following now?

Mr. COOPER. I just came on the floor.

Mr. TYDINGS. What we are doing is substituting for the House-passed bill that came over, the Senate bills which we passed last year, together with 11 amendments which are relatively minor in nature. We will put those in the bill and send them back and ask for a conference, so that when we go to conference we will go to conference on the Senate bills which we passed last year. The House will also go to conference with the bill which it passed this year, and then the issue will be joined.

Mr. COOPER. I must say that I was not on the floor when the District of Columbia crime bills were passed by the Senate. I think some were passed by a voice vote.

Mr. TYDINGS. There were five different bills which passed over a period of 2 or 3 months. Thus, it is not one bill but several.

Mr. COOPER. I read in a newspaper account of some of the provisions in the bill——

Mr. TYDINGS. Is the Senator speaking of the House bill?

Mr. COOPER. Yes, and the Senate bill also. I would like to ask the Senator, does the Senate version contain the so-called no-knock provision?

Mr. TYDINGS. The Senate bill has the provision for the no-knock in it which we amended, which was not the administration's bill, and which was not the House provision, but which was the basis of the Griffin amendment when we passed the narcotics bill, where we inserted the word "will" for "may."

Mr. COOPER. The provision in the Senate drug bill, then, is similar to the provision in the District of Columbia crime bill which is before the Senate now; that is, the so-called no-knock provision which is similar to the one that was placed in a bill by the Senator from Michigan (Mr. GRIFFIN)?

Mr. TYDINGS. The Senator is correct.

Mr. COOPER. Does the Senate bill contain the provision for the 60-day detention period that could be imposed by judges who believe someone may have committed a crime?

Mr. TYDINGS. No. That is not in the bill. There is no preventive detention proposal. That is in the House version. And, of course, the House version of the no-knock provision is in language that is different from ours.

Mr. ERVIN. Mr. President, if the distinguished Senator would yield, I should like to correct a statement about the no-knock provision.

This bill has a no-knock provision in it the likes of which has never been heard.

The House-passed bill provides that announcement of the identity and purpose of the officer shall not be required prior to such breaking and entering if the warrant expressly authorizes entry without notice.

They can just put it in the warrant. They do not have to have any notice given to the occupants of the building of the presence and purpose of the officer. He can just go ahead and break in without further ado.

It also has a provision that an entry obtained by trick and strategem shall not be equivalent to breaking and entering.

The Supreme Court of the United States held expressly to the contrary in Gould against United States, that where entrance was gained to the house under the pretense of a visit to the house, that the entry in that case was just as much without consent as if there had been a breaking and entering without permission.

Nevertheless, the bill undertakes to authorize an entry by trick or stratagem. So, as I said before, this bill is just as full of unwise and unconstitutional provisions as a mangy hound dog is full of fleas.

Mr. COOPER. The Senator is talking about the House bill?

Mr. ERVIN. I am talking about the House bill. I do not think the Senate would pass a bill like this.

Mr. COOPER. This Senate bill will go to conference and we may be called upon to vote upon the House bill, which contains a no-knock provision and also the 60-day detention provision.

Mr. TYDINGS. Mr. President, I assure the Senator from Kentucky that the conferees will represent the Senate version in conference.

Mr. COOPER. Mr. President, I think we all want better law enforcement in the District of Columbia. Although I am not a member of the Committee on the Judiciary, I have studied various crime bills throughout my years in the Senate. It seems to me that in the last few years a great many of these bills have contained provisions which the courts have never sustained, but have criticized strongly, and which increasingly encroach upon the rights of individuals.

I have tried to follow my colleague, the Senator from North Carolina (Mr. ERVIN) on these matters. I think he is right.

I think we have passed bills containing these doubtful provisions. I think it is a very bad course that we are taking.

I know that the Senator from Maryland has worked very hard on these bills. I hope that he will fight meaningfully in the conference against those provisions which are of doubtful legality.

Mr. ERVIN. Mr. President, there are other provisions of the bill relating to mandatory sentences. Mandatory sentences would apply, for instance, for 2d and 3d convictions, regardless of whether the individual had been pardoned. Four separate attempts are made to alter the effect of a presidential pardon or a pardon issued by the Governor of a State.

If the case of Klein against the United States—which the Senator from Maryland and I discussed on a previous occasion—is still the law, and I believe it is, this provision for mandatory sentences represents an unconstitutional attempt to place limitations upon the effect of Presidential or Governors' pardoning powers.

Another provision in the bill allows a prosecuting attorney to appeal on a point of law during the course of the trial and, without consent, to postpone hearing the witnesses until the appellate court passes on the question. Under this procedure, the court could order a mistrial. Certainly ordering a mistrial under those circumstances would be a violation of the double jeopardy provision.

The bill provides for such an appeal after the trial is over even if there is an acquittal. Until the jurisdictional transfer in the court reorganization bill is complete, and the trial of local District crimes, as distinguished from Federal crimes, passes into the jurisdiction of the superior court, that provision for appeals by the government after acquittal certainly would be a violation of the third article of the Constitution, which requires a case of controversy between adverse litigants to give jurisdiction to that court. An appeal in which only the government is represented would be a request for an advisory opinion, which violates article III.

I have never heard of anything like that provision. I think this is the first time it has ever been proposed anywhere.

So it proves that there is something new under the sun.

Mr. HART. Mr. President, the able senior Senator from North Carolina (Mr. ERVIN) has voiced eloquently my own concerns with respect to the bill presented to us.

Mr. TYDINGS. Mr. President, I think the remarks of the Senator from North Carolina are well founded.

We took those provisions out of the original proposal when it was before the Senate. I look forward to the support of the Senator from North Carolina and, indeed, the advice and legal counsel of the Members of the Senate when we meet with the House in this vital area.

I look forward to the support and the assistance of the Senator from Nebraska (Mr. HRUSKA).

Mr. President, I now move that the Senate concur in the amendments of the House of Representatives to S. 2601 with an amendment in the nature of a substitute.

The substitute amendment of the Senate to the House amendments to the bill S. 2601 is as follows:

[In the Senate of the United States, March 24, 1970]

Resolved, That the Senate agree to the amendments of the House of Representatives to the bill (S. 2601) entitled "An Act to reorganize the courts of the District of Columbia, and for other purposes", with the following Senate amendment to House amendments: In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill insert:

That this Act shall be known as the "District of Columbia Court Reorganization Act of 1970".

TITLE I.—COURT REORGANIZATION

SEC. 101. 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
"7. District of Columbia Court of Appeals 11–701
"9. Superior Court of the District of Columbia 11–901
"11. Family Division of the Superior Court 11–1101
"13. Small Claims and Conciliation Branch of the Superior Court 11–1301
"15. Judges of the District of Columbia Courts 11–1501
"17. Administration of the District of of Columbia Courts 11–1701
"19. Jurors and Jury Selection 11–1901
"21. Register of Wills 11–2101
"23. Medical Examiner 11–2301
"25. Attorneys 11–2501

"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—

"(1) Federal courts; establish purusant to article III of the Constitution; namely,

"The Supreme Court of the United States;

"The United States Court of Appeals for the District of Columbia Circuit;

"The United States District Court for the District of Columbia; and

"(2) District of Columbia courts, established pursuant to article I of the Constitution; namely,

"The District of Columbia Court of Appeals; and

"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. For purposes of review by the Supreme Court of the United States pursuant to section 1257 of title 28, United States Code, and other purposes of law, it shall be deemed the highest court of a State.

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

"SUBCHAPTER I.—JURISDICTION

"Sec.
"11–301. Appellate jurisdiction.
"SUBCHAPTER II.—MISCELLANEOUS PROVISIONS
"11–321. Reporter; general duties.
"11–322. Distribution of reports; sale.

"SUBCHAPTER I.—JURISDICTION

"§ 11–301. Appellate jurisdiction

"In addition to its jurisdiction otherwise conferred 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 which notice of appeal or petition for review or certiorari has been, or may still be, timely filed on or before the effective date of the District of Columbia Court Reorganization Act of 1970 and, (2) respecting violations of laws of the United States which are not applicable exclusively to the District of Columbia.

"SUBCHAPTER II.—MISCELLANEOUS PROVISIONS

"§ 11–321. Reporter; general duties

"The United States Court of Appeals for the District of Columbia Circuit may appoint a reporter who shall serve at the pleasure of the court until the completion of his duties, but in no case longer than necessary to report, edit, and publish the court's opinions with respect to all cases heard or docketed for appeal within four years after the date of enactment of the District of Columbia Court Reorganization Act of 1970.

"§ 11–322. Distribution of reports; sale

"(a) The reporter of the United States Court of Appeals for the District of Columbia Circuit shall furnish and deliver one copy of each volume of the reports of the opinions of the court, immediately after publication, to each judge of the following courts in the District:

"(1) the United States Court of Appeals;

"(2) the United States District Court;

"(3) the Tax Court of the United States;

"(4) the District of Columbia Court of Appeals; and

"(5) the Superior Court of the District of Columbia,

and the copies so received by each judge shall, upon his death, resignation, retirement, or removal from office, be delivered to his successor.

"(b) The court shall approve the sale price for the reports of its opinions at not more than $12 per volume.

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

"SUBCHAPTER I.—JURISDICTION

"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.—MISCELLANEOUS

"11–521. Appointment of auditor.

"SUBCHAPTER I.—JURISDICTION

"§ 11–501. Civil jurisdiction

"(a) The United States District Court for the District of Columbia has exclusive jurisdiction over all matters, exclusive jurisdiction over which is vested in it by law or vested in Federal district courts generally by a provision of the United States Code or any other Act of Congress of general application, and the court shall continue to have concurrent jurisdiction over all matters over which Federal district courts generally have such jurisdiction. For purposes of this section, references in chapter 85 of title 28, United States Code, to 'laws of the United States' or to 'any Act of Congress' include only those laws which are not applicable exclusively to the District of Columbia.

"(b) In addition to jurisdiction conferred by subsection (a), the court has exclusive jurisdiction over—

"(1) all civil actions and matters properly pending in the court on the effective date of the District of Columbia Court Reorganization Act of 1970;

"(2) civil actions (including requests for equitable relief) filed in the court prior to the effective date of the District of Columbia Court Reorganization Act of 1970 pursuant to the following provisions of the District of Columbia Code:

"(A) subchapter II of chapter 35, title 16: quo warranto;

"(B) chapter 25 of title 16: change of name;

"(C) section 2 of the Act of August 3, 1968 (82 Stat. 628; D.C. Code, sec. 1–804b): contractors' bonds;

"(D) section 16–1504: restitution of real property;

"(E) chapter 33 of title 16: quiet title;

"(F) chapter 37 of title 16: replevin of personal property;

"(G) chapter 19 of title 16: habeas corpus; and

"(H) the Act of June 24, 1953 (67 Stat. 77), as amended (D.C. Code, secs. 24–601 to 24–615): commitment of narcotics users;

"(3) matters filed in the court within two years of the effective date of the District of Columbia Court Reorganization Act of 1970 pursuant to the following provisions of the District of Columbia Code:

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

"(B) chapter 5 of title 21: hospitalization of mentally ill;

"(C) chapter 7 of title 21: property of mentally ill;

"(D) chapter 11 of title 21: commitment and maintenance of the substantially retarded;

"(E) chapter 13 of title 21: committee for alcoholics and addicts; and

"(F) chapter 15 of title 21: appointment of conservators;

"(4) civil actions in the District of Columbia filed in the court within four years after the date of enactment of the District of Columbia Court Reorganization Act of 1969 (A) wherein the amount in controversy exceeds $50,000 or (B) pursuant to subchapters II and III of chapter 13 of title 16: land condemnation;

"(5) matters filed in the court within five years after the date of enactment of the District of Columbia Court Reorganization Act of 1970, but only during such period of five years after the date of enactment—

"(A) pursuant to chapter 29 of title 16: partition of property and assignment of dower;

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

"(C) 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;

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

"(E) 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;

"(F) 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;

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

"(H) 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; and

"(I) otherwise within the probate jurisdiction of the court on the day prior to the effective date of the District of Columbia Court Reorganization Act of 1970.

"§ 11–502 Criminal jurisdiction

"(a) In addition to its jurisdiction as a United States district court, the United States District Court for the District of Columbia has original jurisdiction of all:

"(1) criminal cases commenced in the court by the return of an indictment or the filing of an information on or prior to the effective date of the District of Columbia Court Reorganization Act of 1970; and

"(2) criminal cases in which a violation of any one of the following provisions of law is charged:

"(A) section 809 of the Act of March 3, 1901 (31 Stat. 1322), as amended (D.C. Code, sec. 22–201)—abortion;

"(B) section 803 of the Act of March 3, 1901 (31 Stat 1321), as amended (D.C. Code, sec. 22–501)—assault with intent to kill, rob, rape, or poison;

"(C) section 608(a) of the Act of December 27, 1967 (81 Stat. 736; D.C. Code, sec. 22–1801 (a))—burglary in the first degree;

"(D) section 812 of the Act of March 3, 1901 (31 Stat 1322), as amended (D.C. Code, sec. 22–2101)—kidnapping;

"(E) sections 798 to 802 of the Act of March 3, 1901 (31 Stat. 1321), as amended (D.C. Code, secs. 22–2401 to 2405)—murder and manslaughter;

"(F) section 808 of the Act of March 3, 1901 (31 Stat 1322), as amended (D.C. Code, sec. 22–2801)—rape;

"(G) section 810 of the Act of March 3, 1901 (31 Stat. 1322), as amended (D.C. Code, sec. 22–2901)—robbery; and

"(H) section 2 of the Act of July 8, 1932 (47 Stat. 650), as amended (D.C. Code, sec. 22–3202)—committing a crime of violence when armed; and

"(3) other offenses under Acts of Congress applicable exclusively to the District of Columbia, whether charged against the same or other defendants, properly joinable in the same information or indictment with any of the offenses of which the court has jurisdiction whether or not tried together with the said offense.

"(b) The district court has exclusive jurisdiction as provided in subsection (a)(2) only for two years after the effective date of the District of Columbia Court Reorganization Act of 1970, but shall thereafter continue to exercise that jurisdiction in cases already commenced in the court by the return of an indictment or the filing of an information on or prior to the day which is two years after the effective date of that Act.

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

"For the purpose of chapter 89 of title 28, United States Code, the Superior Court of the District of Columbia shall be considered a "State court" and the law and procedure governing removal of any civil action or criminal prosecution from the Superior Court of the District of Columbia to the United States District Court for the District of Columbia shall be as provided therein.

"SUBCHAPTER II.—MISCELLANEOUS

"§ 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.

"Chapter 7.—DISTRICT OF COLUMBIA COURT OF APPEALS

"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"Sec.

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

"11–702. Composition.

"11–703. Judges; service; compensation.

"11–704. Oath of judges.

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

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

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

"11–708. Clerks and secretaries for judges.

"11–709. Reports.

"SUBCHAPTER II.—JURISDICTION
"11–721. Orders and judgments of the Superior Court.
"11–722. Administrative orders and decisions.
"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS
"11–741. Contempt powers.
"11–742. Oaths, affirmations and acknowledgments.
"11–743. Rules of Court.

"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

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

"(a) The District of Columbia Court of Appeals shall continue as a court of record in the District of Columbia.

"(b) The court shall have a seal.

"§ 11–702. Composition

"The District of Columbia Court of Appeals shall consist of a chief judge and eight associate judges.

"§ 11–703. Judges; service; compensation

"(a) The Chief Judge and the judges of the District of Columbia Court of Appeals shall serve in accordance with chapter 15 of this title.

"(b) Judges of the court shall be compensated at 95 per centum of the rate now or hereafter prescribed by law for judges of the United States courts of appeals. 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 court 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, disabled, disqualified or suspended, his duties shall devolve upon and be performed by such associate judge as the chief judge may, from time to time, designate. In the event that the chief judge is unable or fails to make such a designation, his duties shall devolve upon and be performed by the associate judges of the court according to the seniority of their original commissions.

"(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 to sit upon the court of appeals or a division thereof whenever the business of the court of appeals so requires. Such designations or assignments shall be in conformity with the rules or orders of the court of appeals.

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

"§ 11–708. Clerks and secretaries for judges

"Each judge of the District of Columbia Court of Appeals may appoint and remove one or more personal law clerks 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—

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

"(B) appointing receivers, guardains, or conservators or refusing to wind up receiverships, guardianships or the administration of conservators or to take steps to accomplish the purposes thereof (such as directing sales or other dispositions of property);

"(C) changing or affecting the possession of property (such as dissolving writs of attachment); or

"(D) certified by a judge of the Superior Court as involving a controlling question of law pursuant to subsection (d) of this section;

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

"(d) Except as provided in subsection (c), a party aggrieved by an order or judgment specified in subsection (a), 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 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, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such 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 order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The District of Columbia Court of Appeals may thereupon, in its discretion, allow an appeal to be taken from such order, if application is made to it within ten days after the entry of the order. An application for an appeal under this subsection shall not stay proceedings in the Superior Court unless the Superior Court judge, or the Court of Appeals or a judge thereof, shall so order.

"§ 11–722. Administrative orders and decisions

"In addition to other jurisdiction conferred upon it by law, the District of Columbia Court of Appeals has jurisdiction to review all license and administrative actions the jurisdiction for review of which is conferred upon it by section 11 of the Act of October 21, 1968 (82 Stat. 1203; D.C. Code, sec. 1–1510), or was exercised by it on the day prior to the effective date of the District of Columbia Court Reorganization Act of 1970, and to review all final orders of the Public Service Commission.

"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 court 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 court shall conduct its business according to the Federal Rules of Appellate Procedure unless the court prescribes or adopts modifications of those Rules. It shall approve all modifications of the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure prescribed or adopted by the Superior Court.

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

"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION
"Sec.
"11–901. Continuation of the court; court of record; seal.
"11–902. Organization of the court.
"11–903. Composition.
"11–904. Judges; service; compensation.
"11–905. Oath of judges.
"11–906. Administration of chief judge; discharge of duties.
"11–907. Absence, disability or disqualification of chief judge.
"11–908. Designation and assignment of judges.
"11–909. Meetings and reports.
"11–910. Clerks and secretaries for judges.
"SUBCHAPTER II.—JURISDICTION
"Sec.
"11–921. Civil jurisdiction.
"11–922. Transfer of civil actions to Superior Court.
"11–923. Criminal jurisdiction; commitment.
"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS
"Sec.
"11–941. Issuance of warrants; record.
"11–942. Subpoenas.
"11–943. Process.
"11–944. Contempt powers.
"11–945. Oaths, affirmations and acknowledgments.
"11–946. Rules of court.

"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"§ 11–901. Continuation of the court; 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 hereby consolidated in a single court to be known as the Superior Court of the District of Columbia. The Su-

perior Court shall continue as a court of record in the District and shall have a single seal.

"§ 11–902. Organization of the court

"The Superior Court shall consist of four divisions: criminal, civil, family, and probate. The divisions of the court may be divided into such branches as the court may by rule prescribe.

"§ 11–903. Composition

"(a) The Superior Court shall consist of a chief judge and (forty-nine) associate judges as hereafter provided.

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

"(c) Two years after the date of enactment of that Act, nine additional associate judges shall be appointed to the court.

"(d) Three years after the effective date of that Act, four additional associate judges shall be appointed to the court.

"§ 11–904. 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 court shall be compensated at 95 per centum of the rate now or hereafter prescribed by law for judges of the United States district courts. The chief judge, during his service in that position, shall receive an additional $500 per annum.

"§ 11–905. Oath of judges

"Each judge, 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 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.

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

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

"(a) When the chief judge of the Superior Court is absent, disabled, disqualified, or suspended, his duties shall devolve upon and be performed by such associate judge as the chief judge may, from time to time, designate. In the event that the chief judge is unable or fails to make such a designation, his duties shall devolve upon and be performed by the associate judges of the court according to the seniority of their original commissions.

"(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 court and may assign and reassign each judge to sit in any division and branch. When making assignments to the family 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 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 of this title, and likewise may certify to the chief judge of the United States Court of Appeals for the District of Columbia Circuit the need for temporary assignment of an additional judge or judges as provided in subsection (c) of section 292, title 28, United States Code.

"§ 11–909. Meetings and reports

"(a) The judges of the Superior Court shall meet upon the call of the chief judge, but not less than once each month, to consider matters relating to the business and operations of the court. The court may by rule require additional meetings.

"(b) Each judge shall submit to the chief judge such reports and data as the chief judge may request. Each judge shall submit a monthly written report to the chief judge and the Commission on Judicial Disabilities and Tenure which shall be in a form prescribed by the chief judge after consultation with the Commission and which shall set forth the duties performed by the reporting judge, to wit—

(1) the number of days' attendance in court of the judge during the month covered;

(2) the division or branch of the court which he attended;

(3) the number of hours per day of his attendance;

(4) the number and type of matters disposed of by the judge during the month covered; and

(5) such other data as the chief pudge requires.

"§ 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) The Superior Court of the District of Columbia shall have original jurisdiction over all civil actions, at law or in equity, within the District of Columbia other than those actions over which exclusive jurisdiction is vested in the Federal courts in the District of Columbia. This civil jurisdiction shall vest in the court in four stages as hereafter provided.

"(b) On and after the effective date of the District of Columbia Court Reorganization Act of 1970, the Superior Court has jurisdiction over all civil actions and matters properly pending in the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court. In addition the Superior Court has jurisdiction over all matters formerly within the jurisdiction of the District of Columbia Tax Court, and of all civil actions, at law or in equity, filed after the effective date of the District of Columbia Court Reorganization Act of 1970 in which the amount in controversy does not exceed $50,000 except those actions over which exclusive jurisdiction is vested in the Federal courts in the District of Columbia.

"(c) On and after the effective date of the District of Columbia Court Reorganization Act of 1970, the Superior Court has jurisdiction over the following actions, regardless of the amount in controversy—

"(1) proceedings commenced pursuant to subchapter II of chapter 35, title 16 of this Code for a writ of quo warranto;

"(2) applications filed pursuant to chapter 25 of title 16 of this Code for a change of name;

"(3) actions commenced pursuant to section 2 of the Act of August 3, 1968 (82 Stat. 628; D.C. Code, sec. 1–804b), with respect to contractors' bonds;

"(4) actions commenced pursuant to section 16–1504 of this Code for restitution of real property;

"(5) actions commenced pursuant to chapter 33 of title 16 of this Code to quiet title to real property;

"(6) actions commenced pursuant to chapter 37 of title 16 of this Code for replevin of personal property;

"(7) petitions pursuant to chapter 19 of title 16 of this Code for writs of habeas corpus directed to persons other than Federal officers and employees;

"(8) commitment of narcotics users in accordance with the Act of June 24, 1953 (67 Stat. 77), as amended (D.C. Code, secs. 24–601 to 24–615);

"(9) actions jurisdiction over which is transferred by title V of the District of Columbia Court Reorganization Act of 1970; and

"(10) actions for equitable relief relating to the foregoing.

"(d) Beginning two years after the effective date of the District of Columbia Court Reorganization Act of 1970, the Superior Court has jurisdiction over the following matters, regardless of the amount in controversy—

"(1) matters relating to gifts to minors in accordance with the provisions of chapter 3 of title 21 of this Code;

"(2) matters relating to the hospitalization of the mentally ill in accordance with the provisions of chapter 5 of title 21 of this Code;

"(3) matters relating to the property of the mentally ill in accordance with the provisions of chapter 7 of title 21 of this Code;

"(4) matters relating to the commitment and maintenance of substantially retarded persons in accordance with chapter 11 of title 21 of this Code;

"(5) appointment of committees in accordance with chapter 13 of title 21 of this Code;

"(6) appointment of conservators in accordance with chapter 15 of title 21 of this Code; and

"(7) actions for equitable relief relating to the foregoing.

Continuing jurisdiction of the United States District Court for the District of Columbia over any person, property, or estate in relation to the foregoing matters, asserted prior to this transfer of jurisdiction to the Superior Court, is retained by the United States district court notwithstanding this section.

"(e) Beginning four years after the date of enactment of the District of Columbia Court Reorganization Act of 1970, the Superior Court has the full civil jurisdiction described in subsection (a) of this section except with respect to the following matters, over which the Superior Court has jurisdiction beginning five years after the date of enactment of that Act—

"(1) actions commenced pursuant to chapter 29 of title 16 of this Code for partition of property and assignment of dower;

"(2) all other matters relating to probate and the administration of estates as defined in section 11–501(b)(5); and

"(3) all matters respecting guardianship of children as defined in section 11–501(b)(5).

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

"(a) In a civil action pending in the United States District Court for the District of Columbia on 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 prior to trial thereof that the action will not justify a judgment in excess of $10,000 the court may certify the action to the Superior Court of the District of Columbia for trial.

"(b) In a civil action commenced in the United States District Court for the District of Columbia, after the effective date and within four years after the date of enactment of the District of Columbia Court Reorganization Act of 1970, where it appears to the satisfaction of the court at or subsequent to any pretrial hearing but prior to the trial thereof that the action will not justify a

judgment in excess of $50,000 and does not otherwise invoke the jurisdiction of the court, the court may certify the action to the Superior Court of the District of Columbia.

"(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 sum of $10,000 or $50,000, as the case may be.

"§ 11–923. Criminal jurisdiction; commitment

"(a) Except as otherwise expressly provided by this section or other law. the Superior Court of the District of Columbia has original jurisdiction, concurrently with the United States District Court for the District of Columbia, of all offenses committed in the District over which exclusive jurisdiction is not conferred upon the district court either by chapter 5 of this title or by statutes not applicable exclusively to the District of Columbia.

"(b) (1) In all cases cognizable in the Superior Court, that court has jurisdiction to make preliminary examinations, and to commit offenders or to set conditions for their release on bail or recognizance according to law, either for trial or for further examination.

"(2) In all cases cognizable in the district court, the Superior Court shall have the powers enumerated in subdivision (1) of this subsection until two years after the effective date of the District of Columbia Court Reorganization Act of 1970.

"(c) The Superior Court has jurisdiction of all criminal cases properly pending in the District of Columbia Court of General Sessions on the date of enactment of this title.

"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

"§ 11–941. Issuance of warrants; record

"Subject to the provisions of title 23 of this Code and title V of the District of Columbia Court Reorganization Act of 1970, judges 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 wire interception or electronic surveillance, in connection with crimes and offenses committed within the District of Columbia, and for administrative inspection 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 or by the Federal Rules of Civil 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 court authorized by the chief judge may administer oaths and affirmations and take acknowledgments.

"§ 11–946. Rules of court

"The court shall conduct its business according to the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure unless the court 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. The Superior Court may appoint a committee of lawyers to advise it in the performance of its duties under this section.

"Chapter 11.—FAMILY DIVISION OF THE SUPERIOR COURT

"Sec.

"11–1101. Exclusive jurisdiction.
"11–1102. Retention of jurisdiction.
"11–1103. Transfer from Criminal Division; other courts.
"11–1104. Transfer for criminal prosecution.
"11–1105. Juvenile case records; confidentiality; inspection and disclosure.
"11–1106. Juvenile social records ; confidentiality; inspection; and disclosure.
"11–1107. Police and other law enforcement records.
"11–1108. Fingerprint records.
"11–1109. Sealing of records.
"11–1110. Paternity records; confidentiality; inspection and disclosure.
"11–1111. Unlawful disclosure of records; penalties.

"§ 11–1101. Exclusive jurisdiction

"(a) 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 hereinabove referred to in this section, irrespective of any jurisdictional limitation imposed on the Superior Court;

"(9) proceedings in adoption;

"(10) proceedings under the Reciprocal Enforcement of Support Act, 71 Stat. 285, as amended (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; and

"(14) proceedings under the Interstate Compact on Juveniles (described in title VI of the District of Columbia Court Reorganization Act of 1970).

"(b) The family division shall be assigned exclusive jurisdiction of proceedings, commenced two years or more after the effective date of the District of Columbia Court Reorganization Act of 1970, pursuant to chapters 5 and 11 of title 21 relating to the commitment of the mentally ill and the substantially retarded.

"§ 11–1102. Retention of jurisdiction

"For the purposes of subchapter I of chapter 23 of title 16, jurisdiction obtained by the division in the case of a child shall be retained by it until he becomes twenty-one years of age, unless terminated prior thereto. This section does not affect the jurisdiction of other divisions or courts over offenses committed by a person after he reaches the age of 18 years. If a minor already under jurisdiction of the division is convicted in the criminal division or another court of a crime committed after the age of eighteen, the family division may, in appropriate cases, terminate its jurisdiction.

"§ 11–1103. Transfer from criminal division; other courts

"(a) If it appears to a court, during the pendency of a criminal charge and prior to the time when jeopardy would attach in the case of an adult, that a minor defendant was under the age of eighteen years 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 family 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 11–1104.

"(b) If at the time of the alleged offense, a defendant was under the age of eighteen years, but this fact was not discovered by the court until after jeopardy attached, the court, if judgment has not been entered, shall hold a hearing to determine whether to proceed to judgment or to refer the case to the family division for disposition. If judgment has been entered, it shall not be set aside on the ground of the defendant's age unless the court, after hearing, determines that (1) neither the defendant nor his counsel prior to the entry of judgment had reason to believe that defendant was under the age of eighteen years and (2) that the defendant would not have been transferred for criminal prosecution if his age had been known and the procedure set forth in section 11–1104 had been followed. If the judgment is set aside, the case shall be referred to the family division for disposition. The disposition and all prior proceedings in any court of any case referred to the family division for disposition pursuant to this section shall be subject to the confidentiality provisions of sections 11–1105 through 11–1110.

"(c) The court making a transfer shall order the minor to be taken forthwith to the family division or to a place of detention designated for children by the Superior Court. The division shall then proceed as provided in subchapter I of chapter 23 of title 16.

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

"§ 11–1104. Transfer for criminal prosecution

"(a) Within five days after the filing of a delinquency petition and prior to a fact-finding hearing on the petition, the Cor-

poration Counsel, following consultation with the Director of Social Services, may file a motion requesting transfer of the child for criminal prosection, 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 subchapter I of chapter 23 of title 16.

"(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 16–2312(c)(2) of this Code or section 927 of the Act of March 3, 1901 (31 Stat. 1340), as amended (D.C. Code, sec. 24–301(a)).

"(d) Not later than fifteen days after the motion requesting transfer is filed, if the child is not in custody at the time of said filing, or, otherwise, not later than one week after said filing, the Division shall conduct a hearing on the 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. If the Division finds that there are not reasonable prospects for rehabilitating the child prior to his majority, it shall transfer the child for criminal prosecution and notify the United States attorney.

"(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 dispositional proceedings in delinquency cases, as set forth in section 16–2313 of this Code. At a transfer hearing, only the propriety of eventual Family Division disposition shall be considered, and evidence bearing on probable causes 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 two days prior to the hearing.

"(g) When a child is transferred for criminal prosecution, the presiding judge shall set forth in writing his reasons therefor. These written findings 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.

"(h) Transfer of a child for criminal prosecution terminates the jurisdiction of the Family Division over the child with respect to any subsequent delinquent act; except that jurisdiction of the Family Division over the child is restored if the criminal prosecution is terminated other than by a verdict of guilty or not guilty by reason of insanity and if at the time of said termination no indictment or information has been filed for criminal prosecution for an offense alleged to have been committed by the child subsequent to transfer.

"(i) 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.

"§ 11–1105. Juvenile case records; confidentiality; inspection and disclosure

"(a) As used in this section, juvenile case records refers to the following records of a case brought before the family division pursuant to subdivision (12) of section 11–1101(a)—

"(1) notices filed with the court by an arresting officer pursuant to subchapter I of chapter 23 of title 16;

"(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; and

"(6) other writings filed in proceedings before the court, other than social records.

"(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) assistants of the Corporation Counsel assigned to the family 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, providing 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) above 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 family 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 disposition 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.

"§ 11–1106. Juvenile social records; confidentiality; inspection and disclosure

"(a) As used in this section, juvenile social records refers to all social records made with respect to a child in any proceeding before the family division pursuant to subdivision (12) of section 11–1101(a), 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, assistants to the Corporation Counsel, and professional staff who are executing family division assignments;

"(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 respondent 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, providing 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 family 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 disposition 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.

"§ 11–1107. Police and other law enforcement records

"(a) Law enforcement records and files concerning a child shall not be open to public inspection nor shall their contents or existence be disclosed to the public unless a charge of delinquency is transferred for criminal prosecution under section 11–1104, or the interest of national security requires, or the court otherwise orders in the interest of the child.

"(b) Inspection of such 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 nongovernment institutions and 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.

"§ 11–1108. 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 11–1104, 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.

"§ 11–1109. Sealing of records

"(a) On request of a person who has been the subject of a petition filed pursuant to section 11–1101(a)(12), or on the division's own motion, the division shall vacate its order and findings and order the sealing of the case and social records referred to in sections 11–1105 and 11–1106 and the law enforcement records and files referred to in section 11–1107, 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 11–1107.

"(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 subchapter I of chapter 23 of title 16 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.

"§ 11–1110. Paternity records; confidentiality; inspection and disclosure

"(a) Except on order of the division, no records in a case arising under section 11–1101(a)(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 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.

"§ 11–1111. Unlawful disclosure of records; penalties

"Whoever willfully discloses, receives, makes use of or knowingly permits the use of information concerning a child or other person in violation of sections 11–1105 through 11–1110, 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.

"Chapter 13.—SMALL CLAIMS AND CONCILIATION BRANCH, 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 of 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 at least one evening session during each week.

"SUBCHAPTER II.—JURISDICTION AND PROCEDURES

"§ 11–1321. Exclusive jurisdiction of small claims

"The small claims and conciliation branch has exclusive jurisdiction over all cases within the jurisdiction of the Superior Court in the amount of the plaintiff's claim or the claimed value of personal property in controversy does not exceed $750, 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 seems 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 for the purpose of obtaining 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 such 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.

"11–1505. Vacations.

"SUBCHAPTER II.—THE DISTRICT OF COLUMBIA ADVISORY COMMITTEE ON JUDICIAL SELECTION

"Sec.

"15–1521. Establishment of Committee.

"15–1522. Membership; qualifications of chairman; vacancy.

"15–1523. Terms of office.

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

"Sec.
"11–1541. Establishment of Commission.
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"11–1543. Term of office; vacancy; continuation of service by a member.
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"Sec.
"11–1561. Definitions.
"11–1562. Eligibility for retirement.
"11–1563. Withholding of retirement payments; lump sum credit.
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"11–1565. Service by retired judges.
"11–1566. Survivor annuity; election; relinquishment.
"11–1567. Survivors annuity; payments to fund.
"11–1568. Survivor annuity; entitlement; computation.
"11–1569. Survivor annuity; payment; order of precedence.
"11–1570. Retirement and Annuity Fund.
"11–1571. Periodic increases; existing rights.

"SUBCHAPTER V.—JUDGES INCUMBENT ON THE EFFECTIVE DATE OF THE COURT REORGANIZATION ACT

"11–1581. Application of Court Reorganization Act.

"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 advice and consent of the Senate shall appoint all judges of the District of Columbia courts. Nominations shall be made in a manner consistent with the provisions of section 11–1526: Provided, however, that in those instances in which the District of Columbia Advisory Committee on Judicial Selection is to submit names of recommended members of the bar of the District of Columbia, the President may nominate a person not recommended by the Committee.

"(b) The President shall have power to fill, also in a manner consistent with the provisions of section 11–1526, all vacancies that may occur in the District of Columbia courts during a recess of the Senate, by granting commissions which shall expire at the end of the next session of the Senate: Provided, however, That in filling such vacancies the President may appoint a person not recommended by the Advisory Committee on Judicial Selection.

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

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

"(2) has been a member of the bar of the District of Columbia for a period of least five years;

"(3) has been engaged, for at least five of the ten years immediately prior to his appointment, 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 in the District of Columbia in the Government of the United States or of the District of Columbia;

Provided, That, during his term of service and for one year after the termination thereof, no member of the District of Columbia Advisory Committee on Judicial Selection, the District of Columbia Commission on Judicial Disabilities and Tenure, or the Committee on the Administration of Justice in the District of Columbia Courts shall be eligible for nomination or appointment as a judge of a District of Columbia court.

"§ 11–1502. Tenure.

"Subject to mandatory retirement at age 70, and to the provisions of subchapter III of this chapter, a judge of a District of Columbia court shall be appointed for an initial term of four years and may be reappointed on or after the expiration of that term to serve during good behavior. At the end of the initial term, such judge shall continue in office until reappointed or until the appointment for an initial term and qualification of his successor.

"§ 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 as chief judge 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 the designation of a chief judge, those judicial duties which he is willing and able to undertake.

"§ 11–1505. Vacations

"(a) Each judge of the District of Columbia courts shall be entitled to an annual vacation of not more than six weeks. It shall be taken at such time or times as prescribed by the chief judge of the District of Columbia Court of Appeals for judges of that court and by the chief judge of the Superior Court of the District of Columbia for judges of that court. In addition, each judge will be entitled to sick leave with respect to any period of illness necessitating absence from his judicial duties. Time spent by a judge as member of any conference, committee, or commission established by law shall not be deducted from his vacation period.

"(b) In determining when a judge shall take a vacation, and the length thereof, the chief judge exercising authority under this section shall be mindful of the necessity of retaining sufficient judicial manpower in the court under his supervision to permit at all times the prompt and effective disposition of business of such court.

"SUBCHAPTER II.—THE DISTRICT OF COLUMBIA ADVISORY COMMITTEE ON JUDICIAL SELECTION

"§ 11–1521. Establishment of Committee

"There shall be a District of Columbia Advisory Committee on Judicial Selection. The Committee shall submit to the Attorney General of the United States a list of recommended members of the bar of the District of Columbia for each vacancy on the District of Columbia Court of Appeals and the Superior Court of the District of Columbia, as hereafter provided.

"§ 11–1522. Membership; qualifications and chairman; vacancy

"(a) The Advisory Committee on Judicial Selection shall consist of seven members. The President of the United States shall appoint two members, one of whom he shall designate as Chairman of the Committee. The Committee Chairman shall be a member of the bar of the District of Columbia who has been actively engaged in the practice of law in the District of Columbia for at least five of the ten years immediately prior to his appointment. The Commissioner of the District of Columbia shall appoint two members, at least one of whom shall be a member of the bar of the District of Columbia who has been actively engaged in the practice of law in the District of Columbia for at least five of the ten years immediately prior to his appointment. The chief judge of the District of Columbia Court of Appeals shall appoint two members, one of whom shall be, at the time of appointment, a judge in regular active service on that court, and one of whom shall be a member of the bar of the District of Columbia who has been actively engaged in the practice of law in the District of Columbia for at least five of the ten years immediately prior to his appointment. The chief judge of the Superior Court of the District of Columbia shall appoint one member who shall be, at the time of appointment, a judge of that court in regular active service.

"(b) No member of the Advisory Committee, other than a member appointed while a judge pursuant to subsection (a) of this section, shall be a member, officer, or employee of the Government of the United States or of the District of Columbia.

"(c) If, while a member of the Advisory Committee, any such member is appointed a judge of any Federal court or court of the several States, fails to meet the qualification of subsection (b) of this section, or otherwise ceases to qualify for appointment to or service on the Advisory Committee in the capacity in which he was appointed, he shall resign as a member of the Advisory Committee. Such vacancy shall be filled in the same manner provided and subject to the same qualifications in subsection (a) of this section for the appointment of his predecessor. A member appointed to fill any such vacancy shall serve only for the remainder of his predecessor's term.

"§ 11–1523. Terms of office

"The terms of office of the members of the District of Columbia Advisory Committee on Judicial Selection shall be six years, except that, upon the appointment of the first members of the Advisory Committee, the members selected by the chief judges of the District of Columbia Court of Appeals and the Superior Court shall serve for four-year terms, and the members selected by the Commissioner of the District of Columbia shall serve for two-year terms.

"§ 11–1524. Compensation

"Any member of the District of Columbia Advisory Committee on Judicial Selection who is a judge shall serve without compensation. Other members shall receive the daily equivalent of the rate provided for GS–18 when actually engaged in service for the Committee.

"§ 11–1525. Powers of chairman

"The chairman of the District of Columbia Advisory Committee on Judicial Selection, or a majority of the members thereof, shall call meetings of the Committee from time to time as the need arises. The chairman, or in his absence an acting chairman selected by the members present, shall preside at meetings of the Committee.

"§ 11–1526. Recommendations of the Advisory Committee on Judicial Selection

"(a) Upon the expiration of a ten-year or four-year term of office of any judge of the District of Columbia courts, if the President of the United States does not renominate or grant a recess appointment to said judge on or bafore the twentieth day following the expiration of the judge's prior term, the

Advisory Committee on Judicial Selection shall, within forty days after the failure to renominate, recommend to the Attorney General of the United States the names of members of the bar of the District of Columbia as provided in subsection (c) of this section.

"(b) Within forty days after a judicial vacancy occurs by reason of:

"(1) the creation of any judgeship for the District of Columbia courts not existing on the day prior to the date of enactment of this Act,

"(2) the death, resignation, retirement, or removal of any judge of the District of Columbia courts,

"(3) the lapse or withdrawal of a nomination or renomination,

"(4) a vote of the United States Senate expressing failure to consent to a nomination or renomination, or

"(5) the expiration of a recess appointment, the Advisory Committee on Judicial Selection shall recommend to the Attorney General the names of members of the bar of the District of Columbia as provided in subsection (c) of this section.

"(c) In pursuant of subsections (a) and (b), the District of Columbia Advisory Committee on Judicial Selection shall recommend the following to the Attorney General of the United States:

"(1) if one judicial vacancy exists, the names of five members of the bar of the District of Columbia; or

"(2) if more than one judicial vacancy exists, the names of five such members, plus three additional names for each vacancy more than one.

"§ 11–1527. Meetings; duties; confidentiality of proceedings

"(a) The Advisory Committee on Judicial Selection shall meet at least four times a year.

"(b) The Advisory Committee shall conduct a continuing review of potential nominees to fill judicial offices.

"(c) The deliberations and records of the Committee shall be confidential except that the Committee shall make public, on the day after transmittal to the Attorney General, the names of persons whom it has recommended.

"§ 11–1528. Staff

"(a) The Advisory Committee is authorized, without regard to the provisions governing appointment and classification of District of Columbia employees, to appoint and fix compensation of, or to contract for, such staff assistants as may be necessary for the performance of its duties.

"(b) The District of Columbia is authorized to detail, on a reimbursable basis, any of its personnel to assist the Committee in the performance of its duties.

"§ 11–1529. Administrative services

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

"§ 11–1530. Appropriations

"There are hereby authorized to be appropriated such funds as may be necessary to carry out the work of the Advisory Committee on Judicial Selection.

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

"§ 11–1541. Establishment of Commission

"There shall be a District of Columbia Commission on Judicial Disabilities and Tenure. The Commission shall have power to suspend, retire, or remove a judge of a District of Columbia court, as hereafter provided.

"§ 11–1542. Membership

"(a) The Commission shall consist of seven members. The President of the United States shall appoint three members, one of whom he shall designate as chairman of the Commission. The Commission chairman and at least one other of the members appointed by the President shall be members of the bar of the District of Columbia who have been actively engaged in the practice of law in the District of Columbia for at least five of the ten years immediately prior to their appointment. The Commissioner of the District of Columbia shall appoint two members, at least one of whom shall be a member of the bar of the District of Columbia who has been actively engaged in the practice of law in the District of Columbia for at least five of the ten years immediately prior to his appointment. Two members of the Commission shall be judges of the United States District Court for the District of Columbia who shall be assigned to serve on the Commission by the chief judge of the United States District Court for the District of Columbia.

"(b) There shall be three alternate members of the Commission, who shall serve as members pursuant to rules adopted by the Commission. The President shall appoint one alternate member, who shall be a member of the bar of the District of Columbia who has been actively engaged in the practice of law in the District of Columbia for at least five of the ten years immediately prior to his appointment. The Commissioner shall appoint one alternate member. One alternate member shall be a judge of the United States District Court for the District of Columbia, who shall be assigned as an alternate member of the Commission by the chief judge of the United States District Court for the District of Columbia.

"(c) No member or alternate member of the Commission shall be a member, officer, or employee of the legislative branch or the executive departments of the United States or of the District of Columbia government, nor shall any member or alternate member of the Commission, other than a member or alternate member appointed while a judge of the United States for the District of Columbia, be an officer or employee of the judicial branch of any government.

"§ 11–1543. Terms of office; vacancy; continuation of service by a member

"(a) The terms of office for the members and alternate members of the Commission shall be six years, except that, upon appointment of the first members and alternate members of the Commission, the members and alternate member selected by the chief judge of the United States District Court for the District of Columbia shall serve for four-year terms, and the members and alternate member selected by the Commissioner of the District of Columbia shall serve for two-year terms.

"(b) A member or alternate 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 on the Commission shall be filled in the same manner provided and subject to the same qualifications in section 11–1522 and this section for such predecessor.

"(c) 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.

"§ 11–1544. Compensation

"Any member or alternate who is a judge shall serve without compensation. Other members or alternates shall receive the daily equivalent of the rate provided for GS–18 when actually engaged in service for the Commission.

"§ 11–1545. Operations; personnel; administrative services

"(a) The Commission may make such rules and regulations for its operations as may be deemed necessary, and such rules and regulations shall be effective on the date specified by the Commission. The District of Columbia Administrative Procedure Act, 82 Stat. 1204 (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 the District of Columbia Adminstrative Procedure Act (D.C. Code, secs. 1–1504, 1–1506, and 1–1507), insofar as consistent with this subchapter, shall be applicable to the Commission which shall be deemed, for these purposes only, an independent agency as defined in the District of Columbia Administrative Procedure Act. 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.

"(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 appropriations of the Commission.

"§ 11–1546. Removal; involuntary retirement; proceedings; rights of a judge

"(a) A judge shall be removed from office in the following circumstances:

"(1) upon proof of 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) upon determination by the Commission that one of the following grounds for removal exists:

"(A) willful misconduct in office;

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

"(C) other conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

Removal based on the cause set forth in paragraph (1) shall be effected upon the filing by the Commission of an order of removal in the District of Columbia Court of Appeals. Removal based on a cause set forth in paragraph (2) shall be effected upon affirmance of an appeal from an order of re-

moval filed by the Commission in the District of Columbia Court of Appeals after a determination of case pursuant to paragraph (2) or upon expiration of the time within which an appeal may be taken.

"(b) A judge shall be involuntarily retired from office when 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. Involuntary retirement shall be effected when an order of involuntary retirement, filed by the Commission in the District of Columbia Court of Appeals after such a determination, is affirmed on appeal or upon expiration of the time which an appeal may be taken.

"(c)(1) A judge shall be suspended from all judicial duties, without salary, in the following circumstances:

"(A) upon proof of the conviction of a judge of a crime referred to in subsection (a)(1) which has not become final; or

"(B) upon the filing of an order of removal which has not become final.

Suspension shall occur upon the filing of an order of suspension in the District of Columbia Court of Appeals and 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 shall be suspended from all judicial duties, with such retirement salary as he may be entitled to pursuant to subchapter IV of this chapter, upon the filing of an order of involuntary retirement which has not become final. Suspension shall occur upon the filing of an order of involuntary retirement in the District of Columbia Court of Appeals and shall continue until termination of all appeals. If the order of involuntary retirement is set aside, the judge shall be reinstated, shall recover his judicial salary less any retirement salary received, and shall be entitled to all other rights and privileges of his office.

"(3) A judge shall be suspended from all or part of his judicial duties, with salary, if the Commission, upon the concurrence of four members, order a hearing for the removal or retirement of the judge and determines that his suspension is in the interest of the administration of justice. Suspension shall occur upon the filing of 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.

"(d) 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 of a District of Columbia court. 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. No order affecting the tenure of a judge based on grounds for removal set forth in section 11–1546(a)(2) or section 11–1550(d) shall be made except after a hearing as provided by this subchapter. Nothing in this chapter 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.

"(e) 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.

"(f) 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) or (b). 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.

"§ 11–1547. Procedures

"(a) 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.

"(b)(1) In the conduct of investigations and hearings under this subchapter 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 proceedings. It may order a judge whose health is in issue to submit to a medical examination by a duly licensed physician or psychiatrist 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 refused to attend, testify or produce any writing or things required by a subpena issued by the Commission, the Commission may petition the Unitd 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 or 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 of the District of Columbia 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 court may order the person to appear and testify. A subpena for such deposition shall be issued by the clerk and the deposition shall be taken and returned in the manner prescribed by law for civil actions.

"(c) 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.

"(d) 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 law for witnesses in civil cases as provided in section 15–714 of the District of Columbia Code. The amount shall be paid by the Commission from funds appropriated to it.

"§ 11–1548. 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 proceedings under section 11–1546(d), 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.

"§ 11–1549. Judicial review

"(a) A judge aggrieved by an order of removal or retirement filed by the Commission pursuant to section 11–1546 (a) or (b) 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 five 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 in the same manner as a United States Court of Appeals would review an appeal from a final decision in a civil action tried without a jury in a United States district court. Within ninety days after oral argument or submission on the briefs if oral argument is waived, the special court may affirm or reverse the order of the Commission, or remand the matter to the Commission for further proceedings.

"(d) 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.

"§ 11–1550. Financial statements

"(a) Pursuant to such rules as the Commission shall promulgate, each judge of the District of Columbia courts shall, within one year of the first anniversary of the date of enactment of the District of Columbia Court Reorganization Act of 1970 and at least annually thereafter, file with the Commission the following reports of his personal financial interests:

"(1) a report of his income and his spouse's income for the preceding year, the sources thereof, and the amount and nature of the income received from each such source;

"(2) the name and address of each private foundation or eleemosynary institution, and each business or professional corporation, firm, or enterprise in which he was an officer, director, proprietor, or partner during the preceding year;

"(3) the identity of each liability of $5,000 or more owed by him or by him and his spouse jointly at any time during the preceding year;

"(4) the source and value of all gifts in the aggregate amount or value of $50 or more from any single source received by him during the preceding year, except gifts from his spouse, child or parent;

"(5) the identity of each trust in which he held a beneficial interest having a value of $10,000 or more at any time during the preceding year, and the identity, if known, of each interest of the trust in real or personal property in which the trust held a beneficial interest having a value of $10,000 or more at any time during the preceding year. If he cannot obtain the identity of the trust interest, he shall request the trustee to report that information to the Commission in such manner as the Commission shall by rule prescribe;

"(6) the identity of each interest in real or personal property having a value of $10,000 or more which he owned at any time during the preceding year;

"(7) the amount or value and source of each honorarium of $300 or more received by him during the preceding year; and

"(8) the source and amount of all money, other than that received from the United States Government, received in the form of an expense account or as reimbursement for expenditures during the preceding year.

"(b) Except as provided in subsection (c) of this section and, notwithstanding any other provision of law, the rules promulgated by the Commission pursuant to subsection (a) of this section may, but need not, include provisions designed to insure the confidentiality of the required reports.

"(c) Notwithstanding any rules promulgated by the Commission under the provisions of subsections (a) and (b) of this section, the items designated in subsections (a) (2) and (a) (7) of this section shall be kept by the Commission for not less than three years and shall be made available promptly for public inspection and copying.

"(d) The intentional failure by a judge of a District of Columbia court to file a report required by this section, or the filing of a fraudulent report shall constitute willful misconduct in office and shall be grounds for removal from office under section 11–1546 of this Code.

"§ 11–1551. Appropriations

"There are hereby authorized to be appropriated such funds as may be necessary to carry out the work of the Commission.

"SUBCHAPTER IV.—RETIREMENT

"§ 11–1561. Definitions

"For purposes of this subchapter—

"(1) 'judge' means any judge of the District of Columbia Court of Appeals or the Superior Court of the District of Columbia or any person with judicial service as described in (2);

"(2) 'judicial service' means service as a judge in the District of Columbia Court of Appeals, the Superior Court of the District of Columbia or the former juvenile court, District of Columbia tax court, police court, municipal court, or court of general sessions;

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

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

"(5) '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) '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) 'Commissioner' means the Commissioner of the District of Columbia;

"(8) '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) 'lump-sum credit' means the unrefunded amount consisting of—

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

"(B) amounts deposited by a judge covering earlier 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 of transfer;

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

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

"(B) for the fractional part of a month in the total service;

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

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

"(B) amounts deposited by a judge for survivor annuity covering earlier 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—

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

"(B) 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 service at age fifty;

"(2) with less than twenty years of 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 allowable 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 Commissioner 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 disability pursuant to subchapter III of this chapter shall receive a retirement salary of not less than 50 per centum nor more than 80 per centum of his judicial salary received at the date of the involuntary retirement.

"§ 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 the effective date of the District of Columbia Judges Retirement Act of 1964 and each judge appointed before that date 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 of the District of Columbia. 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 had 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 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 but 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 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 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 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 be the same proportion of the salary received at 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 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 the judicial salary received at the date of retirement.

"(b) The retirement salary of a judge retired for disability pursuant to section 11–1562 (c) and (d) shall be paid annually in equally 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 the judicial salary received at the date of retirement.

"(c) In computing the retirement salary of any judge retiring under section 11–1562 such judge shall be entitled to receive, in addition to the amount provided in section 11–1564(a), an amount (payable annually in equal monthly installments during the remainder of his life) based on any military or civilian service performed by such judge which is allowable under section 8332 of title 5 of the United States Code, computed in accordance with section 8339 (a), (b), (c), (d), (g), and (h) of such title as may apply, subject to the provisions of subsection (d) of this section; except that average pay for the purpose of such computation shall be deemed to be the salary of the judge at the time of his retirement.

"(d)(1) A judge shall be credited with service under the provisions of subsection (c) of this section when he deposits a sum equal to 3½ per centum of his basic salary, pay, or compensation for member service or creditable service under chapter 83 of title 5, United States Code, with interest as provided in paragraph (3) of this subsection.

"(2) A 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. A judge electing to make installment deposits shall not be credited, as provided in paragraph (1), until the total required deposit is made.

"(3) Interest on deposits or redeposit under the section is computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of redeposit or commencing date of annuity, whichever is earlier. The 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 1, 1956.

"(4) Deposit may not be required for—

"(A) service before August 1, 1920;

"(B) military service not exceeding five years in the aggregate; or

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

"(5) For the purpose of survivor annuity, deposits authorized by this section may also 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 to which he would otherwise be entitled under any other law without regard to this subchapter, but in computing such other annuity, service used in the computation of retirement salary under this section 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 employee's 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 an annuity for 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 of the District of Columbia 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 had elected to bring himself within the purview of this section and who thereafter 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 section 11–1567(b), and

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

Any election under the preceding sentence shall be made in writing and filed with the Commissioner.

"(c) If any judge who has 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 of each judge who has elected survivor annuity a sum equal to 3 per centum of such judge's salary (including salary paid after retirement). The amounts so deducted and withheld from the salary of each judge 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, including salary received after retirement; and a sum equal to 3 per centum of his basic salary, pay or compensation for member service or creditable service under chapter 83 or title 5, United States Code, with interest as provided in section 11–1564(d) of the District of Columbia Code. 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.

"(c) If a judge 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)(4).

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

"(a) The allowable 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 member and creditable service under chapter 83 of title 5 of the United States Code, and honorable active service in the Armed Forces of the United States for which credit is in the aggregate, but does not include any service in the Armed Service of the United States for which credit is allowed for the purposes of retired pay or retirement under any other provision of law, except as provided in section 8332(c) of title 5, United States Code.

"(b) A widow or widower is not prevented from receiving a survivor annuity under this subchapter by simultaneously receiving any other annuity to which he or she would otherwise be entitled under any other law, but in computing such other annuity, service used in the computation of a survivor annuity under this subchapter 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, the widow or widower shall receive an immediate annuity in the amount computed as provided in subsection (e) and there shall also 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 $2,142 per year divided by the number of such children or $714 per child per year whichever is lesser; 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) had he or she survived, but not to exceed $856.80 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 five years of such service prior to death or retirement multiplied by the sum of his years of judicial service, his years of allowable member and military service and his years of allowable service (not exceeding fifteen years) as a congressional employee as defined in sections 2107 and 8331(1)(C) of title 5, United States Code; and

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

A survivor annuity shall not exceed 37½ per centum of the average annual salary described in (1) 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 lum-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 District of Columbia 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 annual 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 individual or individuals as may appear in the judgment of the Commissioner to be legally entitled thereto, and such payments shall be a bar to recovery by any other individual.

"(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, the Commissioner shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

"§ 11–1570. Retirement and annuity fund

"(a) The 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 fund, 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 of the District of Columbia, 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 hereafter 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 of this Code, as in effect prior to the effective date of the District of Columbia Court Reorganization Act of 1969, 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 of this Code, as in effect prior to the effective date of the District of Columbia Court Reorganization Act of 1970, and its predecessor laws except on the election and with the consent of the judge, annuitant, or other person affected.

"SUBCHAPTER V.—JUDGES INCUMBENT ON THE EFFECTIVE DATE OF THE COURT REORGANIZATION ACT

"§ 11–1581. Application of Court Reorganization Act

"Nothing in the District of Columbia Court Reorganization Act of 1970 shall be construed to extend the term of those judges appointed for a ten-year term prior to the date of enactment of that Act, nor shall section 11–1503 be construed to affect the terms of the chief judges of the District of Columbia Court of Appeals and District of Columbia Court of General Sessions serving on the day prior to the date of enactment of that Act.

"CHAPTER 17.—ADMINISTRATION OF DISTRICT OF COLUMBIA COURTS

"SUBCHAPTER I.—COURT ADMINISTRATION

"Sec.

"11–1701. Administration of District of Columbia court system.
"11–1702. Responsibilities of chief judges in the respective courts.
"11–1703. Executive officer of the District of Columbia courts; appointment; compensation.

"11–1704. Oath and bond of executive officer.
"11–1705. Advisory Committee on the Administration of Justice in the District of Columbia Courts; Annual Conference of Citizens and Judges; Appropriations.

"SUBCHAPTER II.—COURT PERSONNEL

"11–1721. Clerks of courts.
"11–1722. Director of Social Services.
"11–1723. Fiscal officer; bond.
"11–1724. Appointment of nonjudicial personnel.
"11–1725. Compensation and assignment of personnel.
"11–1726. Court reporters.
"11–1727. Recruitment and training of personnel.
"11–1728. Service of United States marshal.
"11–1729. Reports of court personnel.
"11–1730. Reports of other personnel.

"SUBCHAPTER III.—DUTIES AND RESPONSIBILITIES

"11–1741. Court organization and operations.
"11–1742. Property and disbursement.
"11–1743. Annual budget.
"11–1744. Information and liaison services.
"11–1745. Reports and records.
"11–1746. Delegation of authority.

"SUBCHAPTER I.—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 consisting of: The chief judge of the District of Columbia Court of Appeals, who shall serve as Chairman, and an associate judge of that court elected by the judges thereof; the chief judge of the Superior Court of the District of Columbia and two associated judges of that court elected by the judges thereof.

"(b) The Joint Committee shall have responsibility within the District of Columbia court system for the following matters that are not exclusively applicable to the Superior Court or the District of Columbia Court of Appeals:

"(1) the annual report;
"(2) the annual budget;
"(3) accounts and auditing;
"(4) personnel recruitment, training, compensation, policies, procedures, and practices;
"(5) property (including space allocation), disbursement, and procurement;
"(6) information, statistics, and liaison; and
"(7) other administrative practices and policies for the court system with the concurrence of the respective chief judges of the District of Columbia courts.

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

"(1) make a continuous evaluation of the organization, procedure, practice, rules, and methods of administration and operation of the District of Columbia courts, the volume and status of business in the courts, and the efficiency and productivity of court operations;

"(2) collect, compile, analyze, and publish such judicial statistics as it deems necessary;

"(3) receive, consider, and, in its discretion, investigate criticisms and suggestions from any source pertaining to the administration of justice, and make such recommendations in reference thereto as are warranted;

"(4) recommend from time to time to the Congress changes in the organization, jurisdiction, operation, and procedures of the courts which are appropriate to legislative action, implement said changes and changes in the rules and practice, and institute such changes in the methods of administering judicial business in the courts as would improve the administration of justice;

"(5) file an annual report of the work of the courts, of the performance of the duties enumerated in this chapter, and of any recommendations relating to the courts; and

"(6) co-sponsor, with the Advisory Committee on the Administration of Justice in the District of Columbia Courts, an Annual Conference of Citizens and Judges as further provided in section 11–1705.

"(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

"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 including matters exclusively applicable to that court, and matters enumerated in section 11–1701(b) as implemented or applicable in that court consistent with the policies and directives of the Joint Committee. 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 including matters exclusively applicable to that court, and matters enumerated in section 11–1701(b) as implemented or applicable in that court consistent with the 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. He shall be responsible for the administration of the court system subject to the supervision of the Joint Committee and the chief judges of the respective courts as hereafter provided. 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 regarding administrative matters exclusively applicable to the respective courts, and matters enumerated in section 11–1701 (b) as implemented or applicable in the respective courts consistent with the policies and directives of the Joint Committee.

"(b) The Executive Officer shall be selected by, and subject to removal by, the Joint Committee with the concurrence of the respective chief judges. He shall be selected from a list of at least three qualified persons, submitted by the Director of the Administrative Office of the United States Courts.

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

"§ 11–1704. 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 on Judicial Administration in an amount prescribed by the Joint Committee faithfully to discharge the duties of his office.

"§ 11–1705. Advisory Committee on the Administration of Justice in the District of Columbia Courts; Annual Conference of Citizens and Judges; Appropriations

"(a) There shall be an Advisory Committee on the Administration of Justice in the District of Columbia Courts consisting of seven members:

"(1) two shall be appointed by the Advisory Committee on Judicial Selection, each for a three-year term, and one of whom shall be a member of the Advisory Committee on Judicial Selection but not a judge of a District of Columbia court;

"(2) two shall be appointed by the Commission on Judicial Disabilities and Tenure, each for a three-year term, and one of whom shall be a member of the Commission;

"(3) one shall be appointed by the chief judge of the District of Columbia Court of Appeals, for a four-year term, and shall be a member of the bar of the District of Columbia but not a judge of a District of Columbia court;

"(4) one shall be appointed by the chief judge of the Supreme Court of the District of Columbia, for a four-year term, and shall be a member of the bar of the District of Columbia but not a judge of a District of Columbia court;

"(5) one, who shall be a member of the bar of the District of Columbia, shall be appointed by majority vote of the other members of the Advisory Committee on the Administration of Justice in the District of Columbia Courts for a four-year term.

The Chairman of the Advisory Committee on the Administration of Justice shall be designated by its members.

"(b) The Advisory Committee on the Administration of Justice shall advise the Joint Committee on Judicial Administration regarding the administration of the court system, and the chief judges of the District of Columbia courts regarding administration within the respective courts. It shall also advise the President, the Commissioner, and the Congress on the administration of justice in the District of Columbia courts. It shall advise the Joint Committee, and the President, Commissioner, and Congress, as it deems appropriate, regarding the duties of the Joint Committee specified in section 11–1701 (b) and (c), and it shall perform, independently of the Joint Committee, the duties specified in section 11–1701(c) as it deems appropriate: *Provided*, That the Advisory Committee on the Administration of Justice shall submit an annual report of its proceedings and recommendations, the results thereof, and of its assessment of administration of justice in the District of Columbia courts, to the Joint Committee, the executive officer, the Commissioner, the President and the Congress.

"(c) The Advisory Committee on the Administration of Justice may meet at any time upon the request of a majority of the members of the Committee, or on the call of the chairman but in no event shall it fail to meet at least once in any three-month period.

"(d) The Advisory Committee on the Administration of Justice may determine the qualifications of and appoint an executive secretary and such professional, technical, and clerical assistants as it may be deemed necessary. The executive secretary and other assistants shall perform such duties for the District of Columbia Advisory Committee on Judicial Selection and the District of Columbia Commission on Judicial Disabilities and Tenure as may be authorized by the Advisory Committee on the Administration of Justice or its chairman. The government of the District of Columbia shall provide the Committee with adequate office space and is authorized to detail, on a reimbursable basis, any of its personnel to assist the Committee in the performance of its duties.

"(e) Financial and administrative services including those relating to budgeting and accounting, financial reporting, personnel, and procurement shall be provided to the Advisory Committee on the Administration of Justice by the District of Columbia, for which payment shall be made in advance, or by reimbursement, from funds of the Committee in such amounts as may be agreed upon by the chairman of the Committee and the District of Columbia government. Regulations of the District of Columbia for the administrative control of

funds shall apply to appropriations of the Committee.

"(f) Members of the Advisory Committee on the Administration of Justice, other than members employed by any court, or the United States or District of Columbia government, shall receive the daily equivalent of the rate provided for GS–18 when actually engaged in service for the Committee.

"(g) The Advisory Committee on the Administration of Justice shall cosponsor, with the Joint Committee on Judicial Administration, and shall have operational and fiscal responsibility for, an Annual Conference of Citizens and Judges. The Advisory Committee shall invite annually the judges of the District of Columbia courts to a conference at a time and place within the District of Columbia designated by the Advisory Committee, for the purpose of considering the business of the courts and advising means of improving the administration of justice within the District of Columbia. The chairman of the Advisory Committee shall preside at such conference of citizens and judges. The Advisory Committee shall provide for the active participation of judges of the District of Columbia courts, members of the bar of the District of Columbia, and laymen at such conference.

"(h) There are hereby authorized to be appropriated such funds as may be necessary to carry out the work of the Advisory Committee on the Administration of Justice in the District of Columbia courts.

"SUBCHAPTER II.—COURT PERSONNEL

"§ 11–1721. Clerks of Courts

"The District of Columbia Court of Appeals and the Superior Court of the District of Columbia 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 services 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 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; bond

"(a) There shall be a Fiscal Officer of 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.

"(b) 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 and unclaimed deposits, and other moneys.

"(c) 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.

"(d) The Fiscal 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.

"§ 11–1724. Appointment of nonjudicial personnel

"(a) Subject to the approval of the Joint Committee on Judicial Administration and the chief judge of the affected court, the Executive Officer shall appoint, and may remove, the clerks of the courts, the Director of Social Services, the Fiscal Officer, and such other officers as may be required, other than the Register of Wills.

"(b) Subject to regulations approved by the Joint Committee, and subject further to the approval of the chief judge of the affected court, the Executive Officer shall appoint, and may remove, all other nonjudicial personnel for the courts as may be necessary, except the personal law clerks and secretaries of the judges. Appointments of court personnel shall not be subject to the laws, rules, and limitations applicable to District of Columbia employees, except as otherwise specified in the District of Columbia Court Reorganization Act of 1970.

"§ 11–1725. Compensation and assignment of personnel

"(a) The Executive Officer shall fix the compensation of all nonjudicial employees of the courts. He may fix compensation for not more than one person at the equivalent of GS–18; not more than three persons at the equivalent of GS–17; and not more than seven persons at the equivalent of GS–16. The rates of compensation of all other employees shall be fixed at levels comparable to the levels paid to District of Columbia employees.

"(b) Employees of the courts, including the Executive Officer, shall be considered District of Columbia employees with respect to leave, insurance, retirement, and similar benefits.

"(c) The Executive Officer shall assign employees (other than the Register of Wills) to serve the various offices of the courts.

"§ 11–1726. Court reporters

"The Executive Officer shall appoint reporters who shall be full-time employees of the courts and who shall accept no compensation or fees for stenographic services connected with the reporting of court proceedings, other than their salaries. 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.

"§ 11–1727. Recruitment and training of personnel

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

"§ 11–1728. Service of United States marshal

"The United States marshal in the District of Columbia shall continue to serve the courts of the District of Columbia as heretofore, subject to the supervision of the Attorney General of the United States.

"§ 11–1729. Reports of court personnel

"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 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 Legal Aid Agency,

"(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 courts, and subject to the supervision of the chief judges thereof the Executive Office shall have the following duties and responsibilities:

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

"(2) to recommend to the chief judge assignments of judges for the efficient disposition of the business of the courts;

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

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

"(5) to recommend changes and improvement in court rules and procedures affecting his administrative responsibilities;

"(6) to 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;

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

"(8) to receive, evaluate, and act upon complaints as to court operations;

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

"(10) to 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 the management of such buildings and space as may be assigned to the courts and shall maintain liaison with the appropriate Federal and District of Columbia officials with respect thereto.

"(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 court and shall assign and distribute necessary equipment and supplies.

"§ 11–1743. Annual budget

"(a) The Joint Committee on Judicial Administration shall prepare and submit to the Commissioner of the District of Colum-

bia 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 distributing court rules;

"(3) keeping the courts advised of pending legislative and executive actions relating to the courts and to the administration of justice in the District of Columbia;

"(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, subject to the approval of the Joint Committee on Judicial Administration shall publish an annual report of the work of the courts and their operations during the preceding year, together with any recommendations relating to the courts. The principal purpose of the annual report shall be to provide meaningful and objective information concerning the performance, progress and problems of the District of Columbia Courts. The report shall include narrative comments analyzing the significance of statistical data. At a minimum, the report shall show trends with regard to the work of the courts, current data on the age and type of pending cases, and methods of disposition of cases.

"(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 Department of Justice,

"(2) the District of Columbia Commissioner,

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

"(4) the Advisory Committee on the Administration of Justice in the District of Columbia Courts, and

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

"§ 11–1746. 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

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

"(b) All persons otherwise qualified by law, whether employed in the service of the Government of the United States or the District of Columbia, all officers and enlisted men of the National Guard of the District of Columbia, both active and retired, all officers and enlisted men in the reserve components of the armed forces of the United States, all notaries public, all postmasters and those who are recipients or beneficiaries of a pension or other gratuity from the Federal or District Government or who have contracts with the United States or the District of Columbia, are qualified to serve as jurors in the District of Columbia and are not exempted from jury service.

"§ 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 of the District of Columbia, 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 of the District of Columbia 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 thirty days in any two year period.

"§ 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. Office of Register of Wills; appointment; qualifications; compensation.
"11–2102. 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. Office of Register of Wills; appointments; qualifications; compensation

"The Office of the Register of Wills shall continue and shall serve the United States District Court for the District of Columbia with respect to its probate jurisdiction for the period of five years after the date of enactment of the District of Columbia Court Reorganization Act of 1970. During such period the United States District Court for the District of Columbia shall be empowered to appoint, and to remove, the Register of Wills.

"(b) After such period of five years after the date of enactment of the District of Columbia Court Reorganization Act of 1970, the Office of the Register of Wills shall serve the Superior Court of the District of Columbia with respect to its probate jurisdiction, and the Superior Court of the District of Columbia shall be empowered to appoint, and to remove, the Register of Wills.

"(c) A person may not be appointed the Register of Wills for the District of Columbia unless he—

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

"(2) has been a member of the bar of the District of Columbia for a period of at least five of the ten years immediately prior to his appointment; and

"(3) has either been actively engaged in the practice of probate law in the District of Columbia or otherwise had broad experience in the administration of the estates of deceased persons in the District of Columbia for a period of at least five of the ten years immediately prior to his appointment.

"(d) The compensation of the Register of Wills shall be at a rate not less than that provided for GS–18.

"§ 11–2102. Oath; bond

"The Register of Wills shall—

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

"(2) give bond, with two or more sureties, to be approved by the chief judge of the court having probate jurisdiction, in the amount designated by said 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, (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 court having probate jurisdiction and the original filed with the records of said court.

"§ 11–2103. Services as clerk

"(a) With respect to the United States District Court, the Register of Wills shall:

"(1) act as clerk of the court in all matters over which the court exercises probate jurisdiction or powers;

"(2) keep and certify the court's records in those matters; and

"(3) generally, with respect to those matters, exercise the powers and perform the duties that might otherwise be exercised or performed by the regular clerk of the court.

"(b) 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 appropriate 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 appropriate court.

"(b) In matters over which either the United States District Court or the Superior Court has probate jurisdiction or powers, the Register of Wills shall:

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

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

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

"(4) lodge in places of safety appointed by the courts original paper filed with him;

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

"(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 (A) with respect to the jurisdiction of the District Court, to the Director of the Administrative Office of the United States Courts, and (B) with respect to the jurisdiction of the Superior Court, to the Executive Officer of the District of Columbia Courts;

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

"(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

"(a) For five years after the date of enactment of the District of Columbia Court Reorganization Act of 1970, the Register of Wills, with the approval of the United States district court, may appoint and remove deputies and other personnel in the number fixed by the Director of the Administrative Office of the United States Courts.

"(b) Beginning five years after the date of enactment of the District of Columbia Court Reorganization Act of 1970, 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

"(a) All fees, costs, and other moneys, except uncollected fees not required by law to be prepaid, collected by the Register with respect to matters within the jurisdiction of the United States district court shall be paid into the Treasury and returns thereof made to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

"(b) All fees, costs, and other moneys, except uncollected fees not required by law to be prepaid, collected by the Register 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.

"11–2301. 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 grade 18 of the General Schedule contained in chapter 53 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) A medical examiner shall perform all the medical functions formerly performed by the coroner in the District of Columbia, consistent with the provisions of this chapter, and may administer oaths and affirmations and take affidavits in connection with the performance of his duties.

"(b) The Chief Medical Examiner and his deputies may be authorized by the Commissioner 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, deserted, 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; and

"(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 wilfully 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 of this Code, 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 pursuant to this section shall be compensated in accordance with a fee rate established by the Commissioner.

"§ 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 every 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 exam-

iner 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 or his authorized representative, the United States attorney and his assistants, and the Metropolitan Police Department or other law enforcement 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) Private persons 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 private persons fail to meet the prescribed conditions, they may obtain copies of such records pursuant to court order if the court is satisfied that they have a legitimate interest.

"(d) The Chief Medical Examiner shall prepare an annual report to the Commissioner containing information on the number of autopsies performed, statistics as to cause of death, and such other relevant information as the Commissioner 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 of this Code, 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 admissable by this section.

"§ 11–2311. Autopsies performed by court order

"In 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 Act of September 10, 1962, 76 Stat. 536 (D.C. Code sec. 2–258).

"Chapter 25.—ATTORNEYS

"Sec.
"11–2501. Previous law retained.
"11–2502. Admission to bar; regulations; prior admission.
"11–2503. Censure, suspension, or disbarment for cause.
"11–2504. Disbarment upon conviction of crime; procedure for censure, suspension, or disbarment.
"11–2505. Censure, suspension; or disbarment by other courts.

"§ 11–2501. Previous law retained

(a) Notwithstanding any other provision of this chapter or any other law, the provisions of chapter 21, title 11, District of Columbia Code, in effect on the day before the day of enactment of the District of Columbia Court Reorganization Act of 1970 shall remain in effect until April 1, 1974.

(b) All persons admitted to the practice of law by the United States District Court for the District of Columbia between the date of enactment of this Act and April 1, 1974, shall be eligible to practice in all courts of the District of Columbia.

"§ 11–2502. 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 the bar in the District of Columbia, and their censure, suspension, and expulsion, and shall have exclusive jurisdiction thereof after April 1, 1974.

"(b) Members of the bar of the United States District Court of the District of Columbia in good standing on April 1, 1974, shall continue as members of the bar and shall be automatically enrolled in the District of Columbia Court of Appeals and eligible to practice in the courts of the District of Columbia. After April 1, 1974, enrolled members of the bar shall be subject to the disciplinary jurisdiction of the court of appeals.

"§ 11–2503. 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.

"§ 11–2504. 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.

"§ 11–2505. Censure, suspension or disbarment by other courts

"The Federal courts in the District of Columbia and the Superior Court of the District of Columbia 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, the court expelling him shall notify the other Federal courts in the District of Columbia and District of Columbia courts of the action taken."

EXISTING RECORDS, FILES, PROPERTY AND FUNDS

SEC. 102. The files, records, property and unexpended balances of appropriations and other funds of the former Juvenile Court of the District of Columbia and the Tax Court of the District of Columbia are transferred to the Superior Court of the District of Columbia. Together with the files, records, property and unexpended balances of appropriations and other funds of the former Court of General Sessions, they become the property of the Superior Court.

EXISTING PERSONNEL

SEC. 103. (a) The personnel of the former Court of General Sessions, Juvenile Court, and Tax Court of the District of Columbia shall be transferred to the Superior Court 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 theirs rights, privileges and benefits, and shall be considered as continuous employees of the Superior Court without break in service.

(b) Nothing in this Act shall affect the status of persons in the classified civil service on the date of enactment of such Act, but such persons may be assigned within the District of Columbia court system without regard to such status.

SEC. 104. The person serving as judge of the District of Columbia Tax Court on the day prior to the effective date of this Act may, within sixty days of the effective date, elect to retain retirement benefits under section 2, title IX, of the Act of August 17, 1937, as added by 52 Stat. 370, and amended (D.C. Code, sec. 47–2402), or relinquish such benefits and elect retirement benefits under chapter 15, title 11 of the District of Columbia Code.

TITLE II.—JUDICIAL PROCEDURE

RIGHT TO REMEDY

SEC. 201. Title 12 of the District of Columbia Code is amended as follows:

(1) Section 12–102 is amended to read:

"§ 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 shall be governed by the Federal Rules of Civil Procedure."; and

(2) Section 12–309 is amended by striking the words "Board of Commissioners" and substituting the word "Commissioner".

PROCEDURE GENERALLY

SEC. 202. Title 13 of the District of Columbia Code is amended as follows:

(1) The analysis of title 13 is amended by inserting, after

"3. Process and Parties ---------- 13–301"

the following new item:

"4. Civil Jurisdiction and Service Outside the District of Columbia ---------- 13–401";

(2) Chapter 1 is repealed;

(3) Section 13–301 is amended to read:

"§ 13–301. Courts to which applicable

"Except as otherwise specifically provided by law or rules of court, this chapter applies to the Federal courts in the District of Columbia and the District of Columbia courts.";

(4) Section 13–302 is amended by striking "District of Columbia Court of General Sessions, including the Domestic Relations Branch thereof" and substituting, "Superior Court of the District of Columbia";

(5) Section 13–331 is amended by inserting, after the word "including" in the first numbered paragraph, the phrase "chapter 4 or";

(6) The following new chapter is inserted after chapter 3:

"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

"Sec.
"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, '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, or engages in any other persistent course of conduct, or derives substantial revenue from food or services used or consumed 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 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."; and

(7) Chapter 7 is replaced by the following new chapter:

"Chapter 7.—TRIAL

"Sec.
"13–701. Jury trials in civil cases in Superior Court.

"§ 13–701. Jury trials in civil cases in Superior Court

"When the amount in controversy in a civil action pending in the District of Columbia Superior Court exceeds $20, and in all actions for the recovery of possession of real property, either party shall be entitled to a trial by jury, if he demands it in the manner provided by rules of the court.".

PROOF

SEC. 203. Title 14 of the District of Columbia Code is amended as follows:

(1) Section 14–103 is amended by striking the period at the end thereof and adding ", or by leave of a judge of the Superior Court of the District of Columbia in like manner and with like effect as other depositions are taken in the Superior Court.";

(2) The analysis of chapter 1 is amended by substituting in the reference to section 14–104 the words "Superior Court" for the words "Court of General Sessions";

(3) Section 14–104 is amended by—

(A) substituting the words "Superior Court" for the words "Court of General Sessions" in the heading thereof;

(B) substituting the words "Superior Court of the District of Columbia" for the words "District of Columbia Court of General Sessions"; and

(C) striking all after the first sentence and substituting in lieu thereof, "The testimony shall be taken as provided in the rules of the Court.";

(4) The second sentence of section 14–305, District of Columbia Code, is amended to read: "The fact of conviction of a crime which reflects either on honesty or veracity shall be admissible in evidence to affect his credibility as a witness, either upon the cross-examination of the witness or by evidence aliundi and the party cross-examining him is not bound by his answers as to such matters; the fact of conviction shall not be admissible to affect his credibility as a witness, however, as to any crime where a period of more than ten years has elapsed since the date of the release of the witness from confinement resulting from conviction of said crime, or since the expiration of the period of his parole, probation, or sentence, resulting from such conviction, whichever is the later date.";

(5) Section 14–307 is amended by substituting "Federal courts in the District of Columbia and District of Columbia courts" for "courts of the District of Columbia" in subsection (a), by inserting in paragraph (2) of subsection (b) after the phrase "where the accused raises the defense of insanity" the phrase "or where the court is required under prevailing law to raise the defense sua sponte", by substituting "; or" for the period at the end of said paragraph (2), and by adding the 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 proceedings before the Family Division of the Superior Court.";

(6) Section 14–309 is amended by striking "courts of the District of Columbia" and inserting in lieu thereof, "Federal courts in the District of Columbia and District of Columbia courts";

(7) Section 14–503 is amended by striking "the United States District Court for the District of Columbia, or by the former orphans' court of the District" and substituting in lieu thereof, "a court in the District of Columbia"; and

(8) Section 14–505 is amended by striking "by the secretary or an assistant secretary of the Board of Commissioners" and substituting in lieu thereof, "as provided by the Commissioner".

JUDGMENT AND EXECUTIONS; FEES AND COSTS

SEC. 204. Title 15 of the District of Columbia Code is amended as follows:

(1) Section 15–101 is amended by striking clause (2) of subsection (a) and substituting in lieu thereof: "(2) Superior Court of the District of Columbia—";

(2) Section 15–102 is amended by striking "District of Columbia Court of General Sessions" wherever it appears and substituting in lieu thereof, "Superior Court of the District of Columbia";

(3) Section 15–108 is amended by inserting after "District of Columbia" the words "or the Superior Court of the District of Columbia";

(4) Section 15–111 is amended by inserting after "District of Columbia" the words "or the Superior Court of the District of Columbia";

(5) Subchapter II of chapter 1 and the analysis thereof are repealed, and the analysis and heading "SUBCHAPTER I—GENERALLY" are repealed;

(6) Section 15–307 is amended by inserting the words "or the Superior Court of the District of Columbia" after the words "United States District Court for the District of Columbia".

(7) Section 15–310 is repealed.

(8) Section 15–311 is amended by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions";

(9) Section 15–318 is amended by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions";

(10) Section 15–320 is amended by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions";

(11) Subchapter II of chapter 5 is amended by substituting "Superior Court" for "Court of General Sessions" and substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions" in the analysis, heading, and wherever they appear;

(12) Section 15–707 is amended by changing the analysis and heading thereof to read, "Probate fees" and by substituting the following for the text thereof:

"(a) The Register of Wills may demand and receive in advance for services performed by him such fees as shall be set by the court having probate jurisdiction.

"(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.";

(13) Section 15–708 is amended by striking the word "court" in the analysis and heading thereof and by substituting the word "probate" for the words "the probate court" in the first sentence thereof;

(14) Section 15–709 is amended by substituting "Fees and costs in Superior Court" for the analysis and heading, by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions", by substituting "Superior Court" for "Court of General Sessions" wherever it appears, and by substituting for subsection (b) the following:

"(b) Fees for services by the United States marshals for process issued by the Superior Court shall be prescribed by rule of that court.";

(15) Section 15–710 is repealed;

(16) Sections 15–711 through 15–713 are amended by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions" wherever it appears and by substituting "Superior Court" for "Court of General Sessions" in the analysis and headings;

(17) Section 15–714 is amended by substituting "Superior Court" for "Court of General Sessions" in the analysis and heading, by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions" wherever it appears, and by adding a new subsection as follows—

"(c) No travel allowances shall be paid to any witness residing within the District of Columbia.";

(18) Section 15–716 is repealed; and

(19) Section 15–717 is amended by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions."

ADOPTION

SEC. 205. Chapter 3 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–301 is amended by substituting "Superior Court of the District of Columbia" for "Domestic Relations Branch of the District of Columbia Court of General Sessions" in subsection (a) and by substituting "Commissioner" for "Commissioners" in subsection (b)(3); and

(2) Sections 16–304, 16–305, 16–307, and 16–314 are amended by substituting "Commissioner" for "Board of Commissioners" or "Board" wherever they appear.

ATTACHMENT AND GARNISHMENT

SEC. 206. Chapter 5 of title 16, District of Columbia Code is amended as follows:

(1) Section 16–501 and 16–502 are amended by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions";

(2) Sections 16–516 and 16–549 are amended by substituting "court having probate jurisdiction" for "Probate court";

(3) Sections 16–533 and 16–578 are amended by substituting "Superior Court" for "Court of General Sessions" in the analyses and headings, and by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions" wherever it appears;

(4) Section 16–578 is further amended by substituting "filed and recorded" for "docketed in the United States District Court for the District of Columbia"; and

(5) Section 16–581 is amended by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions".

BONDS AND UNDERTAKINGS

SEC. 207. Section 16–601 of the District of Columbia Code is amended by inserting after "United States District Court for the District of Columbia," the first time it appears, "the Superior Court of the District of Columbia,", and by substituting for "United States District Court for the District of Columbia has" in the second paragraph, "United States District Court and the Superior Court have".

CRIMINAL PROCEEDINGS IN THE SUPERIOR COURT

SEC. 208. 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 of this Code, 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 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.";

(b) The reference 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 would be 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 latter case, 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 would not by force of the Constitution of the United States be entitled to a trial by jury, the trial shall be by a single judge without a jury, unless it is a case wherein the fine or penalty may be more than $300, or imprisonment as punishment for the offense may be more than ninety days (or, where the defendant is charged with contempt of court, more than six months), and a defendant demands a trial by jury. In the latter case the trial shall be by a jury, unless the defendant shall later waive trial by jury pursuant to subsection (a).

"(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 nonpayment 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 furthermore 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 default of the payment of the fine imposed, commit the defendant for a term not to exceed one year.";

(6) Sections 16–704, 16–707, and 16–709 are amended by substituting the words "Superior Court of the District of Columbia" for the words "Court of General Sessions" wherever they appear therein;

(7) (a) Section 16–710 is amended by substituting the word "Superior Court of the District of Columbia" for the words "District of Columbia Court of General Sessions";

(b) Section 16–710 is further amended by inserting, after the second sentence thereof, the following: "In criminal cases in the Superior Court in which the defendant is charged with an offense not punishable by life imprisonment or death, the court, if it is satisfied that the ends of justice and the best interests of the public and of the defendant will be served thereby, may suspend the proceedings without entering a verdict and place the defendant on probation, upon such terms and conditions as the court deems proper, for a period not to exceed the maximum length of imprisonment which could have been imposed for the offense charged and likewise under the control and supervision of a probation officer.";

(c) The reference to section 16–710 in the analysis of chapter 7 and the heading of section 16–710 are each amended by inserting, immediately after the word "sentence", the following: ", or of entering of verdict"; and

(8) The heading of chapter 7 is amended by substituting "SUPERIOR COURT" for "COURT OF GENERAL SESSIONS".

DIVORCE, ANNULMENT, SEPARATION, SUPPORT

SEC. 209. Chapter 9 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–901 is amended by substituting "Superior Court of the District of Columbia" for "Domestic Relations Branch of the District of Columbia Court of General Sessions";

(2) Section 16–916, District of Columbia Code, is amended as follows:

(a) by amending the section heading (and so much of the analysis of chapter 9 of title 16, District of Columbia Code, as relates to section 16–916) to read, "Maintenance of wife and minor children; maintenance of former wife; maintenance of minor children; enforcement";

(b) by inserting immediately after subsection (b) the following new subsection (c)—

"(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 said child, or children, and the court may decree that he or she pay court costs, including counsel fees, to enable plaintiff to conduct the case."; and

(c) by redesignating the succeeding subsection, existing subsection (c), as subsection (d); and

(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 the court may direct to be paid by the parties."; and

(b) The reference to section 16–918 in the analysis of chapter 9 is amended to read as follows:

"16–918. Appointment of counsel; compensation."

INTRAFAMILY OFFENSES

SEC. 210. (a) The analysis of title 16 of the District of Columbia Code is amended by inserting, after the reference to chapter 9, the following new reference:

"10. Proceedings Regarding Intrafamily Offenses ..... 16–1001".

(b) 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 crime or 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) References in this chapter to the '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) Upon the complaint of any person of criminal conduct or the arrest of a person charged with criminal conduct, where it appears to the United States attorney that the conduct involves an intrafamily offense, he shall notify the Director of Social Services.

"(b) The Director of Social Services may investigate the matter, attempt to effect conciliation by counseling, and make such recommendations to the United States attorney as he deems appropriate. Any statement made, and information secured as a result of such statement, in an investigation by or other discussion with the Director of Social Services, however, shall be inadmissible in evidence in a criminal trial over the objection of the person who made the statement.

"(c) The United States attorney may 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.

"(d) Where the United States attorney has not earlier filed a criminal charge based upon the conduct, he may refer the matter to the Corporation Counsel for the filing of a petition for civil protection in 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 Division begins receiving evidence pursuant to section 16–1008.

"§ 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 civil protection in the Family Division.

"(b) In any matter referred to him 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 by the Corporation Counsel, the Division shall set the matter for hearing, consolidating it, where appropriate, with other matters before the Division involving members of the same family.

"(b) The 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 in 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 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 may present evidence at the hearing. Statements made, and information secured as a result of such statements, in an investigation by or other discussion with the Director of Social Services, however, shall not be admissible until the Division has made its finding (under subsection (c)); but, thereafter, the Director of Social Services may report to the Division, and such statements and information shall be cognizable by the Division, prior to the issuance of the order.

"(b) 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 notwithstanding the provisions of section 14–306 of this Code; but testimony compelled over a claim of a privilege conferred by section 14–306 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 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; or

"(4) directing the respondent to perform or refrain from other actions as may be appropriate to the effective resolution of the matter.

"(d) A protection order issued pursuant to this section shall be effective for such period up to one year as the Division may specify but the Division may, upon motion of any party to the original proceeding, extend, rescind, or modify the order for good cause shown.

"(c) 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 Division may dismiss a petition if the matter is not appropriate for disposition in the 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 Division shall notify the United States attorney of the dismissal.".

EMINENT DOMAIN

SEC. 211. 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

"(a) The United States District Court for the District of Columbia has jurisdiction of all proceedings for the condemnation of real property authorized by this chapter which are commenced within four years of the date on enactment of the District of Columbia Court Reorganization Act of 1970, with full power to hear and determine all issues of law and fact that may arise in the proceedings.

"(b) 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 and commenced four years or more after the date of enactment of the District of Columbia Court Reorganization Act of 1970, 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 by substituting "District of Columbia" for "Board of Commissioners" in the heading, by substituting "Commissioner" for "Board of Commissioners of the District" in the first sentence, by substituting "appropriate court" for "United States District Court for the District of Columbia", and by substituting "District of Columbia" for "Board" in the second sentence;

(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 appropriate court.";

(5) Section 16–1314 is amended by substituting "Commissioner" for "members of the Board of Commissioners" and for "Commissioners";

(6) Section 16–1318 is amended by substituting for the third sentence of subsection (a) the following: "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) Section 16–1319 is amended by substituting "Commissioner" for "Board of Commissioners";

(8) Section 16–1321 is amended by substituting "Commissioner" for "Board of Commissioners";

(9) Section 16–1331 is amended by substituting "Commissioner" for "Board of Commissioners" and striking ", and agencies of the United States authorized by law to acquire real property,";

(10) Section 16–1332 is amended by striking "Board of Commissioners of the" and "agencies of the United States authorized by law to acquire real property" from subsection (a), and by striking from subsection (c) ", 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";

(11) Section 16–1334 is amended by striking "or the United States" wherever it appears;

(12) Section 16–1336 is amended by substituting "Commissioner" for "Board of Commissioners";

(13) Section 16–1337 and the heading thereof are repealed and section 16–1338 is renumbered 16–1337;

(14) Section 16–1357 is amended by substituting for the first sentence thereof the following: "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.";

(15) Chapter 13 of title 16 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 law 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 of 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

"When excess real property is condemned by agencies of the United States as provided by this subchapter, the condemnation proceedings for the acquisition of the property shall be in accordance with 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.

"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."; and

(16) The analysis of chapter 13 is amended:

(a) by adding after the reference to section 16–1302 the following:

"16–1303. Jurisdiction of Superior Court.";

(b) by amending the reference to section 16–1311 to read as follows:

"16–1311. Condemnation proceedings by District of Columbia.";

(c) by amending the reference to section 16–1312 to read as follows:

"16–1312. Juries for condemnation proceedings.";

(d) by deleting the reference to section 16–1337 and by renumbering the reference to section 16–1338 as 16–1337;

(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."

FORCIBLE ENTRY AND DETAINER

SEC. 212. Chapter 15 of title 16, District of Columbia Code is amended as follows:

(1) section 16–1501 is amended by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions";

(2) section 16–1504 is amended by inserting after the word "chapter" the words "commenced prior to the effective date of the District of Columbia Court Reorganization Act of 1969"; and

(3) section 16–505 is amended by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions".

HABEAS CORPUS

SEC. 213. Section 16–1901 of the District of Columbia Code is amended as follows:

(1) by striking the words "to District Court" in the heading thereof;

(2) by substituting the words "appropriate court" for "United States District Court for the District of Columbia", in the first sentence;

(3) by designating the present section as subsection (a);

(4) by adding at the end thereof:

"(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 all other persons shall be filed in the Superior Court of the District of Columbia."; and

(5) by amending the reference to section 16–1901 in the analysis to read as follows:

"16–1901. Petition; issuance of writ."

FAMILY DIVISION PROCEEDINGS

SEC. 214. (a) The analysis of title 16 of the District of Columbia Code is amended by substituting

"23. Family Division Proceedings"

for

"23. Juvenile Court Proceedings".

(b) 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. Right to counsel.
"16–2303. Petition; contents; amendment.
"16–2304. Service of summons and petitions.
"16–2305. Initial appearance.
"16–2306. Taking into custody.
"16–2307. Criteria for detaining children.
"16–2308. Release or delivery to Family Division.
"16–2309. Detention or shelter care hearing; intermediate disposition.
"16–2310. Place of detention or shelter.
"16–2311. Consent decree.
"16–2312. Physical and mental examinations.
"16–2313. Conduct of hearings.
"16–2314. Hearings; findings; dismissal.
"16–2315. Predisposition study and report.
"16–2316. Disposition of child who is neglected, delinquent, or in need of supervision.
"16–2317. Disposition of mentally ill or substantially retarded child.
"16–2318. Limitation of time on dispositional orders.
"16–2319. Modification, termination of orders.
"16–2320. Probation revocation; disposition.
"16–2321. Support of committed child.
"16–2322. Court costs and expenses.
"16–2323. Interlocutory appeals.
"16–2324. Finality of judgments; appeals; transcripts.
"16–2325. Additional powers of the Director of Social Services.
"16–2326. Order of adjudication noncriminal.
"16–2327. Emergency medical treatment.
"16–2328. Time limitations.

"Subchapter II.—PATERNITY PROCEEDINGS

"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.

"Subchapter I.—Proceedings Regarding Delinquency, Neglect, or Need of Supervision

"§ 16–2301. Definitions

"As used in this chapter—

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

"(2) 'Judge' means a judge of the Family Division of the Superior Court.

"(3) 'Child' means an individual who is under eighteen years of age, except that the term 'child' does not include an individual who is:

"(A) sixteen years of age or older,

"(i) who, under circumstances where a motion could have been filed pursuant to subsection (a) of section 11–1104 of this Code requesting transfer for criminal prosecution, has previously been found delinquent or been the subject of a consent decree entered after the filing of a delinquency petition, and

"(ii) who is charged by the United States Attorney with murder, manslaughter, rape, mayhem, arson, kidnaping, burglary, robbery, any assault with intent to commit any of the above offenses, or assault with a dangerous weapon; or

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

Jurisdiction over an individual described in (A) shall not be affected by a subsequent plea or verdict as to any lesser included offense, nor by the fact that such individual is charged jointly with an offense not enumerated in (A) (ii) but based upon the same acts or transaction.

"For purposes of this subchapter, the term 'child' also includes an individual described in (A) or (B) who is under the age of twenty-one and charged with an offense committed prior to the age of sixteen; or an individual not described in (A) who is under the age of twenty-one and charged with a delinquent act committed prior to the age of eighteen.

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

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

"(6) 'Delinquent child' means a child who has been found to have committed a delinquent act and to be in need of care or rehabilitation.

"(7) '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 the 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) 'Person 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 committable only by 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) '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 parents, 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;

except that the qualification stated in section 6 of the Act of November 6, 1966 (80 Stat. 1355, D.C. Code section 2–166) shall apply for purposes of this subchapter.

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

"(11) 'Substantially retarded child' means a child who is substantially retarded within the meaning of section 21–1101 of this Code.

"(12) '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) 'Detention or shelter care hearing' means a proceeding to determine whether there is probable cause to believe that allegations made in a petition are true and to determine whether a child should be placed or retained in detention or shelter care.

"(14) 'Detention' means the temporary secure custody of a child in facilities, designated by the Division, pending a final disposition of a petition.

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

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

"(17) '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) '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 his own home subject to supervision and return to the Division for violation of probation at any time during the period of probation.

"(19) '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) '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 to be concerned with his general welfare. It includes (but is not limited to)—

"(A) authority to consent to marriage, enlistment in the Armed Forces, 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 rights 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);

"(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) 'Legal custody' means a legal status created by court order which vests in a custodian the right to have physical custody of a minor and to determine where and with whom he shall live; the right and duty to protect, train, and discipline the minor; and the responsibility to provide him with food, shelter, education, and ordinary medical care. The rights and responsibilities of legal custody are subject to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

"(22) '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. 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 Family Division proceedings, including the time of admission or denial of allegations in the petition and 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 Family 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 of this Code.

"§ 16–2303. Petition; contents; amendment

"(a) Complains 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 criteria established by 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 complaint in a delinquency or neglect case shall have a right to have said decision reviewed by the Corporation Counsel, and the Director of Social Services shall notify the complaint of such right of review.

"(b) Petitions initiating Division action may be signed by any person who has knowledge 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 upon information or belief.

"(c) All petitions 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 the filing of a delinquency or neglect petition, the Corporation Counsel, on request of the complainant, shall receive 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 Council on whether to file a petition shall be final.

"(d) Petitions shall be filed by the Corporation Counsel within five days after a complaint has been referred to the Director of Social Services, except as otherwise provided in section 16–2309. A petition shall set forth plainly and concisely the facts which bring the child within the provisions of subsection (12) of section 11–1101 of this code including, in delinquency cases, 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 Government of the District of Columbia shall be a party to all proceedings under this subchapter.

"§ 16–2304. 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 16–2302.

"(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 16–2306, 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 16–2306 through 16–2308 shall apply.

"(d) If, at the time the petition is filed, a detention or shelter care hearing is required by section 16–2309, this section shall not apply.

"§ 16–2305. Initial appearance

"At the time set forth in the summons, but in no case later than five days after a petition has been filed, 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 appeal before a judge of the Division and shall be advised of the contents of the petition and of the right to counsel as provided in section 16–2302. 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 fact-finding 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 required by section 16–2309.

"§ 16–2306. Taking into custody

"A child may be taken into custody—

"(1) pursuant to order of the Division under section 16–2304 or 16–2308;

"(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.

"§ 16–2307. 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 or 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, or 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 any Family Division hearing.

"§ 16–2308. Release or delivery to Family Division

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

"(1) where the child's placement in detention or shelter care does not appear to be required under section 16–2307, release the child to his parent, guardian, or custodian upon a promise to bring the child before the Division when requested by the Division; 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 16–2307. If the child is not released, the Director of Social Services shall advise him of the right to counsel provided in section 16–2302.

"(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.

"§ 16–2309. Detention or shelter care hearing; intermediate disposition

"(a) Unless a child is released as provided in section 16–2308, in all cases when a child is taken in custody:

"(1) a detention or shelter care hearing shall be held 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 11–1103 of this Code; and

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

For good cause shown, the Division may postpone, for a period not to exceed five days, the determination of probable cause. On motion by or on behalf of the child, a child in custody shall be released from custody if his detention hearing or any part thereof is not commenced within the time set forth herein.

"(b) Prompt notice of the detention or shelter care hearing shall be given, if delinquency or need of supervision is alleged, to the child, and 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 also 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 as provided in section 16–2305 and appoint counsel if required. He shall afford the child, or in neglect cases the parent, guardian, or custodian, an opportunity to admit or deny the allegations in the petition, where said allegations have not previously been admitted or denied pursuant to section 16–2305. He shall then hear evidence presented by the Corporation Counsel to determine whether there is probable cause to believe that the allegations in the petition are true, and to determine whether the child should be placed or retained in detention or shelter care. The child and his parent, guardian, or custodian may present evidence on the issues and be heard in their own behalf.

"(d) At the conclusion of the hearing, the judge shall order the child released, or shall order detention or shelter care setting forth in writing his reasons therefor. If a child is released, the judge 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; or

"(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.

An order imposing conditions of release may be amended or modified by the Division at any time.

"(e) If a child is not released after 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.

"(f) Over the 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.

"§ 16–2310. Place of detention or shelter

"(a) A child in custody who is alleged to be neglected may be placed, at any time prior to disposition, only in the following places:

"(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).

"(b) A child in custody who is alleged to be in need of supervision may be detained at any time prior to disposition only in the following places, and a child in custody who is alleged to be delinquent may be detained at any time prior to disposition in the following places or as provided in subsections (d) and (e):

"(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 as provided in paragraph (3) if it would result in his commingling with children who have been adjudicated delinquent and committed by order of the Family 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 16–2312, 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 11–1104 of this Code. 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.

"§ 16–2311. 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 Family Division shall dismiss the original petition.

"§ 16–2312. 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 thirty days unless the Division, for good cause shown, shall extend the commitment for additional periods of not more than thirty days. No more than two such extensions may be granted by the Division.

"(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 substantial 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 chapter 11 of title 21 of this Code.

"(2) If a motion for transfer for criminal prosecution has been filed pursuant to section 11–1104 of this Code 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 of this Code.

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

"(d) The results of an examination under this section shall be admissible in a transfer hearing pursuant to section 11–1104 of this Code, in a dispositional hearing under this subchapter, or in a commitment proceeding under chapter 5 or chapter 11 of title 21 of this Code. 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 noninvolvement by reason 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 shall be admissible at a dispositional hearing on the petition alleging neglect.

"§ 16–2313. Conduct of hearings

"(a) The Division shall hear and adjudicate cases involving delinquency, need of supervision, and neglect without a jury. 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 11–1104 of this Code, 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.

"§ 16–2314. 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, also as to whether the child is neglected. If the Division finds that the allegations in a delinquency or need of supervision petition have not been established by proof beyond a reasonable doubt, or that the allegations in a neglect petition or the conclusion that the child is neglected have not been established by clear and convincing evidence, it shall dismiss the petition and order the child released from any detention, shelter care, or other restriction previously ordered.

"(c) If the petition alleging delinquency or need of supervision has not been dismissed, the Division shall commence to hear evidence as to whether the child is in need of care or rehabilitation, within fifteen days after the conclusion of the factfinding hearing when the child is in custody or within thirty days when the child is not in custody. Evidence which is material and relevant shall be admissible to determine need for care or rehabilitation even though not competant at a factfinding hearing. In the absence of evidence to the contrary, a finding of the commission of an act which would constitute a felony is sufficient to sustain a finding of need for care or rehabilitation.

"(d) If the Division finds on the basis of clear and convincing evidence that the child is in need of care or rehabilitation in a delinquency or need of supervision case, the Division shall proceed to make proper disposition of the case. 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.

"(e) If the petition alleging neglect has not been dismissed, pursuant to subsection (b) or otherwise, the Division shall proceed to make proper disposition of the case, within fifteen days after the conclusion of the factfinding hearing when the child is in custody or within thirty days when the child is not in custody.

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

"(g) The Division shall set the time of any dispositional hearing in accordance with this section and shall give prompt notice thereof, in delinquency and need of supervision cases, to the child, and to his spouse (if any), parent, guardian, or custodian, or, in neglect cases, to the child, and to the parent guardian or custodian named in the petition if he can be found.

"§ 16–2315. 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 16–2314 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.

"§ 16–2316. 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 out-patient 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 16–2314 of this subchapter, 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; or

"(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; except that, if such child is again alleged to be in need of supervision and the court, after hearing, so finds, the Division may specify that such child be committed to or placed in an institution or facility for delinquent children.

"§ 16–2317. Disposition of mentally ill or substantially retarded child

"(a) If no previous examination has been made under section 16–2312 and the Division, after the factfinding but prior to the dispositional hearing, has reason to believe that a child is mentally ill or substantially retarded, it may order an examination as provided in section 16–2312.

"(b) If as a result of the examination the child is found to be mentally ill or substantially retarded, the Division shall, in lieu of other disposition, direct the appropriate authority to initiate commitment proceedings under chapter 5 or chapter 11 of title 21 of this Code. 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.

"§ 16–2318. Limitation of time on dispositional orders

"(a)(1) A disposition 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 order or release a child shall be notified, in accordance with rules of the Superior Court, of his right to request the sealing of his records as provided in section 11–1109 of this Code.

"(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.

"§ 16–2319. 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 Director 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 than once every six months.

"§ 16–2320. Probation revocation; disposition

"(a) If a child on probation incident to an adjudication of delinquency or need of supervision commits a new delinquent act, or a probation violation not amounting to a delinquent act, 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 16–2304.

"(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 16–2316 for a delinquent child.

"§ 16–2321. 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.

"§ 16–2322. 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.

"§ 16–2323. Interlocutory appeals

"(a) A child who has been ordered transferred for criminal prosecution under section 11–1104 of this Code or detained or placed in shelter care or subjected to conditions of release under section 16–2309, shall have a right of interlocutory appeal. Such appeal shall be commenced by the filing of a notice of interlocutory appeal within two days of the entry of the order appealed from.

"(b) The District of Columbia Court of Appeals shall hear argument on an appeal pursuant to subsection (a) on or before the second day (excluding Sundays) after the filing of notice, shall dispense with any requirement of written briefs other than the supporting materials previously submitted to the Family Division, shall render its decision on the next day following argument on appeal, and in so rendering may dispense with the issuance of a written opinion.

"(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 16–2310, or otherwise treated as an adult.

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

"§ 16–2324. 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 Family 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 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.

"§ 16–2325. 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.

"§ 16–2326. 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 under either the Government of the United States or of the District of Columbia.

"§ 16–2327. 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.

"§ 16–2328. Time limitations

"(a) On motion in any case by or on behalf of the child, or in neglect cases also by or on behalf of his parent, guardian, or custodian, delinquency, need of supervision, or neglect petition shall be dismissed with prejudice where the fact-finding hearing is not commenced within:

"(1) thirty days from the filing of the petition, where the child is not in custody at the time of said filing and is not, within ten days after said filing, taken into custody for the offense or acts charged in the petition; or

"(2) in all other cases, fifteen days from the filing of the petition.

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

"(c) The following periods shall be excluded in computing the time limits established for proceedings under this subchapter and section 11–1104 of this Code:

"(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 or unavailability of the child; and

"(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 or not hearing the case separately. In all other cases, the child's case shall be separated from the hearing of another child alleged to have participated in the same offense so that a hearing may be held within the time limits applicable to him.

"Subchapter II.—Paternity Proceedings

"§ 16–2341. Representation

"Where a public support burden has been incurred or is threatened, the Corporation Counsel of the District of Columbia, or any of his assistants, shall bring a civil action on behalf of any wife or child in the Family Division of the Superior Court of the Dis-

trict of Columbia to enforce support of such wife or child under subdivision (3), (4), (10), or (11) of section 11–1101(a).

"In all cases arising under subdivisions (3), (4), (10), and (11) of section 11–1101 (a), where the court deems it necessary and proper, an attorney shall be appointed by the court to represent the respondent.

"Nothing in this section shall be construed to interfere with the right of an individual to file a civil action under the subdivisions aforementioned.

"§ 16–2342. Time of bringing complaint

"Proceedings under subdivisions (3) and (11) of sec. 11–1101(a) 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 arising under section 11–1101(a), 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 the trial of proceedings pursuant to subdivision (3), (4), (10), or (11) of section 11–1101(a), the court may exclude the general public, and shall do so at the request of either party.

"§ 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 of the Superior Court of the District of Columbia.

"§ 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.".

(c) The following provisions of law are repealed:

(1) the Act of March 23, 1906 (34 Stat. 86), as amended (D.C. Code, secs. 22–903 through 22–905); and

(2) the proviso contained in the Act of May 18, 1910 (36 Stat. 403, D.C. Code, sec. 22–906), under the heading "COURTS" and the subheading "JUVENILE COURT".

CHANGE OF NAME

SEC. 215. Section 16–2501 of title 16, District of Columbia Code, is amended by substituting the word "court" for "the United States District Court for the District of Columbia".

NEGLIGENCE CAUSING DEATH

SEC. 216. Section 16–2701 of title 16, District of Columbia Code is amended by substituting the words "appellate court" for "United States Court of Appeals for the District of Columbia Circuit".

PARTITION AND ASSIGNMENT OF DOWER

SEC. 217. Sections 16–2901 and 16–2921 of title 16, District of Columbia Code, are amended by substituting the words "court having jurisdiction" for "United States District Court for the District of Columbia". Section 16–2901(d) is amended by substituting "sections 21–146 and 21–704" for "section 21–213." Section 16–2923, 16–2924 and 16–2925 are amended by substituting the word "court" for "District Court".

PROBATE PROCEEDINGS

SEC. 218. Chapter 31 of title 16, District of Columbia Code, is amended as follows:

(1) The title of chapter 31 is amended by striking the word "COURT";

(a) The reference to section 16–3101 in the analysis of chapter 31 is amended to read as follows:

"16–3101. Application of chapter."; and

(b) Section 16–3101 is amended to read as follows:

"§ 16–3101. Application of chapter

"The proceedings and procedures described in this chapter apply to probate proceedings in the District of Columbia whether brought in the United States District Court for the District of Columbia or the Superior Court of the District of Columbia and references to "court" in this chapter apply to the court having jurisdiction as provided in title 11 of this Code.";

(2) Sections 16–3103, 16–3105, and 16–3106 are amended by substituting the word "court" for "Probate Court", and by substituting the words "for contempt" for "as provided by section 401 of title 18, United States Code";

(3) Section 16–3104 is amended by substituting the word "court" for "Probate Court" in subsection (a) and by striking the words "to the United States" in subsections (b);

(4) Sections 16–3102, 16–3107, 16–3108, 16–3109, 16–3110, 16–3112, and 16–3113 are amended by substituting the word "court" for "Probate Court"; and

(5) The first sentence of section 16–3111 is amended to read: "The rules of civil procedure of the appropriate court shall apply with respect to the trial of issues in probate (including the taking and use of testimony of nonresident witnesses) unless otherwise provided by law.".

QUIETING TITLE OBTAINED BY ADVERSE POSSESSION

SEC. 219. Section 16–3301 of title 16, District of Columbia Code, is amended by substituting the words "court having jurisdiction" for "United States District Court for the District of Columbia".

QUO WARRANTO

SEC. 220. 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 who 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 who 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 usurps, intrudes into, or unlawfully holds or exercises within the District 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 for 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 in-

terested, 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 usurps, intrudes into, or unlawfully holds or exercises within the District 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 without being duly authorized, or exercise within the District corporate rights, privileges, or franchises not granted them by law in force in the District.

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 for 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.

"§ 16–3523. 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, 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.

"§ 16–3544. Pleading; jury trial

"In a quo warranto proceeding, the defendant may demur or 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 or 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 orders; 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 for usurper; 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."

REPLEVIN

SEC. 221. Subchapter II of chapter 37 of title 16, District of Columbia Code and the analysis thereof are repealed, and the heading "SUBCHAPTER I—GENERAL PROVISIONS" and the reference to that heading in the analysis of chapter 37 are repealed.

SMALL CLAIMS AND CONCILIATION PROCEDURE

SEC. 222. Chapter 39 of title 16, District of Columbia Code, is amended as follows:

(1) the title of the chapter is amended by substituting "Superior Court" for "Court of General Sessions";

(2) section 16–3901 is amended to read as follows: "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 by striking "of the District of Columbia Court of General Sessions" in subsection (a) and by substituting "Superior Court of the District of Columbia" for "District of Columbia Court of General Sessions" and "Court of General Sessions". in the form prescribed in subsection (e);

(4) sections 16–3903 and 16–3905 are amended by striking "of the District of Columbia Court of General Sessions";

(5) the third sentence of section 16–3904 is amended to read: "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 substituting "Superior Court" for "District of Columbia Court of General Sessions"; and

(7) section 16–3910 is amended by substituting "or the rules of the court" for ", or in the rules prescribed pursuant to section 13–101(c)" and by striking "of the District of Columbia Court of General Sessions".

REVIEW

SEC. 223. Title 17 of the District of Columbia Code is amended as follows:

(1) Chapter 1 is amended to read as follows:

"Chapter 1.—UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

"Sec.

"17–101. Appeal from District of Columbia Court of Appeals.

"§ 17–101. Appeal from District of Columbia Court of Appeals

"(a) The United States Court of Appeals for the District of Columbia Circuit may prescribe rules governing the form, practice and procedures for petitions for the allowance of an appeal from the District of Columbia Court of Appeals, provided in chapter 3 of title 11 of this Code.

"(b) Petitions for the allowance of an appeal from the District of Columbia Court of Appeals shall, in each case, be filed within ten days after entry of the judgment from which an appeal is desired.

"(c) If an appeal is allowed, the United States court of appeals shall review the record on appeal and affirm, modify, vacate, set aside, or reverse the judgment, and may remand the cause and direct the entry of such appropriate judgment or order, or require further proceedings to be had, as is just in the circumstances.";

(2)(a) Section 17–301, including its heading, is amended by substituting "Superior Court" for "District of Columbia Court of General Sessions" and "Court of General Sessions" wherever they appear, and by substituting "provided for in section 11–721(c)" for "provided for in section 11–741(c)" in subsection (a); and

(b) The reference to section 17–301 in the analysis of chapter 3 is amended to read as follows:

"17–301. Applications for allowance of appeals from certain Superior Court judgments; hearing; effect of denial.";

(3) 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 pro-

vided by section 11 of the District of Columbia Administrative Procedure Act, 82 Stat. 1203, 1209 (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." The reference to section 17–303 in the analysis of chapter 3 is amended to read:

"17–303. Appeals from administrative orders and decisions.";

(4) Section 17–304 is amended by substituting "Commissioner or Council" for "Board of Commissioners" and by inserting after "District of Columbia" the first time it appears in subsection (a), "by the independent agency,";

(5) Subsection (a) of section 17–305 is amended by substituting "Divisions" for "branches";

(6) Subsection (b) of section 17–305 is amended to read as follows:

"(b) The District of Columbia Court of Appeals shall hear and determine appeals from administrative orders and decisions upon the exclusive record for decision before the Commissioner or Council or the agency. In such cases it shall limit its review to those issues of law or fact subject to review on appeal under applicable statutory law, other than the District of Columbia Administrative Procedure Act, 82 Stat. 1203 (D.C. Code, secs. 1–1501 to 1–1510). In all other cases the review by the court shall be in accordance with the rules of law which define the scope and limitation of review of administrative proceedings. Such rules shall include, but not be limited to, the power of the court—

"(1) so far as necessary to decision and where presented, to decide all relevant questions of law, to interpret constitutional and statutory provisions, and to determine the meaning or applicability of the terms of any action;

"(2) to compel agency action unlawfully withheld or unreasonably delayed; and

"(3) to hold unlawful and set aside any action or findings and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory jurisdiction, authority, or limitations or short of statutory jurisdiction, authority or limitations or short of statutory rights; (D) without observance of procedure required by law, including any applicable procedure provided by the District of Columbia Administrative Procedure Act; or (E) unsupported by substantial evidence in the record of the proceedings before the court.

In reviewing administrative orders and decisions, the court shall review such portions of the exclusive record as may be designated by any party. The court may invoke the rule of prejudicial error.";

(7) Section 17–306 is amended by substituting "Division" for "branch" and by substituting "administrative order or decision" for "order or decision of an administration agency"; and

(8) Section 17–307 is amended by substituting "11–721 or 11–722" for "11–741 or 11–742" in subsection (a), by substituting "Superior Court" for "District of Columbia Court of General Sessions" in subsection (b), and by substituting "11–721(c)" for "11–741(c)" in subsection (b).

TITLE III.—DECEDENTS ESTATES AND FIDUCIARY RELATIONS

WILLS AND PROBATE OF WILLS

SEC. 301. Title 18 of the District of Columbia Code is amended as follows:

(1)(a) The analysis of chapter 1 of title 18 is amended by substituting the word "court" for "Probate Court" in the references to sections 18–110 and 18–111;

(b) The analysis of chapter 5 to title 18 is amended by substituting the word "court" for "Probate Court" in the references to sections 18–501 and 18–505; and

(c) The analysis of chapter 5 of title 18 is further amended by amending the reference to section 18–513 to read:

"18–513. Rules of procedure.";

(2) Section 18–101 is amended by striking the words from "'District Court' means" to the end of the section and inserting in lieu thereof "'court' means the court in the District of Columbia having probate jurisdiction as provided in title 11 of this Code.";

(3) Sections 18–110, 18–111, 18–501, an 18–505 are amended by substituting the word "court" for "Probate Court" in the headings and wherever they appear;

(4) Subsection (d) of section 18–505 is amended to read:

"(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."; and

(5) 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 caveat is filed, including provisions for notice, appointment of guardians ad litem, trial by jury, and effect of judgments."

DESCENT AND DISTRIBUTION

SEC. 302. Title 19 of the District of Columbia Code is amended as follows:

(1) section 19–101 is amended by substituting "court having probate jurisdiction" for "Probate Court" in subsection (b) and by substituting "court" for "Probate Court" in subsection (e)(2);

(2) section 19–113 is amended by substituting "court having probate jurisdiction" for "Probate Court" the first time it appears, and by substituting "court" for "Probate Court" wherever it appears thereafter; and

(3) section 19–701 is amended by substituting "Commissioner" for "Commissioners".

ADMINISTRATION OF DECEDENTS' ESTATES

SEC. 303. Title 20 of the District of Columbia Code is amended as follows:

(1) section 20–302 is amended by striking "to the United States";

(2) sections 20–309, 20–331, 20–334, 20–353, 20–357, 20–358, 20–362, 20–363, 20–904, 20–1101, 20–1102, 20–1103, 20–1105, 20–1106, 20–1108, 20–1109, 20–1301, 20–1312, 20–1313, 20–1316, 20–1317, 20–1323, 20–1326, 20–1329, 20–1502, 20–1701, 20–1703, 20–1709, 20–1902, 20–1904, 20–2101, 20–2102, 20–2106, and 20–2107 are amended by substituting the word "court" for "Probate Court" wherever it appears;

(3) sections 20–312 and 20–337 are amended by substituting "court" for "Probate Court" and by substituting "Chief Judge" for "the Chief Judge of the United States District Court for the District of Columbia";

(4) section 20–332 is amended by substituting "court" for "Probate Court" and by striking "to the United States" in subsection (a)(2);

(5) section 20–351 is amended by substituting "a mentally-ill" for "an insane" in subsection (a)(2) and by substituting "court" for "Probate Court" in subsection (b);

(6) section 20–364 is amended by substituting "in the name of the United States or of the District of Columbia, as appropriate" for "in the name of the United States" in subsection (a);

(7) section 20–501 is amended by substituting "chief judge" for "the chief judge of the United States District Court for the District of Columbia" in subsection (b);

(8) section 20–502 is amended by substituting "court" for "Probate Court of the District of Columbia" and "Probate Court of the District", and by striking "to the United States" in subsection (b);

(9) section 20–1107 is amended by striking "to the United States" and by substituting "court" for "Probate Court";

(10) section 20–1110 is amended by substituting "court" for "United States District Court for the District of Columbia" and by striking "shall be given to the United States and";

(11) section 20–1320 is amended by substituting "court" for "Probate Court" the first time it appears and by substituting "Court of the District of Columbia in probate" for "Probate Court of the District of Columbia";

(12) section 20–1505 is amended by substituting "court in the District of Columbia" for "Probate Court of the District of Columbia"; and

(13)(a) section 20–2301 is amended by substituting "court" for "United States District Court for the District of Columbia" and by substituting "Corporation Counsel" for "United States attorney" in the heading thereof; and

(b) the reference to section 20–2301 in the analysis of chapter 23 is amended by substituting "Corporation Counsel" for "United States attorney".

GUARDIANSHIP OF INFANTS

SEC. 304. Chapter 1 of title 21, District of Columbia Code, is amended as follows:

(1) sections 21–102, 21–103(a), and 21–106(a) are amended by substituting "court having probate jurisdiction" for "Probate Court";

(2) section 21–112 is amended by substituting "court in the District of Columbia having probate jurisdiction" for "United States District Court for the District of Columbia" in subsection (a), and by substituting "courts in the District" for "courts of the District" in subsections (a) and (b);

(3) section 21–114 is amended by substituting "court having probate jurisdiction" for "Probate Court";

(4) section 21–115 is amended by striking the words "to the United States";

(5) section 21–147 is amended by substituting "court having probate jurisdiction" for "Probate Court";

(6) section 21–158 is amended by striking the words "in the name of the United States"; and

(7) section 21–181 is amended by substituting "court having probate jurisdiction" for "Probate Court";

GIFTS TO MINORS—UNIFORM LAW

SEC. 305. Section 21–301(4) of title 21, District of Columbia Code, is amended by substituting "court having jurisdiction" for "United States District Court for the District of Columbia".

HOSPITALIZATION OF THE MENTALLY ILL

SEC. 306. Chapter 5 of title 21, District of Columbia Code, is amended as follows:

(1) The definition of "court" in section 21–501 is amended to read: "'court' means the court having jurisdiction of hospitalization of the mentally ill;";

(2) Section 21–502(a) is amended by striking the second sentence and substituting in lieu thereof: "The Commission shall be composed of nine members who shall be appointed by the United States District Court for the District of Columbia until two years after the effective date of the District of Columbia Court Reorganization Act of 1969. Thereafter, the Superior Court of the District of Columbia shall make the appointments. The members of the Commission appointed prior to the transfer of appointment au-

thority shall continue to serve after such date as provided for in subsection (b).";

(3) Section 21–521 is amended by substituting "a physician" for "the family physician of the person in question";

(4) Section 21–544 is amended by substituting "court having jurisdiction" for "United States District Court for the District of Columbia";

(5) Section 21–564 is amended by substituting "court having jurisdiction" for "United States District Court for the District of Columbia" wherever it appears and by substituting "Commissioner" for "Board of Commissioners" in subsection (a):

(6) (a) The reference to section 21–581 in the analysis of chapter 5 is amended by substituting "Commissioner" for "Commissioners";

(b) Section 21–581 and the heading thereof are amended by substituting "Commissioner" for "Commissioners", wherever it appears, by striking "(a)", and by repealing subsection (b);

(7) Section 21–584 is amended by substituting "other witnesses in the court" for "witnesses in the courts of the United States";

(8) Section 21–590 is amended by substituting "court having jurisdiction" for "United States District Court for the District of Columbia";

(9) The following new section is added to chapter 5:

"§ 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."; and

(10) The analysis of chapter 5 is amended by adding after "21–591. Offenses and Penalties.",

"21–592. Return to hospital of an escaped mentally ill person.".

PROPERTY OF MENTALLY ILL PERSONS

SEC. 307. Section 21–706(a) of title 21, District of Columbia Code, is amended by substituting "court having jurisdiction in the District of Columbia" for "United States District Court for the District of Columbia" and by substituting "courts in the District" for "courts of the District" in subsections (a) and (b).

MENTALLY ILL PERSONS FOUND IN CERTAIN FEDERAL RESERVATIONS

SEC. 308. Section 21–906 of title 21, District of Columbia Code, is amended by substituting "court in the District of Columbia having jurisdiction of such adjudications under chapter 5 of this title" for "United States District Court for the District of Columbia".

COMMITMENT AND MAINTENANCE OF SUBSTANTIALLY RETARDED

SEC. 309. Chapter 11 of title 21, District of Columbia Code, is amended as follows:

(1) The analysis of chapter 11 is amended:

(a) by striking the words "of District Court" and by substituting "substantial retardation" for "feeble-mindedness" in the reference to section 21–1103;

(b) by substituting "Family Division" for "juvenile court" and by substituting "substantially retarded" for "feeble-minded" in the reference to section 21–1114; and

(c) by substituting "substantially retarded" for "feeble-minded" in the references to sections 21–1117 and 21–1118;

(2) 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, and 21–1123 are amended by substituting "substantially retarded" for "feeble-minded" wherever it appears;

(3) section 21–1102 is amended by substituting "Commissioner of the District of Columbia" for "Department of Public Welfare";

(4) section 21–1103 is amended by striking the words "of District Court" from the heading thereof, by substituting "substantial retardation" for "feeble-mindedness" in the heading thereof, and by substituting "court having jurisdiction" for "United States District Court for the District of Columbia" in subsection (a):

(5) section 21–1104 is amended by substituting "court having jurisdiction" for "District Court of the United States for the District of Columbia";

(6) section 21–1109 is amended by striking the words "running to the United States";

(7) section 21–1111(a) is amended by substituting "Commissioner" for "Commissioners";

(8) section 21–1114 is amended—

(a) by substituting "Family Division" for "juvenile court" in the heading thereof;

(b) by substituting "substantially retarded" for "feeble-minded" in the heading and wherever it appears;

(c) by substituting "Family Division of the Superior Court upon allegations that he is delinquent, neglected, or in need of supervision" for "juvenile court of the District of Columbia as a dependent or delinquent child"; and

(d) by inserting the following between the words "proceeding" and "and" in the first sentence; ", other than transfer proceedings pursuant to section 11–1104 of this Code,";

(9) section 21–1116 is amended by substituting "court having jurisdiction" for "United States District Court for the District of Columbia";

(10) section 21–1117 is amended by substituting "substantially retarded" for "feeble-minded" in the heading thereof, and by substituting "substantial retardation" for "feeble-mindedness";

(11) section 21–1118 is amended by substituting "substantially retarded" for "feeble-minded" in the heading thereof and wherever it appears;

(12) section 21–1120 is amended by substituting "Commissioner of the District of Columbia" for "Department of Public Welfare"; and

(13) section 21–1122 is amended by substituting "court having jurisdiction of the patient" for "United States District Court for the District of Columbia".

ALCOHOLICS AND DRUG ADDICTS

SEC. 310. Chapter 13 of title 21, District of Columbia Code, is amended as follows:

(1) section 21–1301 is amended by substituting "court having jurisdiction in" for "United States District Court for"; and

(2) section 21–1302 is amended by striking the words "to the United States".

CONSERVATORS

SEC. 311. Chapter 15 of title 21, District of Columbia Code, is amended as follows:

(1) section 21–1501 is amended by substituting "court having jurisdiction" for "United States District Court for the District of Columbia"; and

(2) section 21–1506 is amended by striking therefrom "Civil Division of the".

TITLE IV.—CRIMINAL LAW AND PROCEDURE

CRIMINAL OFFENSES

SEC. 401. The following amendments are made in the criminal laws applicable exclusively to the District of Columbia:

(1) Section 907 of the Act of March 3, 1901 (31 Stat. 1189, 1337; D.C. Code, sec. 22–104), is amended to read as follows:

"SEC. 907. (a) If a person convicted of an offense made punishable by fine or imprisonment or both by a law applicable exclusively to the District of Columbia, shall previously have been convicted of the same offense, he may be sentenced to pay a fine not exceeding fifty per centum greater, and to suffer imprisonment for a period not more than one-half longer, than the maximum fine and imprisonment allowable for a first conviction of the instant offense.

"(b) For purposes of this section, the 'same offense' means any violation of the laws of the United States or of a State or territory of the United States which would constitute or necessarily include the instant offense under the laws applicable exclusively to the District of Columbia at the time this section is invoked against the person.

"(c) This section shall not apply in the event of conflict with any other provision of law which provides an increased penalty for a specific offense by reason of a prior conviction of the same or any other offense.";

(2) The Act of March 3, 1901 (31 Stat. 1189), as amended, is further amended by adding after section 907 the following new section:

"SEC. 907A. (a) Whenever the court—

"(1) finds that a person who stands convicted in the District of Columbia of a felony has previously been convicted of two or more felonies, as provided in subsections (b) and (c) of this section, and

"(2) in view of the history, character, and mental state of the defendant, as well as the nature and circumstances of his criminal conduct, furthermore determines that the rehabilitative impact of incarceration pursuant to a sentence authorized other than under this section (for the crime of which the defendant stands convicted) would be substantially and unusually unavailing, and that extended incarceration and lifetime supervision will best serve the interests of the public and of the defendant,

the court may, in lieu of any sentence otherwise authorized for the crime of which the defendant stands convicted, impose a sentence of imprisonment for an indeterminate number of years up to life as determined by the court: *Provided*, That no sentence may be imposed pursuant to this section unless (A) the court first orders that the defendant be examined by two persons, one of whom shall be a licensed psychiatrist, and the other of whom shall be qualified to the court's satisfaction in the field of clinical psychology and experienced in psychological diagnosis and therapy with respect to persons convicted of crime, (B) the results of such examination, as reported to the court by such examining persons within fifteen days after issuance of the examination order (pursuant to (A)), support the requisite determination aforementioned (in (2)), and (C) the court gives due consideration to any contrary information, including independent examination results, submitted by the defendant or his counsel.

"(b) A previous felony conviction is a conviction of a felony in a court of the District of Columbia or of the United States, or of a crime in any other jurisdiction, which was classified as a felony under the laws of that jurisdiction and was punishable by imprisonment for more than one year: *Provided*, That—

"(1) the defendant was adjudged guilty of that crime prior to the commission of the present felony; and

"(2) the defendant was not pardoned on the ground of innocence.

"(c) For the purpose of determining whether a person has two or more previous felony convictions, the initial sentencing of such person for one of said previous felony convictions must have preceded the commission of the acts which led to another of said previous felony convictions."; and

(3) The Act of March 3, 1901 (31 Stat. 1189), as amended, 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.

"If, however, 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 or more 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 outside the District which would constitute a criminal offense against an Act of Congress applicable exclusively to the District if performed therein, the conspiracy is a violation of this section when and only when the conduct which is the object of the conspiracy would also constitute a crime within and under the laws of the other jurisdiction if performed therein, or when the conduct would constitute a criminal offense against an Act of Congress exclusively applicable to the District of Columbia even if performed outside the District.

"(d) A conspiracy contrived in another jurisdiction to engage in conduct within the District of Columbia which would constitute a criminal offense against an Act of Congress exclusively applicable to the District if performed within the District is a violation of this section when an overt act pursuant to the conspiracy is committed within the District. 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 within and under the laws of the other jurisdiction if performed therein.".

CRIMINAL PROCEDURE

SEC. 402. (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
"12. District of Columbia Bail Agency	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.

"§ 23–101. 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 Counsel for the District of Columbia or his assistants, except as the said ordinance, regulation or statute or this section shall otherwise provide.

"(b) Prosecutions for violations of section 6 of the Act of July 29, 1892, as amended (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, 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 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 cases.

"(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 of 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, upon good cause shown in writing, and when practicable, 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 to the other, all or part of any presentencing 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 time 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 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.

"(c) The United States or the District of Columbia may with leave of the trial court appeal a ruling, made during the trial of a person charged with a criminal offense, which suppresses or otherwise denies the prosecutor, on the ground that the evidence was invalidly obtained, the use of evidence which is a substantial proof of the charge being tried against the defendant: *Provided,* That the United States attorney or the Corporation Counsel conducting the prosecution for such violation shall certify to the trial court that the appeal is not taken for purpose of delay. The trial court shall adjourn the trial until the appeal shall be resolved—except that, if the decision on appeal has not been rendered within forty-eight hours of said adjournment, the trial shall resume on the next day of regular court business following the expiration of said forty-eight-hour period, and the appeal shall be deemed void and without effect.

"(d) Any appeal taken pursuant to this section either prior to or during trial shall be expedited. If an appeal is taken pursuant to subsection (c) during trial, the appellate court shall hear argument on such appeal within twenty-four hours of the aforementioned adjournment of trial, shall dispense with any requirement of written briefs other than the supporting materials previously submitted to the trial court, shall render its decision within twenty-four hours of argument on appeal, and in so rendering may dispense with the issuance of a written opinion. Such appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a judgment of conviction, to claim error consisting of a reversal by the trial court on remand of a ruling previously appealed from during trial.

"(e) Pending the prosecution and determination of an appeal taken pursuant to this section, the defendant shall be detained or released in accordance with chapter 207, of title 18, United States Code.

"§ 23–105. Challenge to jurors

"(a) If the offense is punishable by death, each side is entitled to twenty peremptory challenges. If the offense is 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 are sworn, except when the objection to the juror is that he had a bias against the defendant such as would have disqualified him, the fact of such disqualification of the particular juror was not known to or suspected by the defendant or his counsel before the juror was sworn, and the defendant's counsel did not otherwise have reason to make such appropriate inquiries as would have disclosed such bias or grounds therefor before the juror was sworn.

"§ 23–106. Witnesses for defense; fees

"The court shall order at any time that a subpena be issued for service upon a named witness, upon an ex parte application of a defendant and a satisfactory showing that the defendant 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 subpena to be issued the costs incurred by the process and the fees of the witness so subpenaed shall be paid in the same manner in which similar costs and fees are paid in case of a witness subpenaed 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 the defendant resides more than twenty-five miles from the place of holding court or is sick or infirm, or about to leave the District, the defendant may apply in writing to the court for a commission to examine such witness and the court may grant the same and enter an order stating for what length of time notice shall be given to the prosecuting authority before said witness shall be examined. At or before the time fixed in said notice, when the examination is upon written interrogatories, the prosecuting authority may file cross-interrogatories, but if he fails to do so the clerk shall file the following:

"First. Are all your statements in the foregoing answers made from your own personal knowledge? And if not, show what is stated upon information and give its source.

"Second. 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 said commission shall not cause the deposition to be excluded where no substantial prejudice can be wrought to the prosecution 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 force of the District.

"§ 23–110. Remedies on motion attacking sentence

"A prisoner in custody under sentence of the Superior Court claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution of the United States or the laws of the District of Columbia, or that the court was without jurisdiction to impose the sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court to vacate, set aside, or correct the sentence.

"A motion for such relief may be made at any time.

"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 the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that 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 or resentence him or grant a new trial or correct the sentence as may appear appropriate.

"A court may entertain and determine the motion without requiring the production of the prisoner at the hearing.

"The court shall not be required to entertain a second or successive motion for similar relief of the same prisoner.

"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.

"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 apply for relief, by motion, to the Superior Court 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) No person who stands convicted of an offense under the laws of the District of Columbia shall be sentenced to increased punishment by reason of one or more previous convictions, unless—

"(1) prior to the entering of a plea of guilty or otherwise prior to trial, the United States attorney or the Corporation Counsel separately informed such person in writing of the said previous convictions to be relied upon;

"(2) a copy of such information with respect to previous conviction was at the same time also filed with the court where the instant offense was tried; and

"(3) the person, if the increased punishment which may be imposed is imprisonment for a term in excess of eighteen months, was charged by or waived indictment for the instant offense.

"(b) In any case where a person stands convicted in the District of Columbia of an offense, and the prosecutor, in conformity with subsection (a) of this section, has served on the defendant and has filed an information alleging previous convictions that would subject the person to increased punishment, the court shall inquire of him 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. The prosecuting authority shall have the burden of proof beyond a reasonable doubt on any issue of fact except as otherwise provided in paragraph (2) of this subsection. 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, or 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.

"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. Subornation of perjury.

"SUBCHAPTER I.—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 in violation of laws applicable exclusively to the District of Columbia and may be prosecuted as provided in section 11-502(a)(3) of title 11 of this Code.

"(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; and 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 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 I.—DEFINITIONS

"§ 23-501. Definitions

"As used in subchapters II, IV, and V of this chapter—

"(a) '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;

"(b) 'law enforcement officer' means an officer or member of the Metropolitan Police Department of the District of Columbia or of any police force operating in the District, or an investigative officer or agent of the United States;

"(c) '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) A judicial officer may issue a search warrant upon application of a law enforcement officer or prosecutor, upon a showing of probable cause to believe that the property sought is to be found in premises or in a vehicle or object or upon a person or persons, all of which shall be designated pursuant to section 23-522(b), and under such further circumstances as may be described in this subchapter. A warrant may authorize a search to be conducted anywhere in the District of Columbia and may be executed pursuant to its terms anywhere in the District of Columbia.

"(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) one or more designated persons.

"(c) A search warrant may divert the seizure of designated property or kinds of property, and the seizure may include, to such extent as is reasonable under all of the circumstances, taking physical or other impressions, or performing chemical, scientific, or

other tests or experiments of, from, or upon designated premises, vehicles, or objects.

"(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 a particular offense or the identity of a person participating in the commission of such 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 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 the following:

"(1) The name of 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) Where the judicial officer has found cause therefor, including one of the grounds set forth in paragraph (1) of section 23–522(c), an authorization for execution at any time of the day or night; or, otherwise, a direction that the warrant be executed during the hours of daylight;

"(6) Where the judicial officer has found cause therefor, including one of the grounds set forth in paragraph (2) of section 23–522(c), an authorization that the executing officer enter premises or vehicles to be searched without giving notice of his authority 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) is to be found in designated premises or in a designated vehicle or object or upon designated persons;

"(3) allegation of fact supporting such statement. The applicant may also submit depositions or affidavits or other persons containing allegations of fact supporting or tending to support those contained in the application; and

"(4) a request that the judicial officer issue a search warrant directing a search for and seizure of the property in question.

"(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 ground that there is probable cause to believe that (A) it cannot be executed during the hours of daylight, (B) the property sought will be removed or destroyed if not seized forthwith, or (C) the property sought will not be found except at certain times or in certain circumstances.

"(2) A request that the search warrant authorize the executing officer to enter premises to be searched without giving notice of his authority and purpose, upon the ground that there is probable cause to believe that (A) the property sought may and, if such notice is given, will be easily and quickly destroyed or disposed of, or (B) the giving of such notice will immediately endanger the life or safety of the executing officer or another person.

"Any request made pursuant to this subsection must be accompanied and supported by allegations of fact of the kind prescribed by paragraph (3) of subsection (b).

"§ 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.

"(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 premises or a vehicle shall, except as herein provided, give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof before entering therein.

"No notice need be given if:

"(1) The warrant expressly authorizes entry without notice;

"(2) The officer does not deliberately conceal his authority or purpose and is freely admitted; or

"(3) Circumstances, either unknown to the applicant or which the applicant did not have reason to know when applying for the warrant, but known to the executing officer at the time of execution, give the officer probable cause to believe that (A) the property sought may and, if such notice is given, will be easily and quickly destroyed or disposed of, or (B) the giving of such notice will immediately endanger the life or safety of the officer or another person.

"If the officer is not admitted upon such notice, or if there are circumstances excusing notice, he may forcibly enter and may use against any person resisting his entry or search such force as is necessary to execute the warrant.

"(b) An officer executing a warrant directing a search of a person shall give, or make reasonable effort to give, notice of his authority and purpose to the person, and, if such person thereafter resists or refuses to permit the search, may effect an arrest of such person pursuant to section 23–581(a) of this Code for violation of section 22–505 or any other applicable provision of law.

"(c) An officer or agent executing a search warrant shall write and subscribe an inventory setting forth the time of the execution and the property seized:

"(1) If the search is of a person, a copy of the warrant and of the return shall be given to that person.

"(2) 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 authorizes 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:

"(1) any property enumerated in the warrant; and

"(2) any other property, which said officer or agent discovers by observation incident to and as an inadvertent consequence of said execution as to enumerated property, and only if he has probable cause to believe such other unenumerated property to be subject to seizure pursuant to section 23–521(d). No additional warrant shall be required to authorize seizure pursuant to this paragraph if the property is fully set forth in the return.

"Seizure pursuant to this subsection may include taking physical or other impressions, or performing chemical, scientific, or other tests or experiments, to such extent as is reasonable under all of the circumstances

"(f) An officer or agent executing a search warrant may take such photographs and measurement incident to the execution as are reasonable under all of the circumstances.

"(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 weapons 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 IV.—ARREST WARRANT AND SUMMONS

"§ 23–561. Issuance, form, and contents

"(a) 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.

"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 be 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.

"(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) 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 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 forthwith of the offense charged and of the fact that a warrant has been issued. 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) 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. 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. 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 marshal or other authorized person for execution or service.

"(c) 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, 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.

"§ 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) 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.

"SUBCHAPTER V.—ARREST WITHOUT WARRANT

"§ 23–581. Arrests without warrant by law enforcement officers

"(a) A law enforcement officer may arrest, without a warrant having previously been issued therefor:

"(1) a person whom he has probable cause to believe has committed or is committing a felony;

"(2) a person who has committed or is committing an offense in his presence or within his view;

"(3) a person whom he has probable cause to believe has committed or is committing any offense prohibited by sections 3, 4, or 14 of the Act of July 8, 1932 (47 Stat. 651), as amended, 22 D.C. Code secs. 22–3203, 22–3204, 22–3214) (providing for control of dangerous weapons), section 863(a) of the Act of March 3, 1901, as amended (D.C. Code sec. 22–1502) (relating to possession of lottery tickets), and section 209(a) of the Act of June 29, 1953 (67 Stat. 97) (D.C. Code sec. 22–3601) (relating to possession of implements of crime), as well as any offense for which an officer may make such arrest (without a warrant and upon probable cause) pursuant to some other express provision of law;

"(4) a person whom he has probable cause to believe has committed or is about to commit any offense listed in this paragraph and, unless immediately arrested, may not be apprehended, may cause injury to others, or may tamper with, dispose of, or destroy evidence. This paragraph shall apply to the following offenses:

"(A) those offenses specified in the following sections of the Act of March 3, 1901, as amended: section 806 (relating to assault) (D.C. Code, sec. 22–504), section 824 (relating to unlawful entry) (D.C. Code, sec. 22–3102), section 827 (relating to petit larceny) (D.C. Code, sec. 22–2202), and section 829 (relating to receiving stolen goods) (D.C. Code, sec. 22–2205); and

"(B) attempts to commit the offenses specified in the following sections of the Act of March 3, 1901: section 823 (relating to burglary) (D.C. Code, sec. 22–1801), section 826 (relating to grand larceny) (D.C. Code, sec. 22–2201), and section 826b (relating to unauthorized use of vehicles) (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 described in paragraph (3) of section 23–581(a); or

"(2) in aid of a law enforcement or special policeman.

"(c) Any person making an arrest pursuant to this section shall deliver the person arrested to a law enforcement officer without unreasonable delay.

"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.

"§ 23–701. Warrants for the arrest of fugitives from justice

"Whenever any person may be found within the District of Columbia charged with any offense committed in any State, territory, or possession of the United States, and liable by the Constitution and laws of the United States to be delivered over upon the demand of the Governor of that State, territory, or possession, any judge of the Superior Court of the District of Columbia 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 of the District of Columbia, 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, territory, or possession of the United States 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 of the District of Columbia 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 herein required 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) 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:

"(1) Following waiver, a judge of the Superior Court may release the person upon such conditions as the judge shall deem necessary to insure his appearance before the proper official in the State, territory, or possession of the United States from which he is a fugitive, and shall otherwise order his return to the jurisdiction of that State, territory, or other possession in the custody of a proper official.

"(2) Following waiver, a person not released pursuant to subdivision (1) 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.

"(3) A person detained pursuant to subdivision (2) hereof for more than three days (not including Saturdays, Sundays, and holidays) shall be returned to the court and shall thereupon be released pursuant to subdivision (1) hereof, 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 requisition 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 the outcome of those proceedings, except that the court may, if the United States attorney consents, release the person upon such conditions as the court shall deem necessary to insure the appearance of such person at the 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 of the District of Columbia shall cause to be apprehended and delivered up fugitives from justice who shall be found within the District, in the same manner and under the same regulations as the executive authorities of the several States are 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 of the District of Columbia may also surrender, on demand of the executive authority 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.

"If the person or his counsel shall state that he or they desire to test the legality of his 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.

"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 Court of Appeals, issues a certificate of probable cause. The appeal shall be expedited. 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.

"Nothing contained in this subsection shall prevent a person from waiving his right to appear before the chief judge of the Superior Court of the District of Columbia and voluntarily returning in custody of a proper official to the jurisdiction of the State, territory, or other possession of the United States which is demanding him.

"(d) No person whom the chief judge has ordered delivered over pursuant to the demand of the Governor of a State, territory, or other possession under the provisions of this section shall be released upon bond or other obligation except pursuant to an order of a court of the demanding State, territory, or other possession.

"(e) 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 affect existing law concerning the procedure for the return of any person apprehended in the District of Columbia to a Federal 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 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.

"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. Construction.
"23–904. 'Fresh pursuit' defined.

"§ 23–901. Arrest in the District of Columbia by officers of other States

"Any member of a duly organized State, county, or municipal peace unit of any State of the United States who enters the District of Columbia in fresh pursuit and continues within the District in fresh pursuit of a person in order to arrest him on the ground that he is believed to have committed a felony in the 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 to arrest and hold in custody a person on the ground that he is believed to have committed a felony in the District.

"§ 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. Construction

"Section 23–901 shall not be construed so as to make unlawful any arrest in this District which would be otherwise lawful.

"§ 23–904. 'Fresh pursuit' defined

"The term 'fresh pursuit' used in this chapter shall include fresh pursuit as defined by the common law, also the pursuit of a person who has committed a felony or one who 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. 'Fresh pursuit' as used herein shall not necessarily imply an instant pursuit, but pursuit without unreasonable delay.

"Sec.

"23–1101. Definitions.
"23–1102. 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

"The words 'bonding business' as used in this chapter mean the business of becoming surety for compensation upon bonds in criminal cases in the District of Columbia, and the word 'bondsman' means any person or corporation engaged either as principal or as agent, clerk, or representative of another in such business.

"§ 23–1102. Business impressed with public interest

"The business of becoming surety for compensation upon bonds in criminal cases in the District of Columbia is impressed with a public interest.

"§ 23–1103. Procuring business through official or attorney for a consideration prohibited

"It shall be unlawful for any person engaged, either as principal or as the clerk, agent, or representative of a corporation, or

another person in the business of becoming surety upon bonds for compensation in the District of Columbia, either directly or indirectly, to give, donate, lend, contribute, or to promise to give, donate, loan, 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; and 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 person engaged in the bonding business 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, the agent, clerk, or representative of 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 person or corporation engaged in the bonding business, either as principal, or clerk, agent, or representative of another, 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 person or corporation engaged either as principal or as agent, clerk, or representative of another in the bonding business, 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, prisoner's 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 by 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, agent, clerk, or representative of 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, and whenever a person engaged in the bonding business as principal, or as clerk, agent, or representative of another, shall 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, he shall forthwith give to the person in charge thereof his mission there, the name of the person calling him, and requesting him to come to such place, and the same shall be recorded by the person in charge of the place of detention and preserved as a public record, and the failure to give that information, or the failure of the person in charge of the place of detention to make and preserve that record, shall constitute a violation of this chapter.

"§ 23–1108. Qualifications of bondmen; 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 business of becoming surety upon bonds for compensation in criminal cases, 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, or his agent, clerk, or representative, 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 designated 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, or the agent, clerk, or representative of 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 au-

thority to appoint some official of the Metropolitan Police force of the District of Columbia 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) An officer or member of the Metropolitan Police force 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 force designated under subsection (a) of this section to act as a clerk of the Superior Court of the District of Columbia.

"(c) 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 force designated under subsection (a) of this section to act as a clerk of the Superior Court of the District of Columbia may issue a citation to him for an appearance in court or at some other designated place, and release him from custody.

"(d) No citation may be issued under subsection (b) or (c) of this section 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.

"(e) 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 subsection 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 punished by a fine of not less than $50 nor more than $100, or by imprisonment of not less than ten nor more than sixty days in jail, or both, where no other penalty is provided by this chapter; and if the person so convicted be a police officer or other public official, he shall upon recommendation of the trial judge also be forthwith dismissed from office; if a bondsman, or the agent, clerk, or representative of 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; and, if an attorney at law, shall be subject to suspension or disbarment as attorney at law.

"§ 23–1112. Enforcement

"It shall be the duty of the Superior Court of the District of Columbia 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 said jury to give it in charge to the jury to investigate the manner in which this chapter is enforced and all violations thereof.

"Chapter 13.—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. Authorization for appropriations; budget estimates.
"23–1309. Applicability of Bail Reform Act.

"§ 23–1301. District of Columbia Bail Agency

"The District of Columbia Bail Agency (hereafter 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 force 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 Court 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 release (including any order setting the amount of bail bond or any other kind of security given to assure 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) for trial or sentencing or pending appeal.

"§ 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 United States commissioner 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 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 under any of the conditions specified in section 3146 of title 18, United States Code. The agency shall provide copies of its report and recommendations 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, 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 pursuant to chapter 207 of title 18, United States Code, 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) Such information as may be contained in the agency's files or presented in its report or which shall be divulged during the course of any hearing shall be used only for the purpose of a bail determination or in connection with any other proceeding under chapter 207 of title 18, United States Code, and shall otherwise be confidential except for members of the agency staff, and such members shall not be subject to subpena concerning information in their possession and such information shall not be the subject of court process for use in any other proceeding.

"(e) The agency, when requested by a member or officer of the Metropolitan Police force 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 by the agency and the submission 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 impose such terms and set such conditions including requiring the execution of a bail bond with sufficient solvent sureties, upon release as shall appear warranted by the facts presented, except that such judicial officer may not establish any term or condition 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 the 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, availability and capacity of such agencies and organizations;

"(4) assist persons released pursuant to chapter 207 of title 18, United States Code, 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 of the District of Columbia, 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.

"§ 23–1305. Duties of Director; 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 that amount classified as GS–16 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 that classified as GS–14 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 at rates equivalent to those that would be applicable to positions in the General Schedule involving comparable levels of duties and responsibilities. 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. Authorization for appropriations; budget estimates

"For the purpose of carrying out the provisions of this chapter, there are authorized to be appropriated to the District of Columbia $360,000, which shall be disbursed by the Commissioner of the District of Columbia. Budget estimates for the agency shall be prepared by the Director and shall be subject to the approval of the executive committee.

"§ 23–1309. Applicability of Bail Reform Act

"The Bail Reform Act of 1966 (18 U.S.C. 3146–3152), shall apply to any person detained pursuant to law or charged with an offense in the District of Columbia.

"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.

"23–1503. 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—

"(a) 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.

"(b) The word 'State' includes the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands, Guam, American Samoa, and any possession of the United States.

"(c) The word '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, the 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 necessary, that it will not cause undue hardship to witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other State, and that the laws of the State in which the prosecution is pending, or grand jury investigation has commenced or is about to commence 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 court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence 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 recommend 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 the hearing, direct that the witness be forthwith brought before him for the hearing; and the judge at the hearing being satisfied of the desirability of the custody, and delivery for which determination the certificate shall be prima facie proof of the desirability may, in lieu of issuing subpena or summons, order that the witness be forthwith taken into custody and delivered to an officer of the requesting State.

"(d) If the witness, who is summoned as above provided, 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, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from the Superior Court of District of Columbia.

"§ 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 commenced or about to commence, in the District of Columbia, is a material witness in a prosecution pending in a court of record in the District of Columbia, or in a grand jury investigation which has commenced or is about to commence, a judge of that court may issue a certificate under seal of the court 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 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 a longer period of time than the period mentioned 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) If a person comes into the District of Columbia in obedience to a summons directing him to attend and testify in the District of Columbia he 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 matters which arose before his entrance into the District of Columbia under the summons.

"(b) If a person passes through the District of Columbia while going to another State in obedience to a summons to attend and testify in that State or while returning therefrom, he shall not while so passing through the District of Columbia be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into the District of Columbia under the summons.

"Chapter 17.—DEATH PENALTY

"Sec.
"23–1701. Capital punishment.
"23–1702. Provision for death chamber; appointments 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. Who may not be present at executions.
"23–1706. Place of execution.

"§ 23–1701. Capital punishment

"The mode of capital punishment 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 is authorized and required to provide a death chamber and necessary apparatus for inflicting the death penalty by electrocution, to designate an executioner and necessary assistants, not exceeding three in number. The Council of the District of Columbia is authorized and required to fix the fees for the executioner and his assistants.

"§ 23–1703. Sentences to be in writing and certified copy furnished

"Upon the conviction of any person in the District of Columbia of a crime the punishment of which is death, it shall be the duty of the presiding judge to sentence the convicted person to death according to the terms of sections 23–1701 to 23–1704, and to make the sentence in writing, which 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 as herein prescribed there shall be present the following persons, and no more, to wit:

"The executioner and his assistant; the physician of the prison 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.

"§ 23–1705. Who may not be present at executions

"No person whatever under the age of twenty-one years, shall be allowed to witness any execution.

"§ 23–1706. Place of execution

"Persons 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) R.S.D.C. section 397, as amended (D.C. Code, sec. 4–140);

(2) R.S.D.C. section 398 (D.C. Code, sec. 4–141);

(3) sections 1 and 2, 23 Geo. II, ch. 11, as continued in force in the District of Columbia by section 1 of the Act of March 3, 1901 (31 Stat. 1189; D.C. Code, secs. 23–204, 23–205);

(4) the following sections of the Act of March 3, 1901 (31 Stat. 1189), as amended:
sections 911 to 914 (D.C. Code, secs. 23–301 to 23–304),
sections 915 to 917 (D.C. Code, secs. 23–201 to 23–203),
sections 918 to 924 (D.C. Code, secs. 23–107 to 23–113),
section 926 (D.C. Code, sec. 23–114),
sections 930 to 931 (D.C. Code, secs. 23–401 to 23–402),
section 932 (D.C. Code, sec. 23–101),
section 933 (D.C. Code, sec. 23–102),
section 935 (D.C. Code, sec. 23–105),
section 938 (D.C. Code, sec. 23–106),
section 939 (D.C. Code, sec. 23–104),
section 1200 (D.C. Code, sec. 23–706),
section 1203 (D.C. Code, sec. 23–705),

(5) Act of January 30, 1925 (43 Stat. 798; D.C. Code, secs. 23–701 to 23–704);

(6) Act of April 21, 1928 (45 Stat. 440, as amended; D.C. Code, secs. 23–403 to 23–410);

(7) Act of March 3, 1933 (47 Stat. 1482, as amended; D.C. Code, secs. 23–601 to 23–612);

(8) section 5 of the Act of April 5, 1938 (52 Stat. 198, 199; D.C. Code, sec. 23–305);

(9) Act of July 26, 1939 (53 Stat. 1124, as amended; D.C. Code, secs. 23–501 to 23–504);

(10) Act of March 5, 1952 (66 Stat. 15, as amended; D.C. Code, secs. 23–801 to 23–804);

(11) sections 207, 402, and 407(b) of the Act of June 29, 1953 (67 Stat. 90, 96, 102, 106; D.C. Code, sec. 23–306, 23–115, and 23–411);

(12) Act of July 26, 1966 (80 Stat. 327, as amended; D.C. Code, secs. 23–901 to 23–909); and

(13) Act of July 30, 1968 (82 Stat. 460; D.C. Code, sec. 23–101a).

INSANE CRIMINALS

SEC. 403. Section 927 of the Act of March 3, 1901 (31 Stat. 1189, 1340, as amended; D.C. Code, sec. 24–301), is amended as follows:

(1) by substituting for the words beginning "Whenever a person is arrested" and ending "period of probation" in the first sentence of subsection (a), 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 pursuant to section 11–1104 of the District of Columbia Code, and, prior to the imposition of sentence or the expiration of any period of probation, or prior to hearing on the transfer motion,";

(2) by striking the period at the end of the second sentence of subsection (a) and substituting in lieu thereof: "or participate in transfer proceedings.";

(3) by inserting after the words "stand trial" in the third sentence of subsection (a), "or participate in transfer proceedings";

(4) by inserting after the words "stand trial" in both places it appears in subsection (b), "or participate in transfer proceedings"; and

(5) by adding at the end thereof the following new subsection;

"(k) 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.

"A motion for relief may be made at any time.

"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 conclusion 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, or that he is entitled to a change in the conditions of his release or other relief, the court shall enter such order as may appear appropriate.

"A court may entertain and determine the motion without requiring the production of the person at the hearing.

"The court shall not be required to entertain a second or successive motion for similar relief on behalf of the same person, except that a motion claiming relief on the ground that the person's mental condition has changed shall be entertained by the court if there has been no hearing to determine the present mental condition of that person for a period of six months.

"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.

"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. 404. Section 23 of the Act of June 20, 1938 (52 Stat. 796, as amended; 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 Council of the District of Columbia, under authority of its sections, for which no specific penalty is otherwise provided, shall upon conviction be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment for not exceeding one year, or by both such fine and imprisonment.

"(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 upon conviction be punished by a fine of not less than $500 nor more than $5,000 or by imprisonment for not exceeding ten years, or by both such fine and imprisonment."

TITLE V.—WIRE INTERCEPTION AND ELECTRONIC SURVEILLANCE

DEFINITIONS

SEC. 501. As used in this title:

(a) "Wire communication" means any communication made in whole or in part through the use of facilities—

(1) employed 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; and

(2) furnished or operated by a communication common carrier.

(b) "Oral communication" means any oral communication uttered—

(1) by a person exhibiting an expectation that such communication is not subject to interception; and

(2) under circumstances justifying such expectation.

(c) "Contents", when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, or meaning of such communication.

(d) "Intercepting device" means any device or apparatus that can be used to intercept a wire or oral communication other than—

(1) 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; and

(2) a hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(e) "Intercept" means aurally acquire the contents of any wire or oral communication through the use of any intercepting device.

(f) "Person" means any officer, agent, or employee of the Government of the United States or of the District of Columbia, or any individual, partnership, association, joint stock company, trust, or corporation.

(g) "Aggrieved person" means a person who was a party to any intercepted wire or oral communication, or any person against whom the interception was directed.

(h) "Court" means the United States District Court for the District of Columbia or any judge thereof, the Superior Court of the District of Columbia or any judge thereof, any judge of the United States Court of Appeals for the District of Columbia Circuit, or any judge of the District of Columbia Court of Appeals.

(i) "Investigative or law enforcement officer" means any United States marshal or deputy United States marshal, any officer or agent of the United States Capitol Police, Federal Bureau of Investigation, Park Police, or White House Police, or any officer or agent of the Metropolitan Police Department of the District of Columbia, who is empowered by law to conduct investigations of, or to make arrests for, any offense enumerated in subsection (c) of section 506 of this title, and any attorney authorized by law to prosecute or participate in the prosecution of any such offense.

(j) "Communication common carrier" means any person engaged as a common carrier for hire in the transmission of communications by wire or radio.

(k) "United States attorney" means the United States attorney for the District of Columbia or any of his assistants designated by him or otherwise by law to act in his place for the particular purpose in question.

INTERCEPTION, DISCLOSURE, AND USE OF WIRE OR ORAL COMMUNICATIONS PROHIBITED

SEC. 502. (a) Except as otherwise specifically provided in this title, any person who in the District of Columbia—

(1) willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire or oral communication;

(2) willfully discloses or endeavors to disclose to any other person the contents of any wire or oral communication, or evidence derived therefrom, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication; or

(3) willfully uses or endeavors to use the contents of any wire or oral communication, or evidence derived therefrom, knowing or having reason to know, that the information was obtained through the interception of a wire or oral communication;

shall be guilty of a felony and shall be fined not more than $10,000 or imprisoned not more than five years, or both; except that paragraphs (2) and (3) of this subsection shall not apply to the contents of any wire or oral communication, or evidence derived therefrom, that has become common knowledge or public information.

(b) It shall not be unlawful under this section for—

(1) an operator of a switchboard, or an officer, agent, or employee of a communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication, in the normal course of his employment while engaged in any activity which is a necessary incident to the rendering of his service or to the protection of the rights or property of the carrier of such communication, or to provide information, facilities, or technical assistance to an investigative or law enforcement officer who, pursuant to this chapter, is authorized to intercept a wire or oral communication. No communication common carrier shall utilize service observing or random monitoring except for mechanical or service quality control checks;

(2) a person acting under color of law to intercept a wire or oral communication, where such person is a party to the communication, or where one of the parties to the communication has given prior consent to such interception; or

(3) a person not acting under color of law to intercept a wire or oral communication, where such person is a party to the communication, or where one of the parties to the communication has given prior consent to such interception, unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States, any State, or the District of Columbia, or for the purpose of committing any other injurious act.

POSSESSION, SALE, DISTRIBUTION, MANUFACTURE, ASSEMBLY, AND ADVERTISING OF WIRE OR ORAL COMMUNICATION INTERCEPTING DEVICES PROHIBITED

SEC. 503. (a) Except as otherwise specifically provided in subsection (b) of this section, any person who in the District of Columbia—

(1) willfully possesses an intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication;

(2) willfully sells an intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication;

(3) willfully distributes an intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication;

(4) willfully manufactures or assembles an intercepting device, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication; or

(5) willfully places in any newspaper, magazine, handbill, or other publication any advertisement of,

(i) any interception devise, the design of which renders it primarily useful for the purpose of the surreptitious interception of a wire or oral communication;

(ii) any intercepting device where such advertisement promotes the use of such device for the purpose of the surreptitious interception of a wire or oral communication;

shall be guilty of a felony and shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(b) It shall not be unlawful under this section for—

(1) a communication common carrier or an officer, agent, or employee of, or a person under contract with a communication common carrier, in the usual course of the communication common carrier's business; or

(2) a person under contract with the Government of the United States, a State or a political subdivision thereof, or the District of Columbia, or an officer, agent, or employee of the Government of the United States, a State or a political subdivision thereof, or the District of Columbia;

to possess, sell, distribute, manufacture or assemble, or advertise any intercepting device, while acting in furtherance of the appropriate activities of the United States, a State or political subdivision thereof, the District of Columbia, or a communication common carrier.

CONFISCATION OF WIRE OR ORAL COMMUNICATION INTERCEPTING DEVICES

SEC. 504. Any intercepting device in the District of Columbia—

(1) possessed;

(2) used;

(3) sold;

(4) distributed; or

(5) manufactured or assembled;

in violation of sections 502 and 503 of this title may be seized and forfeited to the District of Columbia.

IMMUNITY OF WITNESSES

SEC. 505. (a) Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before a court or grand jury in the District of Columbia involving any violation of this title and the person presiding over the proceeding communicates to the witness an order issued under this section, 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 issued under subsection (b) of this section, or any information obtained by the exploitation of such testimony or other information, may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

(b) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before a court or grand jury in the District of Columbia, the court before which the proceeding is or may be held shall issue, upon the request of the United States attorney, an order requiring such individual to give any testimony or provide any other information which he refuses to give or provide on the basis of his privilege against self-incrimination.

(c) A United States attorney may, with the approval of the Attorney General or the Deputy Attorney General, or any Assistant

Attorney General, designated by the Attorney General, request an order under subsection (b) when in his judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

APPLICATIONS FOR AUTHORIZATION OR APPROVAL OF INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS

SEC. 506. (a) The United States attorney may authorize, in writing, any investigative or law enforcement officer to make application to a court for an order authorizing the interception of any wire or oral communication, when such interception may provide evidence of any offense enumerated in subsection (c) of this section.

(b) The United States attorney may authorize, in writing, any investigative or law enforcement officer to make application to a court for an order of approval of the previous interception of any wire or oral communication, when the contents of such communication—

(1) relate to an offense other than that specified in an order of authorization;

(2) were intercepted in an emergency situation; or

(3) were intercepted in an emergency situation and relate to an offense other than that contemplated at the time the interception was made.

(c) An application for an order of authorization as provided in subsection (a) of this section or of approval as provided in paragraph (2) of subsection (b) of this section may be authorized only when such interception may provide or has provided evidence of any of the following offenses—

(1) any offense specified in the following sections of the Act of March 3, 1901, as amended: sections 798, 800, or 802 (relating to murder) (D.C. Code. secs. 22–2401, 22–2403, or 22–2405), section 812 (relating to kidnaping) (D.C. Code, sec. 22–2101), sections 863, 866, or 869e (relating to gambling) (D.C. Code, secs. 22–1501, 22–1505, 22–1513), and section 826 (relating to grand larceny) (D.C. Code, sec. 22–2201);

(2) any offense involving bribery, obstruction of justice, extortion, or threats to kidnap or injure a person or damage his property punishable under section 861, Act of March 3, 1901, as amended (D.C. Code, sec. 22–701), Act of July 1, 1902 (32 Stat. 590, 591), as amended (D.C. Code, sec. 22–702), section 862, Act of March 3, 1901, as amended (D.C. Code, sec. 22–703), Act of February 26, 1936 (D.C. Code, sec. 22–704), section 819, Act of March 3, 1901 (D.C. Code, sec. 22–2305), and sections 1501 and 1502, Act of June 19, 1968 (D.C. Code, secs. 22–2306 and 22–2307); and

(3) any offense involving manufacturing, compounding, selling, prescribing, administering, dispensing, or otherwise purveying or maintaining a common nuisance in connection with the use of, any narcotic or other dangerous drug, prohibited by sections 2 or 16, Act of June 20, 1938, as amended (D.C. Code, secs. 33–402 or 33–416) and section 203, Act of June 24, 1956 (D.C. Code, sec. 33–702).

PROCEDURE FOR AUTHORIZATION OF INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS

SEC. 507. (a) Each application for an authorization to intercept a wire or oral communication, or for approval of the previous interception of any such communication, shall be made in writing upon oath or affirmation and shall state—

(1) the authority of the applicant to make such application;

(2) the identity of the investigative or law enforcement officer for whom the authority to intercept a wire or oral communication is sought and the identity of whoever authorized the application;

(3) the facts, with particularity, relied upon by the applicant, including,

(i) the identity of the particular person, if known, committing the offense and whose communications are to be or were intercepted;

(ii) the details as to the particular offense that has been, is being, or is about to be committed;

(iii) the particular type of communication to be or which was intercepted;

(iv) the character and location of the particular wire communication facilities involved or the particular place where the oral communication is to be or was intercepted;

(v) the period of time for which the interception is required to be maintained, and, if the character of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, facts establishing probable cause to believe that additional communications of the same type will occur thereafter; and

(vi) facts showing that other investigative procedures have been tried and have failed or reasonably appear or appeared to be unlikely to succeed if tried or to be too dangerous; and

(4) where the application is for the extension of an order, particular facts showing the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results;

(5) the complete facts concerning all previous applications, known to the individual authorizing and to the individual making the application, made to any court for authorization to intercept or for approval of the previous interception of a wire or oral communication involving any of the same facilities or places specified in the application or involving any person whose communication is to be or has been intercepted, and the action taken by the court on each such application.

(b) The court may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(c) Upon such application, the court may enter an ex parte order, as requested or as modified, authorizing or approving the interception of a wire or oral communication, if the court determines on the basis of the facts submitted by the applicant that there is or was probable cause for belief that—

(1) the person whose communication is to be or was intercepted,

(i) is engaging or was engaged over a period of time as a part of a continuing criminal activity; or

(ii) is or was committing, has or had committed, or is or was about to commit at a specific time;

an offense as provided in subsection (c) of section 206 of this title;

(2) particular communications concerning such offense may be or have been obtained through such interception;

(3) normal investigative procedures have been tried and have failed or reasonably appear or appeared to be unlikely to succeed if tried or to be too dangerous; and

(4) the facilities from which, or the place where, the wire or oral communications are to be or were intercepted are or were being used, or are or were about to be used, in connection with the commission of such offense, or are or were leased to, listed in the name of, or commonly used by, such individual.

(d) If the facilities from which a wire communication is to be or was intercepted are or were public, no order of authorization or approval shall be issued unless the court, in addition to the matters provided in subsection (c) of this section, determines that there is or was a special need to intercept wire communications over such facilities.

(e) If the facilities from which a wire communication is to be or was intercepted are or were being used, or are or were about to be used, or are or were leased to, listed in the name of, or commonly used by, a licensed physician, a licensed attorney at law, or practicing clergyman, or if the place where an oral communication is to be or was intercepted is or was a place used primarily for habitation by a husband and wife, no order shall be issued unless the court, in addition to be matters provided in subsection (c) of this section, determines that there is or was a special need to intercept wire or oral communications over such facilities or in such place. If the place where an oral communication is to be or was intercepted is or was a place used primarily for his own professional purposes by a licensed physician, a licensed attorney at law, or practicing clergyman, no order of authorization or approval of such interception shall be issued under this title. No otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, the provisions of this title, shall lose its privileged character.

(f) Each order authorizing or approving the interception of any wire or oral communication shall specify—

(1) the jurisdiction of the court issuing the order;

(2) the identity of, or a particular description of, the person, if known, whose communications are to be or were intercepted;

(3) the character and location of the particular communication facilities as to which, or the particular place of the communication as to which, authority to intercept is granted or was approved;

(4) a particular description of the type of the communication to be or which was intercepted and a statement of the particular offense to which it relates;

(5) the identity of the investigative or law enforcement officer to whom the authority to intercept a wire or oral communication is given or was approved and the identity of whoever authorized the application; and

(6) the period of time during which such interception is authorized or was approved, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

An order authorizing the interception of a wire or oral communication shall, upon request of the applicant, direct that a communication common carrier, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such carrier, landlord, custodian, or person is according the person whose communications are to be intercepted. Any communication common carrier, landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant at the prevailing rates.

(g) No order entered under this section shall authorize or approve the interception of any wire or oral communication for a period of time in excess of that necessary under the circumstances. Every order entered under this section shall require that such interception begin and terminate as soon as practicable and be conducted in such a manner as to minimize or eliminate the interception of such communications not otherwise subject to interception under this title. In no case shall an order entered under this section authorize or approve the interception of wire or oral communications for any period exceeding thirty days. Extensions of such an order may be granted for periods of not more than thirty days. No extension shall be granted unless an application for it is made in accordance with this section, and

the court makes the findings required by this section.

(h) Whenever an order authorizing an interception is entered, the order may require reports to be made to the court which issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the court may require.

PROCEDURE FOR APPROVAL OF INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS

SEC. 508. (a) An order of approval of the interception of any wire or oral communication relating to an offense other than that specified in the order of authorization may be issued where the court finds on an application for an order of approval as provided in section 507 of this title that such interception was otherwise made in accordance with this title. Such application shall be made as soon as practicable.

(b) Notwithstanding any other provision of this title, any investigative or law enforcement officer, specially designated by the United States attorney, who reasonably determines that—

(1) an emergency situation exists with respect to conspiratorial activities characteristic of organized crime that requires a wire or oral communication to be intercepted before an order authorizing such interception can with due diligence be obtained; and

(2) there are grounds upon which an order could be entered to authorize such interception;

may intercept such wire or oral communication if an application for an order approving the interception is initiated in accordance with section 507 of this title within twelve hours and is completed within seventy-two hours after the interception has occurred, or begins to occur. Such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied. In the event such 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 title, and an inventory shall be served as provided for in section 510 of this title.

(c) An order of approval of the interception of any wire or oral communication may include the approval of the interception of a wire or oral communication in an emergency situation as described in subsection (b) of this section where the communication relates, however, to an offense other than that contemplated at the time the interception was made, if the court finds that such interception was otherwise made in accordance with this title. Such application shall be made as soon as practicable; except that this subsection shall not be construed to supersede the provisions of subsection (b) of this section.

(d) In addition to any other right of appeal, the United States shall have the right to appeal from a denial of an order of approval made under this section if the United States attorney shall certify to the court that the appeal is not taken for purposes of delay. The appeal shall be taken within thirty days after the denial was made and shall be diligently prosecuted.

MAINTENANCE AND CUSTODY OF RECORDS

SEC. 509. (a) Any wire or oral communication intercepted in accordance with sections 507 and 508 of this title shall, if practicable, be recorded by tape or wire or other comparable method. The recording shall be done in such a way as will protect it from editing or other alteration. Immediately upon the expiration of the period of the order or extensions thereof, the tapes or wire recordings or other records shall be transferred to the court issuing the order and sealed under its direction. Custody of the tapes or wire recordings or other records shall be maintained wherever the court directs. They shall not be destroyed except upon court order and in any event shall be kept for ten years. Duplicate tapes or wire recordings or records may be made for disclosure or use pursuant to subsection (a) of section 511 of this title. The presence of the seal provided by this section, or a satisfactory explanation for its absence, shall be a prerequisite for the disclosure of the contents of any wire or oral communication, or evidence derived therefrom, under subsection (b) of section 511 of this title.

(b) Applications made and orders granted under sections 507 and 508 of this title shall be sealed by the court. Custody of the applications and orders shall be maintained wherever the court directs. They shall not be destroyed except on order of the court and in any event shall be kept for ten years. They may be disclosed only by court order upon a showing of good cause.

(c) Any violation of the provisions of this section may be punished as contempt of the issuing or denying court.

INVENTORY

SEC. 510. Within a reasonable time but not later than ninety days after the termination of the period of the order or extensions thereof or the date of the denial of an order of approval, the issuing or denying court shall cause to be served on the person named in the order or application, and such other parties to the intercepted communications as the court may determine in its discretion to be in the interest of justice, an inventory which shall include—

(a) notice of the entry of the order or the application for a denied order of approval;

(b) the date of the entry of the order or the denial of the application for an order of approval;

(c) the period of authorized, approved, or disapproved interception;

(d) a statement of whether, during the period, wire or oral communications were, or were not, intercepted.

The court, upon the filing of a motion, may in its discretion make available to such person or his counsel for inspection such portions of the intercepted communications, applications, and orders as the court determines to be in the interest of justice. On an ex parte showing of good cause to the court, the serving of the inventory required by this section may be postponed.

AUTHORIZATION FOR DISCLOSURE AND USE OF INTERCEPTED WIRE OR ORAL COMMUNICATIONS

SEC. 511. (a) Any investigative or law enforcement officer who, by any authorized means and in conformity with this title, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose or use such contents or evidence to the extent that such disclosure or use is appropriate to the proper performance of his official duties.

Any person who, by any authorized means and in conformity with this title, has obtained knowledge of the contents of any wire or oral communication intercepted in accordance with sections 507 and 508 of this title, or other lawful authority, or evidence derived therefrom, may disclose the contents of such communication or evidence while giving testimony under oath or affirmation in any criminal trial, hearing, or proceeding before any grand jury or court.

(c) The contents of any intercepted wire or oral communication, or evidence derived therefrom, may otherwise be disclosed or used only by court order upon a showing of good cause.

PROCEDURE FOR DISCLOSURE AND SUPPRESSION OF INTERCEPTED WIRE OR ORAL COMMUNICATIONS

SEC. 512. (a) The contents of any wire or oral communication intercepted in accordance with sections 507 and 508 of this title, or evidence derived therefrom, shall not be disclosed in any trial, hearing, or proceeding before any court or other authority of the United States or the District of Columbia unless ten days before the trial, hearing, or proceeding—

(1) the inventory as provided in section 510 of this title has been served; and

(2) the parties to the action have been served with a copy of the order and accompanying application under which the interception was authorized or approved.

The service of inventory, order, and application required by this subsection may be waived by court order where a court finds that the service is not practicable and that the parties will not be prejudiced by the failure to make the service.

(b) (1) Any aggrieved person in any trial, hearing, or proceeding in or before any court or other authority of the United States or the District of Columbia may make motion to a court to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that,

(i) the communication was unlawfully intercepted;

(ii) the order of authorization or approval is insufficient on its face;

(iii) the interception was not made in conformity with the order of authorization;

(iv) service was not made as provided in subsection (a) of this section; or

(v) the seal provided in subsection (a) of section 509 of this title is not present and there is no satisfactory explanation for its absence.

The motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the moving party was not aware of the grounds for the motion. The court, upon the filing of such motion by the aggrieved person, may in its discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication, or evidence derived therefrom, as the court determines to be in the interests of justice. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall not be received in evidence in the trial, hearing, or proceeding.

(2) In addition to any other right to appeal, the United States or the District of Columbia shall have the right to appeal from an order granting a motion to suppress if the United States attorney or, where applicable on behalf of the District of Columbia, the Corporation Counsel shall certify to the court that the appeal is not taken for purpose of delay. The appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

AUTHORIZATION FOR RECOVERY OF CIVIL DAMAGES

SEC. 513. (a) Any person whose wire or oral communication is intercepted, disclosed, or used in violation of this title shall—

(1) have a civil cause of action against any person who intercepts, discloses, or uses, procures any other person to intercept, disclose, or use, such communication; and

(2) be entitled to recover from any such person;

(i) actual damages, but not less than liquidated damages computed at the rate of $100 a day for each day of violation, or $1,000, whichever is higher;

(ii) punitive damages; and

(iii) a reasonable attorney's fee and other litigation costs reasonably incurred.

(b) Good faith reliance on a court order or legislative authorization shall constitute a complete defense to an action brought under this section, or other law.

(c) As used in this section, "person" includes the District of Columbia, and the District of Columbia shall not assert any

governmental immunity to avoid liability under this section. Judgement against the District of Columbia shall not constitute a bar to action against any other person.

REPORTS CONCERNING INTERCEPTED WIRE OR ORAL COMMUNICATION

SEC. 514. (a) Within thirty days after the expiration of an order or an extension entered under sections 507 and 508 of this title or the denial of an order of approval, the issuing or denying court shall report to the chief judge of the District of Columbia Court of Appeals and the Commissioner of the District of Columbia—

(1) that an order or extension was applied for;

(2) the kind of order or extension applied for;

(3) if the order or extension was granted as applied for, was modified, or was denied;

(4) the period of the interceptions authorized by the order, and the number and duration of any extensions of the order;

(5) the offense specified in the order or application, or extension of an order;

(6) the identity of the applying investigative or law enforcement officer, and agency making the application and the person authorizing the application; and

(7) the character and location of the facilities from which and the place where communications were (and were to be) intercepted.

(b) In January of each year the United States attorney shall report to the Congress of the United States, the chief judge of the District of Columbia Court of Appeals, and the Commissioner of the District of Columbia—

(1) the information required by paragraphs (1) through (7) of subsection (a) of this section with respect to each application for an order or extension made during the immediately preceding calendar year;

(2) a general description of the interceptions made under such order or extension, including,

(i) the approximate character and frequency of incriminating communications intercepted;

(ii) the approximate character and frequency of other communications intercepted;

(iii) the approximate number of persons whose communications were intercepted; and

(iv) the approximate character, amount, and cost of the manpower and other resources used in the interceptions;

(3) the number of arrests resulting from interceptions made under such order or extension;

(4) the offenses for which the arrests were made;

(5) the number of trials resulting from such interceptions;

(6) the number of motions to suppress made with respect to such interceptions;

(7) the number of motions to suppress granted or denied;

(8) the number of convictions resulting from such interceptions;

(9) the offenses for which the convictions were obtained;

(10) a general assessment of the importance of the interceptions; and

(11) for purposes of comparison, the information required by paragraphs (2) through (10) of this subsection with respect to orders and extensions obtained in other preceding calendar years.

(c) In April of each year the Commissioner of the District of Columbia shall make public a complete report concerning the number of applications for orders authorizing or approving the interception of wire or oral communications and the number of orders and extensions granted or denied during the immediately preceding calendar year. Such report shall contain a summary and analysis of the data required to be filed with the Commissioner by subsections (a) and (b) of this section. The District of Columbia Council is authorized to issue binding regulations dealing with the content and form of the reports required to be filed under this section.

RELATION TO FEDERAL LAW ON WIRE INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

SEC. 515. (a) Section 504 of this title shall be subject to the operation of section 2513 of title 18, United States Code.

(b) Sections 502, 503, 505, 511, 513, and 514 of this title shall be construed to supplement, and not to supersede or otherwise limit, the provisions of chapter 119 of title 18, United States Code (relating to wire interception and interception of oral communications).

(c) Sections 506, 507, 508, 509, 510, and 512 of this title shall be construed not to supersede or otherwise limit the provisions of said chapter 119 of title 18, United States Code, except in cases of irreconcilable conflict.

AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 516. (a) Section 2511(2)(a) of title 18, United States Code, is amended (1) by inserting "(i)" immediately after "(2)(a)"; and (2) by adding at the end thereof the following:

"(ii) It shall not be unlawful under this chapter for an officer, employee, or agent of any communication common carrier to provide information, facilities, or technical assistance to an investigative or law enforcement officer who, pursuant to this chapter, is authorized to intercept a wire or oral communication.".

(b) Section 2518(d) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"An order authorizing the interception of a wire or oral communication shall, upon request of the applicant, direct that a communication common carrier, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobstrusively and with a minimum of interference with the services that such carrier, landlord, custodian, or person is according the person whose communications are to be intercepted. Any communication common carrier landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant at the prevailing rates."

(c) The last sentence of section 2520 of title 18, United States Code, is amended to read as follows: "A good faith reliance on a court order or legislative authorization shall constitute a complete defense to any civil or criminal action brought under this chapter or under any other law.".

TITLE VI.—INTERSTATE COMPACT ON JUVENILES

SEC. 601. (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.

SEC. 602. (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 reasonable 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 may 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 his 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 ad 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 states 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 of 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 demand-

ing 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 subdivision 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 juveniles 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 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—Execution 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—Renunciation

"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 Staes 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 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 not 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 Juve-

niles shall be constructed 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 in 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."

SEC. 603. (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.

SEC. 604. 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.

SEC. 605. 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.

SEC. 606. The right to alter, amend, or repeal this title is hereby expressly reserved by the Congress.

TITLE VII.—IMPLIED CONSENT LAW

SEC. 701. As used in this title—

(1) The term "Commissioner" means the Commissioner of the District or his designated agent.

(2) The term "District" means the District of Columbia.

(3) The term "license" means any operator's permit or any other license or permit to operate a motor vehicle issued under the laws of the District, including—

(A) any temporary or learner's permit;

(B) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and

(C) any nonresident's operating privilege.

(4) The term "nonresident" means every person who is not a resident of the District.

(5) The term "nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of the District relating to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in the District.

(6) The term "police officer" means an officer or member of the Metropolitan Police force, the United States Park Police force, or the Capitol Police force, or any other person actually and officially engaged in the performance of police duties in connection with guarding the property of the United States or of the District.

SEC. 702. Any person who operates a motor vehicle within the District shall be deemed to have given his consent, subject to the provisions of this Act, to a chemical test or tests, of his blood, breath, or urine, whichever he may elect, for the purpose of determining the alcoholic content of his blood. The test or tests shall be administered at the direction of a police officer who, having arrested such person for a violation of law, has reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within the District while under the influence of intoxicating liquor.

SEC. 703. Only a physician or registered nurse acting at the request of a police officer may withdraw blood for the purpose of determining the alcoholic content thereof. This limitation shall not apply to the taking of a breath or urine specimen. The person tested may, in addition to submitting to the test administered at the direction of a police officer, also submit to a chemical test or tests administered to him by a physician, registered nurse, or other person of his own choosing who is qualified to administer such test or tests. The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of a police officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the police officer shall be made available to him.

SEC. 704. Any person who is unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by section 702 of this title and the test or tests may be given; except, that if such person thereafter objects to the use of the evidence so secured, such evidence shall not be used and the license of such person shall be revoked, or, if he is a resident without a license, no license shall be issued to him for a period of six months.

SEC. 705. If a person under arrest refuses to submit to chemical testing, he shall be informed that failure to submit to such test will result in the revocation of his license. If such person, after having been so informed, still refuses to submit to chemical testing, no test shall be given, but the Commissioner, upon receipt of a sworn report of the police officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, and that the person had refused to submit to the test or tests, shall revoke his license for a period of six months; or if the person is a resident without a license to operate a motor vehicle in the District, the Commissioner shall deny to the person the issuance of a license for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

SEC. 706. (a) Whenever any license has been revoked or denied under the provisions of this title, the reasons therefor shall be set forth in the order of revocation or denial, as the case may be. Such order shall take effect five days after service of notice on the person whose license is to be revoked or who is to be denied a license, unless such person shall have filed within such period written application with the Commissioner for a hearing. Such hearing by the Commissioner shall cover the issues of—

(1) whether a police officer had reasonable grounds to believe such person had been driving or was in actual control of a motor vehicle upon the public street or highway while under the influence of intoxicating liquor; and

(2) whether such person, having been placed under arrest, refused to submit to the test or tests, after having been informed of the consequences of such refusal.

(b) If, following the hearing provided in subsection (a) of this section, the Commissioner shall sustain the order of revocation, the same shall become effective immediately.

SEC. 707. Any person aggrieved by final order of the Commissioner revoking his license or denying him a license under the authority of this Act, may obtain a review thereof in accordance with section 11 of the District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510).

SEC. 708. The Act approved March 4, 1958 (72 Stat. 30; D.C. Code, sec. 40–609a) is amended (a) by striking out the subsection designation "a" in the first section; (b) by striking out in paragraph (2) "fifteen one-hundredths", "eight one-hundredths", and "twenty one-hundredths", and inserting in lieu thereof "ten one-hundredths", "six one-hundredths", and "eleven one-hundredths", respectively; (c) by striking out in paragraph (3) "fifteen one-hundredths" and "twenty one-hundredths" and inserting in lieu thereof "ten one-hundredths" and "eleven one-hundredths", respectively; and (d) by striking out subsections (b), (c), and (d) of the first section and section 2.

TITLE VIII.—PUBLIC DEFENDER SERVICE

SEC. 801. The Legal Aid Agency for the District of Columbia is redesignated the District of Columbia Public Defender Service (hereinafter called the Service).

SEC. 802. (a) The Service is authorized to represent persons in the District of Columbia who are 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 (Hospitalizaton of the Mentally Ill);

(4) persons for whom civil commitment is sought pursuant to title III of the Narcotic Addict Rehabilitation Act of 1966, 80 Stat. 1444 (43 U.S.C. sec. 3411, et seq.) or the provisions of the Hospital Treatment for Drug Addicts Act for the District of Columbia (67 Stat. 77), as amended (D.C. Code, sec. 24–601, et seq.):

(5) juvenile alleged to be delinquent or in need of supervision.

Such representation shall be furnished at every stage of a proceeding—including ancillary, trial, appellate, and collateral proceedings—where the person to be represented has a right to counsel under the then prevailing law of the District of Columbia, and where representation for such person is not otherwise provided. Not more than sixty percent of the persons annually determined to be financially unable to obtain adequate representation in 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 is authorized to cooperate with the courts in establishing an effective and adequate system for appointment of private attorneys to represent persons specified in subsection (a), but the courts shall have final responsibility for the appointment

system. 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.

SEC. 803. (a) The Service shall be governed by 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) Each trustee shall be appointed for a full term of three years or for the balance of an unexpired term, by a panel consisting of the 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, and the Superior Court of the District of Columbia, and of the Commissioner of the District of Columbia. Said panel shall be presided over by the Commissioner of the District of Columbia.

No person shall serve more than two consecutive full three-year terms as a trustee. Each oppointee shall hold office, however, until his successor is appointed and qualifies.

(c) The trustees of the Legal Aid Agency for the District of Columbia in office on the effective date of this title shall serve the unexpired portions of their terms as trustees of the District of Columbia Public Defender Service.

(d) For the purposes of any action brought against the trustees of the Service, the trustees are employees of the District of Columbia.

SEC. 804. 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 peform such other duties as the Board of Trustees may prescribe. The Deputy Director shall assist the Director and shall perform 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, without regard to chapter 51 and subchapter 3 of chapter 53 of title 5, United States Code, but compensation for the Director shall not exceed the maximum rate provided for GS–18 and for the Deputy Director the maximum rate provided for GS–17, in section 5332 of title 5, United States Code.

SEC. 805. The Director shall employ a staff of atttorneys, 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, without regard to chapter 51 and subchapter 3 of chapter 53 of title 5 of the United States Code, 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.

SEC. 806. No attorney employed by the Service shall engage in the private practice of law or receive a fee for representing any person.

SEC. 807. (a) The Board of Trustees of the Service 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.

SEC. 808. For the purpose of carrying out the provisions of this chapter, there is authorized to be appropriated to the District of Columbia 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 chapter. Upon the approval of its Board of Trustees, moreover, the District of Columbia Public Defender Service is authorized to accept public grants and private contributions in the furtherance of its lawful objectives and purposes.

SEC. 809. All employees of the Legal Aid Agency for the District of Columbia on the effective date of this title 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.

SEC. 810. The Act of June 27, 1960 (74 Stat. 229) (D.C. Code, sec. 2–2201 to 2–2210), is hereby repealed.

TITLE IX.—DEPARTMENT OF CORRECTIONAL SERVICES

SEC. 901. This title shall supplement all other provisions of law establishing procedures to be observed by the Commissioner of the District of Columbia in the application of laws administered by him except that this title shall supersede any such law and procedure to the extent of conflict therewith.

SEC. 902. For the purpose of this title—

(1) The term "correctional process" includes all services for offenders after arrest, if detained, and after court adjudication, namely probation, institutional, and residential care and after-care (parole) supervision.

(2) The term "wards" is defined as all persons committed by the courts, whether adult or juvenile, to the Department of Correctional Services.

SEC. 903. The purpose of this title is to establish a comprehensive correctional service in the District of Columbia designed to reduce crime by means of:

(1) The continuity and centralization of responsibility for the custody and supervision, control, training, and treatment of persons detained or committed by the Superior Court of the District of Columbia to the Department of Correctional Services, including those persons heretofore sentenced by the United States District Court and designated by the Attorney General for service of their sentences in the institutions and programs of the District of Columbia.

(2) The overall improvement of agencies which have direct responsibility and concern for stemming the increase in criminal activity in the District of Columbia.

(3) Provision for a variable mix of institutional and community-based programs, based on individual case differences and needs, which will greatly reduce the rate of incidence of especially juveniles and young adults in further criminal activity.

(4) The establishment of coordinated but separate probation and parole services for juvenile and adult cases.

SEC. 904. There is hereby created under the Commissioner in the government of the District of Columbia a Department of Correctional Services. The Department of Correctional Services shall perform all functions relating to the custody and supervision, control, training, and treatment of persons tried for a criminal offense against, or found to be delinquent or in need of supervision under, the laws of the United States applicable exclusively in the District of Columbia, including but not limited to all persons detained for trial or hearing, those coming under the jurisdiction of the Bail Reform Act, all persons sentenced by the Superior Court of the District of Columbia to a term of imprisonment, and all juveniles detained or committed pursuant to an adjudication of delinquency or need of supervision.

SEC. 905. The Department of Correctional Services shall include under a single executive all functions heretofore allocated by statute or administrative practice to the following:

(1) The District of Columbia Department of Corrections.

(2) The District of Columbia Board of Parole.

(3) The Court of General Sessions' Probation Department.

(4) The District of Columbia Bail Agency.

(5) The Juvenile Court Probation Department.

(6) Those institutions for juveniles including the Receiving Home, Maple Glen, Cedar Knoll, and the new security unit at Laurel heretofore under the responsibility of the Department of Public Welfare. It shall not include functions relating to juveniles under court wardship for neglect, dependence, mental health, or other conditions not associated with misconduct.

SEC. 906. (a) The Director of the Department of Correctional Services shall be appointed by and serve at the pleasure of the Commissioner.

(b) The Department of Correctional Services shall be organized by the Director with primary concern for the efficient and effective delivery of its services. To the extent deemed necessary, it may contract for services from other agencies in the District of Columbia government, other jurisdictions, and private organizations.

(c) The Department shall be organized to assure the separation of the immature person or juvenile from other offenders in the correctional process. In exercising this provision, the Department may generally be guided by the chronological age of the ward with exercise of broad discretion based on clinical assessment of the individual and consideration of public safety. This subsection shall be construed to be consistent with subchapter I of chapter 23 of title 16, District of Columbia Code.

(d) The Department of Correctional Services shall include a research, evaluation, and automatic data processing function that will produce a scientific and precise measurement of the cost effectiveness of all aspects of the correctional process. This function shall include:

(1) an annual detailed report to the Congress, the Commissioner, courts, and the community, elaborating on all measurable phases of the program;

(2) a continuous exploration and implementation of successful correctional program elements in existence throughout the country;

(3) a continuous evaluation of all treatment and training programs including recommendations for modification, expansion, or deletion of existing program elements;

(4) an expanded research operation that will engage the cooperation of colleges and universities in the development of correctional research projects;

(5) management organization, staff development, and administrative procedures capable of effective and timely response to new knowledge, new technology, and changing social and economic conditions.

(e) All employees of the Department of Correctional Services shall be subject to the general personnel system and regulations applying to the Metropolitan Police Department and other agencies of the District gov-

ernment providing that no employee currently employed by the Department shall receive compensation, retirement, sick leave, vacation, and seniority benefits less than those received at the time of inclusion into the Civil Service System of the District and the effective date of this title.

(f) The Department shall establish a Board of Review and Appeals whose functions shall include, but need not be limited to—

(1) review and approval of the location and modes of treatment and control of wards in the system;

(2) review upon appeal by wards from administrative actions of the Department;

(3) petitions to the court for sentence modification;

(4) discharge of sentence or commitment within indeterminate sentence limits prescribed by court.

SEC. 907. There is hereby established a Joint Commission on Corrections for the District of Columbia. The Commission's purpose shall be to oversee and assess the effectiveness of the newly created Department of Correctional Services in the Nation's Capitol.

The Commission shall consist of twelve members, to be appointed in the following manner:

(1) Two members shall be appointed by the President of the United States representing a broad knowledge in modern correctional practices.

(2) Two members shall be appointed by the President pro tempore of the Senate from the active membership of that body.

(3) Two members shall be appointed by the Speaker of the House of Representatives from the active membership of that body.

(4) Two members shall be appointed by the chief judge of the Superior Court of the District of Columbia from the active judicial members of that body.

(5) Two members shall be appointed by the Commissioner of the District of Columbia representing the citizenry of the District of Columbia.

(6) Two members shall be appointed by the Chairman of the District of Columbia Council from the active members of that body.

The Commission members shall elect a Chairman and a Vice Chairman.

The Commission shall expire five years following the effective date of this title. Each member shall be appointed for the duration of the Commission. Replacement of members shall be made by the original appointing authority.

TITLE X.—CRIMINAL INJURIES COMPENSATION

DEFINITIONS

SEC. 1001. As used in this title—

(1) the term "child" means an unmarried person who is under eighteen years of age and includes a stepchild, an adopted child;

(2) the term "Commission" means the District of Columbia Violent Crimes Compensation Commission established by this title;

(3) the term "dependents" means those who were wholly or partially dependent upon his income at the time of his death or would have been so dependent but for the incapacity due to the injury from which the death resulted and shall include the child of such victim born after his death;

(4) the term "personal injury" means actual bodily harm and includes pregnancy and mental or nervous shock;

(5) the term "relative" means the spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, or half sister of the victim; and

(6) the term "victim" means a person who is injured or killed by any act or omission of any other person which is within the description of any of the offenses specified in section 1011 of this title.

VIOLENT CRIMES COMPENSATION COMMISSION

SEC. 1002. (a) There is established a District of Columbia Violent Crimes Compensation Commission which shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. The President shall designate one of the members of the Commission who has been a member of the bar of a Federal court or of the highest court of a State for at least eight years as Chairman.

(b) No member of the Commission shall engage in any other business, vocation, or employment.

(c) The Chairman and one other member of the Commission shall constitute a quorum, except as provided in section 1006(b); and where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

(d) The Commission shall have an official seal.

TERMS AND COMPENSATION OF MEMBERS

SEC. 1003. (a) The term of office of each member of the Commission taking office after the effective date of this title shall be eight years, except that (1) the terms of office of the members first taking office shall expire as designated by the President at the time of the appointment, one at the end of four years, one at the end of six years, and one at the end of eight years; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the terms for which his predecessor was appointed shall be appointed for the remainder of such term.

(b) Each member of the Commission shall be eligible for reappointment.

(c) A vacancy in the Commission shall not affect its powers.

(d) Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(e) Each member of the Commission shall be compensated at the rate prescribed for level IV under subsection 5315 of title 5, United States Code, except the Chairman who shall be compensated at the rate prescribed for level III under section 5314 of such title.

ATTORNEYS, EXAMINERS, AND EMPLOYEES OF THE COMMISSION; EXPENSES

SEC. 1004. (a) The Commission is authorized to appoint and fix the compensation of such officers, attorneys, examiners, experts, and other employees as may be necessary for carrying out its functions under this title.

(b) All expenses of the Commission, including all necessary traveling and subsistence expenses of the Commission incurred by the members or employees of the Commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission or by any individual it designates for that purpose.

PRINCIPAL OFFICE

SEC. 1005. The principal office of the Commission shall be in the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place.

POWERS AND PROCEDURES OF THE COMMISSION

SEC. 1006. (a) Upon request made to the Commission after the filing of an application under the provisions of this title, the Commission or its duly authorized representative shall have a hearing on such application, shall fix a time and place for such hearing, and shall cause notice thereof to be given to the applicant.

(b) For the purpose of carrying out the provisions of this title, the Commission, or any member thereof, or its duly authorized representative, may hold such hearings, sit and act at such times and places, and take such testimony as the Commission or such member may deem advisable. Any member or representative of the Commission may administer oaths, or affirmations to witnesses appearing before the Commission or before such member. The Commission shall have such powers of subpena and compulsion of attendance and production of documents as are conferred upon the Securities and Exchange Commission by subsection (c) of section 18 of the Act of August 26, 1935, and the provisions of subsection (d) of such section shall be applicable to all persons summoned by subpena or otherwise to attend or testify or produce such documents as are described therein before the Commission, except that no subpena shall be issued except under the signature of the Chairman, and application to any court for aid in enforcing such subpena may be made only by said Chairman. Subpenas shall be served by any person designated by the said Chairman.

(c) In any case in which the person entitled to make an application is a child, the application may be made on his behalf by any person acting as his parent or guardian. In any case in which the person entitled to make an application is mentally defective, the application may be made on his behalf by his guardian or such other individual authorized to administer his estate.

(d) Where any application is made to the Commission under this title, the applicant, and any attorney assisting the Commission, shall be entitled to appear and be heard.

(e) Any other person may appear and be heard who satisfies the Commission that he has a substantial interest in the proceedings.

(f) Where under this title any person is entitled to appear and be heard by the Commission, that person may appear in person or by his attorney.

(g) Every person appearing under the preceding subsections of this section shall have the right to produce evidence and to cross-examine witnesses.

(h) The Commission or its duly authorized representative may receive in evidence any statement, document, information, or matter that may in the opinion of the Commission contribute to its functions under this title, whether or not such statement, document, information, or matter would be admissible in a court of law, except that any evidence introduced by or on behalf of the person or persons charged with causing the injury or death of the victim, any request for a stay of the Commission's action, and the fact of any award granted by the Commission shall not be admissible against such person or persons in any prosecution for such injury or death.

(i) If any person has been convicted of any offense with respect to an act or omission on which a claim under this title is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing or certiorari in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed.

(j) Except as otherwise provided in this title, the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code shall apply to the proceedings of the Commission.

ATTORNEY'S FEES

SEC. 1007. (a) The Commission shall publish regulations providing that an attorney shall, at the conclusion of proceedings under this title, file with the agency a statement of the amount of fee charged in connection with his services rendered in such proceedings.

(b) After the fee information is filed by an attorney under (a) above, the Commission may determine, in accordance with such published rules or regulations as it may provide, that such fee charged is excessive. If,

after notice to the attorney of this determination, the Commission and the attorney fail to agree upon a fee, the Commission may, within ninety days after the receipt of the information required by (a) above, petition the United States district court in the district in which the attorney maintains an office, and the court shall determine a reasonable fee for the services rendered by the attorney.

(c) Any attorney who charges, demands, receives, or collects for services rendered in connection with any proceedings under this title any amount in excess of that allowed under this section, if any compensation is paid, shall be fined not more than $2,000 or imprisoned not more than one year, or both.

FINALITY OF DECISION

SEC. 1008. The orders and decisions of the Commission shall be reviewable on appeal, except that no trial de novo of the facts determined by the Commission shall be allowed.

REGULATIONS

SEC. 1009. In the performance of its functions, the Commission is authorized to make, promulgate, issue, rescind, and amend rules and regulations prescribing the procedures to be followed in the filing of applications and the proceedings under this title, and such other matters as the Commission deems appropriate.

AWARDING COMPENSATION

SEC. 1010. (a) In any case in which a person is injured or killed by any act or omission of any other person which is within the description of the offenses listed in section 302 of this title, or in which a person is injured or killed while trying to prevent a crime or an attempted crime from occurring in his presence or while trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony, the Commission may, in its discretion, upon an application, order the payment of compensation in accordance with the provisions of this title, if such act or omission occurs within the District of Columbia.

(b) The Commission may order the payment of compensation—

(1) to or on behalf of the injured person; or

(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person; or

(3) in the case of the death of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any one or more of such dependents.

(c) For the purposes of this title, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

(d) In determining whether to make an order under this section, or the amount of any award, the Commission may consider any circumstances it determines to be relevant, including the behavior of the victim which directly or indirectly contributed to his injury or death, unless such injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender.

(e) No order may be made under this section unless the Commission, supported by substantial evidence, finds that—

(1) such an act or omission did occur; and

(2) the injury or death resulted from such act or omission.

(f) Notwithstanding any other provision of this title, in any case in which a person making an application under this title indicates that he has sustained an economic hardship by reason of the injury or death with respect to which such application is made and as a result thereof is in need of immediate financial assistance, any Commissioner, if he determines that such need exists and that there is a substantial likelihood that an award will be made pursuant to such application, may order the immediate payment of an emergency award to the applicant pending final action on the claim. Any such emergency award shall not exceed $100 and shall be deducted from any final award made to the applicant. In the event that the amount of such emergency award exceeds the amount of the final award, the applicant shall repay an amount to the Commission equal to the amount of such excess. If the application is subsequently disapproved, the applicant shall repay an amount to the Commission equal to the amount of the emergency award.

(g) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act or omission, or if such act or omission is the subject of any other legal action. Upon application from the United States Attorney or Corporation Counsel for the District of Columbia or from the person or persons alleged to have caused the injury or death, the Commission shall suspend proceedings under this title until such application is withdrawn or until a prosecution for an offense arising out of such act or omission is no longer pending or imminent. The Commission may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

(h) (1) In any case involving the injury or death of a person with respect to whom such order is issued and who at the time of such injury or death was a resident of the District of Columbia, the Commissioner of the District of Columbia shall pay, upon certification by the Commission (or, in any case involving an emergency award under subsection (f) of section 301, by the Commissioner authorizing such award), to the person named in such order the amount specified therein. Such payment shall be made out of funds of the District of Columbia.

(2) In any case involving the injury or death of a person with respect to whom such order is issued and who at the time of such injury or death was a nonresident of the District of Columbia, the Commissioner of the District of Columbia, upon receiving certification by the Commission (or, in any case involving an emergency award under subsection (f) of section 301, by the Commissioner authorizing such award), shall transmit said certification to the Comptroller General of the United States, who shall make payment, in the amount specified in the order, to the Commissioner of the District of Columbia out of funds in the United States Treasury not otherwise appropriated; and the Commissioner of the District of Columbia shall make payment to the person named in the aforesaid order by transferring to him the amount paid pursuant to the order by the Comptroller General of the United States.

OFFENSES TO WHICH THIS TITLE APPLIES

SEC. 1011. The Commission may order the payment of compensation in accordance with the provisions of this title for personal injury or death which resulted from the following offenses:

(1) arson (D.C. Code, sec. 22–401);

(2) assault (D.C. Code, secs. 22–503, 22–504);

(3) assault with intent to kill, rob, or rape, and attempt to poison (D.C. Code, sec. 22–501);

(4) assault with intent to commit mayhem or with dangerous weapon (D.C. Code, sec. 22–502);

(5) indecent act with children (D.C. Code, sec. 22–3501);

(6) kidnaping (D.C. Code, sec. 22–2101);

(7) lewd, indecent, or obscene acts (D.C. Code, sec. 22–1112);

(8) manslaughter (D.C. Code, sec. 22–2405);

(9) murder (D.C. Code, secs. 22–2401, 22–2402, 22–2403);

(10) negligent homicide (D.C. Code, sec. 40–606);

(11) rape (D.C. Code, sec. 22–2801);

(12) robbery (D.C. Code, sec. 22–2901);

(13) unauthorized use of vehicles (D.C. Code, sec. 22–2204);

(14) or other crimes involving force to the person.

NATURE OF THE COMPENSATION

SEC. 1012. The Commission may order the payment of compensation under this title for—

(a) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) loss of earning power as a result of total or partial incapacity of such victim;

(c) pecuniary loss to the dependents of the deceased victim; and

(d) any other pecuniary loss resulting from the personal injury or death of the victim which the Commission determines to be reasonable.

LIMITATIONS UPON AWARDING COMPENSATION

SEC. 1013. (a) No order for the payment of compensation shall be made under section 301 of this title unless the application has been made within one year after the date of the personal injury or death and unless police records show that the crime resulting in such injury or death was promptly reported to the proper authorities, but in no case shall an award be made where the police records show that such report was made more than forty-eight hours after the occurrence of such crime unless the Commission, for good cause shown, finds the delay to have been justified. The Commission, upon finding that any claimant or award recipient has not fully cooperated with all law enforcement agencies, may deny or withdraw any award, as the case may be.

(b) No compensation shall be awarded under this title to or on behalf of any victim in an amount in excess of $25,000.

(c) No compensation shall be awarded if the victim was at the time of his or her personal injury or death living with the offender as his wife or her husband and the Commission, in its discretion, determines that unjust enrichment to or on behalf of the offender would result.

TERMS OF THE ORDER

SEC. 1014. (a) Except as otherwise provided in this section, any order for the payment of compensation under this title may be made on such terms as the Commission deems appropriate.

(b) The Commission shall deduct from any payments awarded under section 301 of this title any payments received by the victim or by any of his dependents from the offender or from any person on behalf of the offender, or from the United States (except those received under this title), a State or any of its subdivisions, or from any medical or hospital insurance payments, for or on account of personal injury or death compensable under this title, but only to the extent that the sum of such payments and any award under this title are in excess of the total compensable injuries suffered by the victim as determined by the Commission.

(c) The Commission may at any time, on its own motion or on the application of the United States Attorney or Corporation Counsel for the District of Columbia, or of the victim or his dependents, or of the offender,

vary any order for the payment of compensation made under this title in such manner as the Commissioner thinks fit, whether as to terms of the order or by increasing or decreasing the amount of the award or otherwise.

RECOVERY FROM OFFENDER

SEC. 1015. (a) Whenever any person is convicted of an offense and an order for the payment of compensation is or has been made under this title for a personal injury or death resulting from the act or omission constituting such offense, the Commission may institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action.

(b) Process of the district court for any judicial district in any action under this section may be served in any other judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

(c) An order for the payment of compensation under this title shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

REPORTS TO THE CONGRESS

SEC. 1016. The Commission shall transmit to the President and to the Congress annually a report of its activities under this title including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded.

PENALTIES

SEC. 1017. The provisions of section 1001 of title 18 of the United States Code shall apply to any application, statement, document, or information presented to the Commission under this title.

APPROPRIATIONS

SEC. 1018. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE XI.—MISCELLANEOUS

SEC. 1101. Section 292 of title 28, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

"(c) The chief judge of the United States Court of Appeals for the District of Columbia Circuit may, upon presentation of a certificate of necessity by the chief judge of the Superior Court of the District of Columbia, designate and assign temporarily any district judge of the circuit to act as a judge of said Superior Court".

SEC. 1102. The second sentence of section 4 of the Act of June 25, 1910 (36 Stat. 865, ch. 433; D.C. Code, sec. 24–104), is amended by substituting ", and enter an appropriate verdict, impose a sentence," for the phrase "and impose a sentence".

POLICE MUTUAL AID

SEC. 1103. Section 1 of the Act of October 17, 1968 (82 Stat. 1150; D.C. Code, sec. 1–820), is amended by striking out all after the word "equipment" and inserting a period in lieu thereof.

CRIME INSURANCE

SEC. 1104. Subdivision (2) of section 1203, in title XII (the District of Columbia Insurance Placement Act), of the Act of August 1, 1968 (82 Stat. 568; D.C. Code, sec. 35–1702 (2)), is amended to read as follows:

"(2) The term 'basic property insurance' means (1) insurance against direct loss to property caused by perils as defined and limited in the standard fire policy and extended coverage endorsement thereon, as approved by the Commissioner, (2) insurance against the perils of vandalism, malicious mischief, burglary, theft, and robbery, and (3) such other insurance as the Commissioner may designate from those lines of property insurance for which reinsurance is available for losses under part B of title XII of the National Housing Act. Designation by the Commissioner of such lines of insurance shall be made pursuant to the procedures in section 1205 of this title: *Provided*, That the failure of the Secretary of the Department of Housing and Urban Development to require such other insurance under section 1203(a)(2) of the Housing and Urban Development Act of 1968 shall in no way limit the Commissioner's power to so designate.".

HEALTH REGULATIONS AUTHORIZATION

SEC. 1105. (a) The Commissioner of the District of Columbia is authorized to promulgate regulations, to be executed and enforced by the Department of Human Resources of the District of Columbia, requiring periodic chemical analysis of the urine of any person in the District of Columbia in the custody, whether partial or complete, of the District of Columbia (including but not limited to any person in a detention or correctional or treatment facility of the District of Columbia, under the supervision of any court or probation office or of the Parole Board or Bail Agency of the District of Columbia, or receiving instruction in any public school of the District of Columbia), to assist in determining whether such person is a drug user (as defined in section 3 of the Act of June 24, 1953, the Hospital Treatment for Drug Addicts Act for the District of Columbia (67 Stat. 77, ch. 149; D.C. Code, sec. 24–602), as amended) and to assist in the treatment of any such drug user: *Provided*, That neither the performance of chemical analysis pursuant to a regulation promulgated under this section, nor any result of such analysis, may be used as evidence or otherwise in connection with any criminal proceeding.

(b) This section shall not be construed to limit any power of the Commissioner or of the Director of Public Health exercisable prior to this enactment; nor shall this section be construed to affect the power of the District of Columbia Council to promulgate rules and regulations not inconsistent herewith.

ANNUAL ADDITIONAL FEDERAL PAYMENT

SEC. 1106. Section 1 of article VI of the Act of July 16, 1947, the District of Columbia Revenue Act of 1947 (61 Stat. 361, ch. 258; D.C. Code, sec. 47–2501a), as amended, is amended by inserting, immediately before the period at the end thereof, the following: ", along with not to exceed $48,854,000, also to be credited to the general fund of the District of Columbia, which annual additional payment (not to exceed $48,854,000) shall be used for the purposes of the District of Columbia Court Reorganization Act of 1970, to assist the District of Columbia government with programs designed to increase the effectiveness of law enforcement and to reduce the incidence of criminal conduct in the District of Columbia, and to assist the District of Columbia government with study, prevention, and treatment programs relating to the use of drugs (defined consistent with the definition of 'drug user' in section 3 of the Act of June 24, 1953, the Hospital Treatment for Drug Addicts for the District of Columbia (67 Stat. 77, ch. 149; D.C. Code, sec. 24–602), as amended) in the District of Columbia".

COMMISSION ON CRIMINAL LAW REVISION

SEC. 1107. Section 1008 in title X of the Act of December 27, 1967 (81 Stat. 742), is amended by substituting "on or before May 1, 1972," for the phrase "within two years after the date of this enactment", and by substituting "on or before May 1, 1973" for the phrase "within three years after the date of enactment".

REPEAL OF KITE-FLYING PROHIBITION

SEC. 1108. Section 4 of the Act of July 29, 1892 (27 Stat. 322, ch. 320; D.C. Code, sec. 22–1117), is hereby amended by striking the phrase "set up or fly any kite, or".

TITLE XII.—CONFORMING AMENDMENTS

CHANGE OF COURTS

SEC. 1201. The words "Superior Court of the District of Columbia" and "Superior Court" are substituted for "District of Columbia Court of General Sessions" and "Court of General Sessions", respectively, in the following provisions of law:

Section 2 of the Act of March 3, 1887 (24 Stat. 580, as amended; D.C. Code, sec. 1–229);

Section 4 of the Act of March 3, 1931 (46 Stat. 1486, as amended; D.C. Code, sec. 1–233);

Section 567 of the Act of March 3, 1901 (31 Stat. 1279, as amended; D.C. Code, sec. 1–509);

Section 572 of the Act of March 3, 1901 (31 Stat. 1280, as amended; D.C. Code, sec. 1–515);

Section 4 (3 Leg. Assem., ch. 25 (June 25, 1873), as amended; D.C. Code, sec. 1–704);

Section 13 of the Act of June 25, 1936 (49 Stat. 1917, as amended; D.C. Code, sec. 1–714);

Section 2 of the Act of April 26, 1904 (33 Stat. 307, as amended; D.C. Code, sec. 1–720);

Section 7 of the Act of August 12, 1955 (69 Stat. 700, as amended; D.C. Code, sec. 1–1107);

Section 9 of the Act of August 12, 1955 (69 Stat. 702, as amended; D.C. Code, sec. 1–1109);

Section 9 of the Act of April 29, 1902 (32 Stat. 175, as amended; D.C. Code, sec. 2–209);

Section 5 of the Act of July 2, 1940 (54 Stat. 717, as amended; D.C. Code, sec. 2–305);

Section 8 of the Act of September 6, 1960 (74 Stat. 803, as amended; D.C. Code, sec. 2–427);

Section 18 of the Act of September 6, 1960 (74 Stat. 807, as amended; D.C. Code, sec. 2–437);

Section 18 of the Act of September 22, 1961 (75 Stat. 582, as amended; D.C. Code, sec. 2–467);

Section 4 of the Act of June 29, 1940 (54 Stat. 697, as amended; D.C. Code, sec. 2–704);

Section 17 of the Act of September 16, 1966 (80 Stat. 792; D.C. Code, sec. 2–926);

Section 15 of the Act of December 20, 1944 (58 Stat. 826, as amended; D.C. Code, sec. 2–1224);

Section 8 of the Act of June 18, 1898 (30 Stat. 477, as amended; D.C. Code, sec. 2, 1408);

Section 6 of the Act of February 28, 1887 (24 Stat. 427, as amended; D.C. Code, sec. 2–1506);

Section 15 of the Act of September 19, 1950 (64 Stat. 886, as amended; D.C. Code, sec. 2-1815);

Section 401 of the Act of June 29, 1953 (67 Stat. 101, as amended; D.C. Code, sec. 2–1901);

Section 7 of the Act of August 6, 1956 (70 Stat. 1039, as amended; D.C. Code, sec. 2–2007);

Section 13 of the Act of October 15, 1962 (76 Stat. 917, as amended; D.C. Code, sec. 3–212);

Section 12(m) of the Act of September 1, 1916 (as added 71 Stat. 397, and amended; D.C. Code, sec. 4–533);

Section 8 of the Act of June 1, 1910 (36 Stat. 454, as amended; D.C. Code, sec. 5–408);

Section 10 of the Act of June 20, 1938 (52 Stat. 800, as amended; D.C. Code, sec. 5–422);

Section 4 of the Act of March 1, 1899 (30 Stat. 923, as amended; D.C. Code, sec. 5–504);

Section 16 of the Act of May 1, 1906 (34 Stat. 161, as amended; D.C. Code, sec. 5–631);

Act of August 7, 1894 (28 Stat. 257, as amended; D.C. Code, sec. 6–113);

Section 4 of the Act of August 11, 1939 (as added 60 Stat. 919, and amended; D.C. Code. sec. 6–119b);

Section 5 of the Act of August 11, 1939 (as added 60 Stat. 920, and amended; D.C. Code, sec. 6–119c);

Section 7 of the Act of August 11, 1939 (as added 60 Stat. 921, and amended; D.C. Code, sec. 6–119e);

Section 10 of the Act of August 11, 1939 (as added 60 Stat. 922, and amended; D.C. Code, sec. 6–119h);

Section 4 of the Act of March 1, 1907 (34 Stat. 1011, as amended; D.C. Code, sec. 6–304);

Section 3 of the Act of May 19, 1896 (29 Stat. 126, as amended; D.C. Code, sec. 6–403);

Section 5 of the Act of July 3, 1926 (44 Stat. 839, as amended; D.C. Code, sec. 6–605);

Section 3 of the Act of March 1, 1899 (30 Stat. 959, as amended; D.C. Code, sec. 6–903);

Section 15 of the Act of August 20, 1912 (as added 41 Stat. 726, and amended; D.C. Code, sec. 6–904);

Section 10 of the Act of December 26, 1941 (55 Stat. 860, as amended; D.C. Code, sec. 6–1010);

Section 4 of the Act of July 27, 1951 (65 Stat. 124, as amended; D.C. Code, sec. 6–1304);

Section 8 of the Act of June 18, 1898 (30 Stat. 477, as amended; D.C. Code, sec. 7–616);

Section 306 of the Act of October 17, 1968 (82 Stat. 1160; D.C. Code, sec. 7–912);

Section 309 of the Act of October 17, 1968 (82 Stat. 1161; D.C. Code, sec. 7–915);

Section 7 of the Act of March 4, 1913 (37 Stat. 974, as amended; D.C. Code, sec. 7–1001);

Section 4 of the Act of July 8, 1898 (30 Stat. 725, as amended; D.C. Code, sec. 7–1104);

Section 8 of the Act of July 31, 1946 (60 Stat. 719, as amended; D.C. Code, sec. 9–125);

Section 14 of the Act of July 31, 1946 (60 Stat. 720, as amended; D.C. Code, sec. 9–131);

Section 32 of the Act of March 3, 1921 (41 Stat. 1225, as amended; D.C. Code, sec. 10–134);

The second paragraph of so much of section 1 of the Act of July 1, 1902, as relates to general expenses for the Executive Office (32 Stat. 591, as amended; D.C. Code, sec. 22–702);

Section 2 of the Act of February 15, 1938 (52 Stat. 30, as amended; D.C. Code, sec. 22–1116);

Act of June 8, 1906 (34 Stat. 220, as amended; D.C. Code, sec. 22–1119);

Act of March 21, 1892 (27 Stat. 10, as amended; D.C. Code, sec. 22–1208);

Section 842 of the Act of March 3, 1901 (31 Stat. 1326, as amended; D.C. Code, sec. 22–1301);

Section 860 of the Act of March 3, 1901 (31 Stat. 1330, as amended; D.C. Code, sec. 22–1304);

Act of March 2, 1897 (29 Stat. 619, as amended; D.C. Code, sec. 22–1305);

Section 2 of the Act of May 29, 1916 (39 Stat. 165, as amended; D.C. Code, sec. 22–1412);

Section 866 of the Act of March 3, 1901 (31 Stat. 1331, as amended; D.C. Code, sec. 22–1505);

Section 4 of the Act of December 17, 1941 (55 Stat. 810, as amended; D.C. Code, sec. 22–3305);

Section 5 of the Act of December 16, 1941 (55 Stat. 808, as amended; D.C. Code, sec. 22–3420);

Section 405 of the Act of June 29, 1953 (67 Stat. 105, as amended; D.C. Code, sec. 24–106);

Section 927 of the Act of March 3, 1901 (31 Stat. 1340, as amended; D.C. Code, sec. 24–301);

Section 6 of the Act of November 10, 1966 (80 Stat. 1519; D.C. Code, sec. 24–465);

Section 2 of the Act of August 4, 1967 (61 Stat. 744, as amended; D.C. Code, sec. 24–522);

Section 29 of the Act of January 24, 1934 (48 Stat. 334, as amended; D.C. Code, sec. 25–129);

Section 33 of the Act of January 24, 1934 (48 Stat. 336, as amended; D.C. Code, sec. 25–132);

Section 41 of the Act of January 24, 1934 (as added 67 Stat. 104, and amended; D.C. Code, sec. 25–139);

Section 685 of the Act of March 3, 1901 (31 Stat. 1298, as amended; D.C. Code, sec. 27–127);

District of Columbia Code, section 28–2305;

Section 708 of the Act of March 3, 1901 (31 Stat. 1301, as amended; D.C. Code, sec. 29–307);

Section 1288 of the Act of March 3, 1901 (31 Stat. 1392, as amended; D.C. Code, sec. 30–106);

Section 1290 of the Act of March 3, 1901 (31 Stat. 1392, as amended; D.C. Code, sec. 30–108);

Section 2 of the Act of March 3, 1925 (43 Stat. 1119, as amended; D.C. Code, sec. 40–602);

Section 6(i) of the Act of March 3, 1925 (43 Stat. 1221, as amended; D.C. Code, sec. 40–603(i));

Section 12 of the Act of July 11, 1919 (41 Stat. 104, as amended; D.C. Code, sec. 40–617);

Section 1 of the Act of January 15, 1942 (56 Stat. 5, as amended; D.C. Code, sec. 40–810);

Section 2 of the Act of January 15, 1942 (56 Stat. 6, as amended; D.C. Code, sec. 40–811);

Section 1 of the Act of April 5, 1939 (53 Stat. 569, as amended; D.C. Code, sec. 43–907);

Section 2 of the Act of May 26, 1900 (31 Stat. 218, as amended; D.C. Code, sec. 43–1302);

Section 17 of the Act of May 23, 1908 (35 Stat. 250, as amended; D.C. Code, sec. 44–203);

Section 710 of the Act of March 3, 1901 (31 Stat. 1302, as amended; D.C. Code, sec. 44–211);

Section 310 of the Act of March 2, 1962 (76 Stat. 14, as amended; D.C. Code, sec. 45–730);

Section 320 of the Act of March 2, 1962 (76 Stat. 16, as amended; D.C. Code, sec. 45–740);

Section 1235 of the Act of March 3, 1901 (31 Stat. 1384, as amended; D.C. Code, sec. 45–909);

Section 1226 of the Act of March 3, 1901 (31 Stat. 1382, as amended; D.C. Code, sec. 45–911);

Section 16 of the Act of August 25, 1937 (50 Stat. 707, as amended; D.C. Code, sec. 45–1416);

Section 10 of the Act of December 2, 1941 (55 Stat. 794, as amended; D.C. Code, sec. 45–1610);

Section 6, par. 18 of the Act of July 1, 1902 (32 Stat. 622, as amended; D.C. Code, sec. 47–1303);

Section 1, title I of the Act of August 17, 1937 (50 Stat. 673, as amended; D.C. Code, sec. 47–1401);

Section 5, title I of the Act of August 17, 1937 (50 Stat. 674, as amended; D.C. Code, sec. 47–1405);

Section 10, title I of the Act of August 17, 1937 (as added 52 Stat. 357 and amended; D.C. Code, sec. 47–1410);

Section 42, title II of the Act of July 1939 (53 Stat. 1105, as amended; D.C. Code, sec. 47–1542);

Section 3, article I, title XII of the Act of July 16, 1947 (61 Stat. 352, as amended; D.C. Code, sec. 47–1586b);

Section 13, article I, title XII of the Act of July 16, 1947 (61 Stat. 355, as amended; D.C. Code, sec. 47–1586l);

Section 6, article I, title XIII of the Act of July 16, 1947 (61 Stat. 357, as amended; D.C. Code, sec. 4–1589e);

Section 7, article I, XIV of the Act of July 16, 1947 (61 Stat. 358, as amended; D.C. Code, sec. 47–1591f);

Section 3, title II of the Act of August 17, 1937 (50 Stat. 675, as amended; D.C. Code, sec. 47–1803);

Section 15 of the Act of April 23, 1924 (43 Stat. 109, as amended; D.C. Code, sec. 47–1913);

Section 4, 6, and 7 of the Act of September 8, 1916 (39 Stat. 847, as amended; D.C. Code, secs. 47–2204, 47–2206, 47–2207);

Section 7, par. 9 of the Act of July 1, 1902 (32 Stat. 623, as amended; D.C. Code, sec. 47–2309);

Section 7, par. 47 of the Act of July 1, 1902 (32 Stat. 628, as amended; D.C. Code, sec. 47–2346);

Section 150 of the Act of May 27, 1949 (63 Stat. 124, as amended; D.C. Code, sec. 47–2627);

Section 611 of the Act of May 27, 1949 (63 Stat. 139, as amended; D.C. Code, sec. 47–2810);

Section 4 (3 Leg. Assem. ch. 46 (June 26, 1873), as amended; D.C. Code, sec. 47–2911);

Section 5 of the Act of July 3, 1926 (44 Stat. 810, as amended; D.C. Code, sec. 48–205);

Section 10 of the Act of July 3, 1926 (44 Stat. 811, as amended; D.C. Code, sec. 48–210);

Section 878e of the Act of March 3, 1901 (as added 34 Stat. 1007 and amended; D.C. Code, sec. 48–305); and wherever else they appear in the laws applicable exclusively to the District of Columbia.

SEC. 1202. The words "Superior Court of the District of Columbia" and "Superior Court" are substituted for "Municipal Court for the District of Columbia" and "Municipal Court", respectively, in the following provisions of law:

Section 302 of the Act of June 29, 1953 (67 Stat. 100; D.C. Code, sec. 4–134a);

Section 18 of the Act of July 8, 1932 (as added 66 Stat. 8; D.C. Code, sec. 22–3217);

Section 29 of the Act of July 26, 1939 (53 Stat. 1100, as amended; D.C. Code, sec. 47–1529);

Section 46(g) of the Act of July 26, 1939 (as added 56 Stat. 45 and amended; D.C. Code, sec. 47–1546(g));

Section 4, article I, title V of the Act of July 16, 1947 (61 Stat. 342; D.C. Code, sec. 47–1564c(e)); and wherever else they appear in the laws applicable exclusively to the District of Columbia.

SEC. 1203. The words "Superior Court of the District of Columbia" are substituted for "United States District Court for the District of Columbia", and "District Court of the United States for the District of Columbia" in the following provisions of law:

Section 12 of the Act of June 25, 1936 (49 Stat. 1917, as amended; D.C. Code, sec. 1–713);

Section 2 of the Act of August 3, 1968 (82 Stat. 628; D.C. Code, sec. 1–804b);

Section 41 of the Act of February 27, 1929 (45 Stat. 1338, as amended; D.C. Code, sec. 2–132);

Section 4 of the Act of July 2, 1940 (54 Stat. 716, as amended; D.C. Code, sec. 2–304);

Section 3 of the Act of June 29, 1940 (54 Stat. 597, as amended; D.C. Code, sec. 2–703);
Section 7 of the Act of May 7, 1906 (34 Stat. 177, as amended; D.C. Code, sec. 2–606);
Section 29 of the Act of December 13, 1924 (43 Stat. 717, as amended; D.C. Code, sec. 2–1029);
Section 8 of the Act of September 19, 1950 (64 Stat. 856; D.C. Code, sec. 2–1808);
Section 9(b) of the Act of September 19, 1950 (64 Stat. 862, as amended; D.C. Code, sec. 2–1809(b));
Section 13 of the Act of July 10, 1957 (71 Stat. 281; D.C. Code, sec. 2–2112);
Sections 11 and 12 of the Act of August 30, 1964 (78 Stat. 628; D.C. Code, sec. 2–2410, 2–2411);
Section 18 of the Act of October 15, 1962 (76 Stat. 918; D.C. Code, sec. 3–217);
Section 389 (R.S.D.C., as amended; D.C. Code, sec. 4–135);
Sections 1 and 3 of the Act of May 11, 1892 (27 Stat. 29, as amended; D.C. Code, secs. 4–601, 4–603);
Section 11 of the Act of March 19, 1906 (34 Stat. 72, as amended; D.C. Code, sec. 5–311);
Section 7 of the Act of December 24, 1942 (56 Stat. 1085, as amended; D.C. Code, sec. 5–323);
Section 8 of the Act of June 1, 1910 (36 Stat. 454, as amended; D.C. Code, sec. 5–408);
Section 11 of the Act of December 21, 1963 (77 Stat. 453, as amended; D.C. Code, sec. 5–911);
The fifth paragraph of so much of section 1 of the Act of March 3, 1905, as relates to Bridges (33 Stat. 893; D.C. Code, sec. 7–505);
Section 12 of the Act of February 12, 1901 (31 Stat. 773, as amended; D.C. Code, sec. 7–507);
The second paragraph of so much of section 1 of the Act of June 29, 1932, as relates to Bridges (47 Stat. 355, as amended; D.C. Code, sec. 7–514);
Section 1 of the Act of March 3, 1927 (44 Stat. 1351, as amended; D.C. Code, sec. 7–520);
The third paragraph of so much of section 1 of the Act of July 3, 1930, as relates to Bridges (46 Stat. 963, as amended; D.C. Code, sec. 7–523);
Section 11 of the Act of October 17, 1968 (82 Stat. 1168; D.C. Code, sec. 7–950);
Section 1 of the Act of March 3, 1927 (44 Stat. 1353, as amended; D.C. Code, sec. 7–1215(a));
Section 869b of the Act of March 3, 1901 (as added 35 Stat. 671, and amended; D.C. Code, sec. 22–1510);
Section 1 of the Act of December 15, 1941 (55 Stat. 800, as amended; D.C. Code, sec. 22–2603);
Section 5 of the Act of June 24, 1956 (67 Stat. 78, as amended; D.C. Code, sec. 24–605);
Section 345 of the Act of July 1, 1944 (as added 68 Stat. 80, and amended; D.C. Code, sec. 24–614);
Section 26 of the Act of January 24, 1934 (48 Stat. 333, as amended; D.C. Code, sec. 25–126);
Section 3 of the Act of October 27, 1949 (63 Stat. 938; D.C. Code, sec. 26–703);
Section 632 of the Act of March 3, 1901 (31 Stat. 1288, as amended; D.C. Code, sec. 29–228);
Section 586 of the Act of March 3, 1901 (31 Stat. 1282, as amended; D.C. Code, sec. 29–413);
Section 586f of the Act of March 3, 1901 (as added 45 Stat. 1505, and amended; D.C. Code, sec. 29–419);
Section 768 of the Act of March 3, 1901 (31 Stat. 1316, as amended; D.C. Code, sec. 29–701);
Section 782 of the Act of March 3, 1901 (31 Stat. 1318, as amended; D.C. Code, sec. 29–715);
Section 786 of the Act of March 3, 1901 (31 Stat. 1319, as amended; D.C. Code, sec. 29–719);
Section 793 of the Act of March 3, 1901 (31 Stat. 1320, as amended; D.C. Code, sec. 29–725);
Section 5 of the Act of May 4, 1896 (29 Stat. 113, as amended; D.C. Code, sec. 31–904);
Act of April 16, 1934 (48 Stat. 592, as amended; D.C. Code, sec. 35–295);
Section 13 of the Act of June 19, 1934 (48 Stat. 1133, as amended; D.C. Code, sec. 35–412);
Section 24 of the Act of June 19, 1934 (48 Stat. 1137, as amended; D.C. Code, sec. 35–423);
Section 15 of the Act of June 19, 1934 (48 Stat. 1147, as amended; D.C. Code, sec. 35–515);
Section 5, ch. II, of the Act of October 9, 1940 (54 Stat. 1067, as amended; D.C. Code, sec. 35–1308);
Section 5, title II of the Act of September 19, 1918 (as added 55 Stat. 738, and amended; D.C. Code, sec. 36–435);
Section 8 of the Act of March 4, 1913 (37 Stat. 995, as amended; D.C. Code, sec. 43–201);
Section 8, par. 35 of the Act of March 4, 1913 (37 Stat. 982, as amended; D.C. Code, sec. 43–405);
Section 8, par. 48 of the Act of March 4, 1913 (37 Stat. 984, as amended; D.C. Code, sec. 43–418);
Section 8, par. 64 of the Act of March 4, 1913 (37 Stat. 988, as amended; D.C. Code, sec. 43–704);
Section 7 of the Act of April 22, 1904 (33 Stat. 246, as amended; D.C. Code, sec. 43–1515);
Section 5 of the Act of August 2, 1894 (28 Stat. 218, as amended; D.C. Code, sec. 44–208);
Act of February 26, 1907, 34 Stat. 994 (as amended; D.C. Code, sec. 45–707);
Section 305 of the Act of March 2, 1962 (76 Stat. 12; D.C. Code, sec. 45–725);
Section 1225 of the Act of March 3, 1901 (31 Stat. 1382, as amended; D.C. Code, sec. 45–910);
Section 9 of the Act of August 25, 1937 (50 Stat. 794, as amended; D.C. Code, sec. 45–1409);
Section 11 of the Act of August 25, 1937 (50 Stat. 796, as amended; D.C. Code, sec. 45–1411);
Section 7 of the Act of December 2, 1941 (55 Stat. 792, as amended; D.C. Code, sec. 45–1607);
Section 10 of the Act of December 2, 1941 (55 Stat. 794, as amended; D.C. Code, sec. 45–1610);
Section 4(e) of the Act of August 28, 1935 (49 Stat. 948, as amended; D.C. Code, sec. 46–304(e));
Section 13(h) of the Act of August 28, 1935 (49 Stat. 953, as amended; D.C. Code, sec. 46–313(h));
Section 13 of the Act of August 14, 1894 (28 Stat. 285, as amended; D.C. Code, sec. 47–606);
Act of April 24, 1896 (29 Stat. 98, as amended; D.C. Code, sec. 47–721);
Section 1 of the Act of March 2, 1936 (49 Stat. 1153, as amended; D.C. Code, sec. 47–1011);
Section 5 of the Act of July 3, 1926 (44 Stat. 833, as amended; D.C. Code, sec. 47–1209);
Section 1, title I of the Act of August 17, 1937 (50 Stat. 673, as amended; D.C. Code, sec. 47–1401);
Section 6, title I of the Act of August 17, 1937 (50 Stat. 674, as amended; D.C. Code, sec. 47–1406);
Section 29, title II of the Act of July 26, 1939 (53 Stat. 1100, as amended; D.C. Code, sec. 47–1529);
Section 3, article I, title XII of the Act of July 16, 1947 (61 Stat. 352, as amended; D.C. Code, sec. 47–1586b);
Section 3, article III, title V of the Act of August 17, 1937 (50 Stat. 685, as amended; D.C. Code, sec. 47–1618);
Section 145 of the Act of May 27, 1949 (63 Stat. 122; D.C. Code, sec. 47–2622);
Section 8 of the Act of September 1, 1959 (73 Stat. 451; D.C. Code, sec. 47–3008);
Section 11 of the Act of July 3, 1926 (44 Stat. 811, as amended; D.C. Code, sec. 48–211); and
Section 2 of the Act of February 18, 1932 (47 Stat. 50, as amended; D.C. Code, sec. 48–402).

SEC. 1204. The words "Family Division of the Superior Court" are substituted for "Juvenile Court" in the following provisions of law:
Section 5 of the Act of November 6, 1966 (80 Stat. 1355; D.C. Code, sec. 2–165);
Section 4 of the Act of July 26, 1892 (27 Stat. 269, as amended; D.C. Code, sec. 3–116);
Section 1 of the Act of March 3, 1901 (31 Stat. 1095, as amended; D.C. Code, sec. 3–120);
Section 405 of the Act of June 29, 1953 (67 Stat. 105, as amended; D.C. Code, sec. 24–106);
Section 927 of the Act of March 3, 1901 (31 Stat. 1340, as amended; D.C. Code, sec. 24–301);
Section 3, article III of the Act of February 4, 1925 (43 Stat. 808, as amended; D.C. Code, sec. 31–213);
Section 2 of the Act of February 13, 1885 (23 Stat. 302, as amended; D.C. Code, sec. 32–209);
Section 22 of the Act of May 29, 1928 (45 Stat. 1004; D.C. Code, sec. 36–222);
Section 26 of the Act of May 29, 1928 (45 Stat. 1006; D.C. Code, sec. 36–228); and wherever else they appear in the laws applicable exclusively to the District of Columbia.

SEC. 1205. The words "Family Division of the Superior Court" are substituted for "Domestic Relations Branch of the District of Columbia Court of General Sessions" in the following provisions of law:
Section 19 of the Act of October 15, 1962 (76 Stat. 918, as amended; D.C. Code, sec. 3–218);
Section 2(d) of the Act of July 10, 1957 (71 Stat. 285, as amended; D.C. Code, sec. 30–302);
Section 6 of the Act of April 22, 1944 (58 Stat. 194, as amended; D.C. Code, sec. 32–786); and wherever else they appear in the laws applicable exclusive to the District of Columbia.

SEC. 1206. The words "Superior Court" are substituted for "Board of Tax Appeals for the District of Columbia," "Board of Tax Appeals," "board" and "District of Columbia Tax Court" in the following provisions of law:
Section 303 of the Act of May 27, 1949 (63 Stat. 129, as amended; D.C. Code, sec. 40–603–1);
Section 314 of the Act of March 2, 1962 (76 Stat. 15; D.C. Code, sec. 45–734);
Section 5 of the Act of December 24, 1942 (56 Stat. 1091; D.C. Code, sec. 47–801e);
Subsection (e) of the Act of December 15, 1945 (59 Stat. 610; D.C. Code, sec. 47–1215(e));
Section 31, title II of the Act of July 26, 1939 (53 Stat. 1101; D.C. Code, sec. 47–1531);
Section 34, title II of the Act of July 26, 1939 (53 Stat. 1103; D.C. Code, sec. 47–1534);
Section 11, article I, title XII of the Act of July 16, 1947 (61 Stat. 355, as amended; D.C. Code, sec. 47–1586j);
Section 1, article I, title XV of the Act of July 16, 1947 (61 Stat. 359; D.C. Code, sec. 47–1593);
Section 3, title IX of the Act of August 17, 1937 (as added 52 Stat. 371, and amended; D.C. Code, sec. 47–2403);
Section 4, title IX of the Act of August 17,

1937 (as added 52 Stat. 371, and amended; D.C. Code, sec. 47–2404);

Section 7, title IX of the Act of August 17, 1937 (as added 52 Stat. 374; D.C. Code; sec. 47–2407);

Section 13, title IX of the Act of August 17, 1937 (as added 53 Stat. 1110; D.C. Code, sec. 47–2412);

Section 14, title IX of the Act of August 17, 1937 (as added 66 Stat. 546, and amended; D.C. Code, sec. 47–2413);

Section 141 of the Act of May 27, 1949 (63 Stat. 120; D.C. Code, sec. 47–2618).

SEC. 1207. The words "Superior Court" are substituted for "civil branch of the District of Columbia Court of General Sessions" in section 22 of the Act of July 10, 1957 (71 Stat. 289, as amended; D.C. Code, sec. 30–322).

SEC. 1208. The words "the Superior Court" are substituted for "District Courts" in section 8, paragraph 50 of the Act of March 4, 1913 (37 Stat. 985; D.C. Code, sec. 43–420).

SEC. 1209. The words "District of Columbia Court of Appeals" are substituted for "United States District Court for the District of Columbia" and "court" in the following provisions of law:

Section 8 paragraph 65 of the Act of March 4, 1913 (37 Stat. 989, as amended; D.C. Code, sec. 43–705);

Section 8, paragraph 67 of the Act of March 4, 1913 (37 Stat. 989, as amended; D.C. Code, sec. 43–707);

Section 3(c)(10) of the Act of August 28, 1935 (49 Stat. 947, as amended; D.C. Code, sec. 46–303(c)(10));

Section 12 of the Act of August 28, 1935 (49 Stat. 953, as amended; D.C. Code, sec. 46–312);

Section 4, title IX of the Act of August 17, 1937 (as added 52 Stat. 371, and amended; D.C. Code, sec. 47–2404).

SEC. 1210. The words "District of Columbia Court of Appeals" are substituted for "United States Court of Appeals for the District of Columbia" in section 491m of the Act of March 3, 1901 (as added 34 Stat. 153, and amended; D.C. Code, sec. 7–214);

SEC. 1211. The words "the appropriate court" are substituted for references to the United States District Court for the District of Columbia in the following provisions of law:

Section 686 of the Act of March 3, 1901 (31 Stat. 1298, as amended; D.C. Code, sec. 27–128);

Section 639d of the Act of March 3, 1901 (as added 46 Stat. 1089, and amended; D.C. Code, sec. 29–240);

Section 25 of the Act of September 28, 1962 (76 Stat. 661; D.C. Code, sec. 41–425);

Section 8 of the Act of March 4, 1913 (37 Stat. 994, as amended; D.C. Code, sec. 43–401);

Section 11 of the Act of March 4, 1913 (37 Stat. 1006, as amended; D.C. Code, sec. 43–502);

Section 643 of the Act of March 3, 1901 (31 Stat. 1289, as amended; D.C. Code, sec. 44–102);

Section 534 of the Act of March 3, 1901 (31 Stat. 1272, as amended; D.C. Code, sec. 45–611);

Section 537 of the Act of March 3, 1901 (31 Stat. 1273, as amended; D.C. Code, sec. 45–619);

Section 3, article I, title V of the Act of August 17, 1937 (50 Stat. 684, as amended; D.C. Code, sec. 47–1603);

Section 5, article I, title V of the Act of August 17, 1937 (50 Stat. 685, as amended; D.C. Code, sec. 47–1605);

Section 9, article III, title V of the Act of August 17, 1937 (50 Stat. 687, as amended, D.C. Code, sec. 47–1624).

SEC. 1212. The words "court of competent jurisdiction" are substituted for "District of Columbia Court of General Sessions or before the United States District Court for the District of Columbia" in section 38 of the Act of March 1, 1889 (25 Stat. 777, as amended; D.C. Code, sec. 39–513).

SEC. 1213. The words "court having jurisdiction" are substituted for "United States District Court for the District of Columbia" in the following provisions of law:

Section 2 of the Act of June 21, 1906 (34 Stat. 384, as amended; D.C. Code, sec. 5–202);

Section 9 of the Act of May 1, 1906 (34 Stat. 159, as amended; D.C. Code, sec. 5–624);

Section 7(a) of the Act of August 2, 1946 (60 Stat. 795, as amended; D.C. Code, sec. 5–706);

Section 1 of the Act of March 4, 1929 (45 Stat. 1549, as amended; D.C. Code, sec. 6–505);

Section 491a of the Act of March 3, 1901 (as added 34 Stat. 151, and amended; D.C. Code, sec. 7–202);

Section 491n of the Act of March 3, 1901 (as added 34 Stat. 154, and amended; D.C. Code, sec. 7–215);

Section 1608e of the Act of March 3, 1901 (as added 33 Stat. 734, and amended; D.C. Code, sec. 7–313);

Section 1610 of the Act of March 3, 1901 (31 Stat. 1430, as amended; D.C. Code, sec. 7–323);

Section 5 of the Act of December 15, 1932 (47 Stat. 749, as amended; D.C. Code, sec. 7–405);

Section 2 of the Act of March 3, 1927 (44 Stat. 1353, as amended; D.C. Code, sec. 7–1215(b));

Section 1 of the Act of February 28, 1929 (45 Stat. 1408, as amended; D.C. Code, sec. 9–201);

Section 202 of the Act of June 9, 1948 (62 Stat. 348, as amended; D.C. Code, sec. 22–3504);

Section 20, Chapter II, of the Act of June 19, 1934 (48 Stat. 1135, as amended; D.C. Code, sec. 35–419).

SEC. 1214. The words "court having probate jurisdiction" are substituted for "probate court" and "probate court of the District of Columbia" in the following provisions of law.

Section 1 of the Act of October 12, 1888 (25 Stat. 554, as amended; D.C. Code, sec. 32–101);

Section 4 of the Act of October 12, 1888 (25 Stat 554, as amended; D.C. Code, sec 32–104).

SEC. 1215 The words "court having probate jurisdiction" are substituted for "United States District Court for the District of Columbia" and "District Court" in the following provisions of law:

Section 5 of the Act of February 11, 1929 (45 Stat. 1161, as added by 65 Stat. 131, and amended; D.C. Code, sec. 1–906;

Section 746 of the Act of March 3, 1901 (31 Stat. 1309, as amended; D.C. Code, sec. 26–334);

Section 669 of the Act of March 3, 1901 (31 Stat. 1295, as amended; D.C. Code, sec. 27–113);

District of Columbia Code, sections 28–2103 to 28–2105;

Revised Statutes of the District of Columbia, section 454, as amended (D.C. Code, sec. 29–514); and

Section 2 of the Act of April 5, 1939 (53 Stat. 571, as amended; D.C. Code, sec. 31–711).

SEC. 1216. The word "court" is substituted for "United States District Court for the District of Columbia" in the following provisions of law:

Section 81 of the Act of June 8, 1954 (68 Stat. 214; D.C. Code, sec. 29–930e);

Section 89 of the Act of June 8, 1954 (68 Stat. 217; D.C. Code, sec. 29–931a);

Section 90 of the Act of June 8, 1954 (68 Stat. 217; D.C. Code, sec. 931b);

Sections 137 (a) and (b) of the Act of June 8, 1954 (68 Stat. 234; D.C. Code, sec. 29–948).

Section 55 of the Act of August 6, 1962 (76 Stat. 287; D.C. Code, sec. 29–1055); and

Section 94 of the Act of August 6, 1962 (76 Stat. 302; D.C. Code, sec. 29–1094).

SEC. 1217. The words "Superior Court of the District of Columbia" are substituted for the words "United States branch of the District of Columbia Court of General Sessions" in section 164A(f) of the Act of June 20, 1938 (as added 70 Stat. 620, and amended; D.C. Code, sec. 33–416a(f)).

SEC. 1218. The words "a court in the District of Columbia" are substituted for "the United States District Court for the District of Columbia" and the words "court having jurisdiction" are substituted for "Probate Court" in section 416 (R.S.D.C., as amended; D.C. Code, sec. 4–159).

SEC. 1219. The words "courts in the District of Columbia" are substituted for "courts of the District of Columbia" in section 1 of the Act of February 11, 1929 (45 Stat. 1160, as amended; D.C. Code, sec. 1–902).

SEC. 1220. The words "in any court of the United States" are deleted in section 8 of the Act of July 15, 1932 (47 Stat. 698, as amended; D.C. Code, sec. 22–2601).

SEC. 1221. The words "courts in the District of Columbia" are substituted for "United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia," in section 2 of the Act of February 11, 1929 (45 Stat. 1160, as amended; D.C. Code, sec. 1–903).

SEC. 1222. Paragraph (12) of section 401(b) of the Act of June 29, 1953 (67 Stat. 101, as amended; D.C. Code, sec. 2–1901(b)), is deleted and paragraphs (13) through (15) are renumbered (12) through (14) respectively.

SEC. 1223. The definition of "board" is deleted and the words "Superior Court of the District of Columbia, unless the context indicates otherwise" are substituted for "United States Court of Appeals for the District of Columbia" in section 1, title IX of the Act of August 17, 1937 (as added 52 Stat. 370; D.C. Code, sec. 47–2401).

SEC. 1224. The words "United States District Court for the" are deleted from section 40 of the Act of February 27, 1929 (45 Stat. 1338, as amended; D.C. Code, sec. 2–131).

SEC. 1225. The words beginning ", either in said United States District Court" and ending "Court of General Sessions," are deleted from section 1227 of the Act of March 3, 1901 (31 Stat. 1383, as amended; D.C. Code, sec. 45–912).

SEC. 1226. Section 2(r) of the Act of June 8, 1954 (68 Stat. 179, as amended; D.C. Code, sec. 29–902(r)) and section 2(k) of the Act of August 6, 1962 (76 Stat. 266; D.C. Code, sec. 29–1002(k)), are amended to read: "'The court', unless otherwise specified, means any court of competent jurisdiction in the District of Columbia."

SEC. 1227. Paragraph (2) of section 201 of the Act of June 9, 1948 (62 Stat. 347, as amended; D.C. Code, sec. 22–3503), is amended to read: "(2) The term 'court' means a court in the District of Columbia having jurisdiction of criminal offenses or delinquent acts."; and paragraph (4) is amended by substituting the words "a delinquent act" for "an offense in the juvenile court of the District of Columbia".

SEC. 1228. Subsection (b) of section 2 of the Act of July 14, 1960 (74 Stat 719, as amended; D.C. Code, sec. 1–921), is amended to read: "(b) 'Court' means the Superior Court of the District of Columbia and, so long as it retains jurisdiction of local actions exceeding a certain amount in controversy, the United States District Court for the District of Columbia."

SEC. 1229. The last sentence of section 1 of the Act of March 23, 1906 (34 Stat. 86, as amended; D.C. Code, sec. 22–903), is deleted.

SEC. 1230. The word "juvenile" is deleted from the proviso in so much of section 1

of the Act of May 18, 1910 as pertains to courts (36 Stat. 403; D.C. Code, sec. 22–906).

SEC. 1231. The last sentence of section 19 of the Act of October 15, 1962 (76 Stat. 918, as amended; D.C. Code, sec. 3–218), is deleted.

CHANGES RELATING TO LAND CONDEMNATION

SEC. 1232. The words "subchapter IV of chapter 13 of title 16 of the District of Columbia Code" are substituted for "the Act of March 1, 1929 (45 Stat. 1415), as amended" in section 205 of the Act of July 14, 1960 (74 Stat. 541, as amended; D.C. Code, sec. 1–1407).

SEC. 1233. The words "chapter 13 of title 16 of the District of Columbia Code" are substituted for: "chapter XV of the Code of Law for the District of Columbia" in section 1 of the Act of March 4, 1929 (45 Stat. 1549, as amended; D.C. Code, sec. 6–505); and for the words "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)" in section 3(a) of the Act of February 16, 1942 (56 Stat. 91, as amended; D.C. Code, sec. 40–804(a)).

SEC. 1234. The words "chapter 13 of title 16 of the District of Columbia Code" are substituted for "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" in section 2 of the Act of June 12, 1934 (48 Stat. 931; D.C. Code, sec. 5–104); and for the words "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 (45 Stat. 1415) or Acts which may amend or supplement said Act" in section 5 of the Act of August 2, 1946 (60 Stat. 793; D.C. Code, sec. 5–704).

SEC. 1235. Section 491d of the Act of March 3, 1901 (as added 34 Stat. 152, and amended; D.C. Code, sec. 7–205), is amended to read as follows:

"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 shall 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."

SEC. 1236. The words "additional jurors selected" are substituted for "the jury commission to draw from the special box the names of as many persons as the court may direct" in section 491h of the Act of March 3, 1901 (as added 34 Stat. 153, and amended; D.C. Code, sec. 7–209).

CHANGES RELATING TO ADMINISTRATIVE PROCEDURES

SEC. 1237. The words "Public Service Commission" and the last sentence are deleted from section 11 of the Act of October 21, 1968 (82 Stat. 1209; D.C. Code, sec. 1–1510).

SEC. 1238. Section 38 of the Act of February 27, 1929 (45 Stat. 1338, as amended; D.C. Code, sec. 2–129) is amended to read as follows:

"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 the 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 (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510)."

SEC. 1239. The introductory clause is amended to read: "A license granted under this Act may be revoked or suspended upon satisfactory proof—" in the following provisions of law:

Section 11 of the Act of July 2, 1940 (54 Stat. 718, as amended; D.C. Code, sec. 2–311);

Section 7 of the Act of June 29, 1940 (54 Stat. 698, amended; D.C. Code, sec. 2–707).

SEC. 1240. The words "the Board" are substituted for "said court" in the last sentence of section 11 of the Act of July 2, 1940 (54 Stat. 718, as amended; D.C. Code, sec. 2–311), and the last sentence of section 7 of the Act of June 29, 1940 (54 Stat. 698, as amended; D.C. Code, sec. 2–707).

SEC. 1241. The last sentence of section 25 of the Act of July 2, 1940 (54 Stat. 722, as amended; D.C. Code, sec. 2–325), is amended to read: "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.".

SEC. 1242. The following provisions of law are amended to read: "Suspension or revocation of any license issued or registration effective 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 (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510), and the rules and regulations issued pursuant thereto.":

Section 27 of the Act of February 27, 1929 (45 Stat. 1337, as amended; D.C. Code, sec. 2–123);

Section 12 of the Act of July 2, 1940 (54 Stat. 719, as amended; D.C. Code, sec. 2–312);

The second sentence and all that follows in section 6 of the Act of February 9, 1907 (34 Stat. 888, as amended; D.C. Code, sec. 2–407);

Section 8 of the Act of June 29, 1940 (54 Stat. 699, as amended; D.C. Code, sec. 2–708).

SEC. 1243. Everything following "in the District of Columbia Court of Appeals" is deleted and a period is inserted in lieu thereof in the following provisions of law:

Section 4(d) of the Act of September 10, 1962 (76 Stat 535, as amended; D.C. Code, sec. 2–253);

Section 15 of the Act of September 6, 1960 (74 Stat. 806, as amended; D.C. Code, sec. 2–434);

Section 14 of the Act of September 22, 1961 (75 Stat. 582, as amended; D.C. Code, sec. 2–463).

The third sentence of section 10 of the Act of February 1, 1907 (34 Stat. 873, as amended; D.C. Code, sec. 2–810); and

Section 10 of the Act of June 7, 1938 (52 Stat. 622, as amended; D.C. Code, sec. 2–1110).

SEC. 1244. Everything following the words "stay is granted" is deleted and a period is inserted in lieu thereof in the following provisions of law:

Paragraph 4, of section 7 of the Act of May 7, 1906 (34 Stat 177, as amended; D.C. Code, sec. 2–606); and

Section 28 of the Act of December 13, 1924 (43 Stat. 717, as amended; D.C. Code, sec. 2–1028).

SEC. 1245. The words "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)" are deleted from section 7(a) of the Act of August 6, 1956 (70 Stat. 1039, as amended; D.C. Code, sec. 2–2007).

SEC. 1246. (a) Subsection (e) of section 9 of the Act of September 19, 1950 (64 Stat. 862, as amended; D.C. Code, sec. 2–1809(e)), and the second proviso of section 586d of the Act of March 3, 1901 (as added 45 Stat. 1504, and amended; D.C. Code, sec. 29–417) are amended to read as follows: "Any person aggrieved by the action of the Board may appeal as provided in the District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510)."

(b) Subsections (f) through (h) of section 9 of the Act of September 19, 1950 (64 Stat. 862, as amended; D.C. Code, sec. 2–1809 (f) to (h)), are repealed.

SEC. 1247. The words "Court of Appeals" are substituted for "Court of General Sessions" and the last sentence is deleted in section 14 of the Act of May 1, 1906 (34 Stat. 160, as amended; D.C. Code, sec. 5–629).

SEC. 1248. Subsection (c) of section 137 of the Act of June 8, 1954 (68 Stat. 234; 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."

SEC. 1249. The first paragraph of section 28 of the Act of June 19, 1934 (48 Stat. 1140, as amended; D.C. Code, sec. 35–427), is amended by substituting for the words "ruling of the superintendent" and all that follows, "as provided by the District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510) and rules and regulations issued pursuant thereto."

SEC. 1250. The words "the District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510) and rules and regulations issued pursuant thereto" are substituted for "section 11–742 of the District of Columbia Code" in section 1210 of the Act of August 1, 1968 (82 Stat. 571; D.S. Code, sec. 35–1709).

SEC. 1251. Section 10(b) of the Act of May 21, 1946 (60 Stat. 206, as amended; D.C. Code, sec. 36–130(b)) is amended by substituting for the fourth sentence and all that follows: "Any person aggrieved by the action of the Council may appeal as provided in the District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510), and the rules and regulation issued pursuant thereto."

SEC. 1252. Section 9(a) of the Act of September 19, 1918 (40 Stat. 962, as amended; D.C. Code, sec. 36–409), is amended by deleting the second sentence and all that follows and inserting in lieu thereof the following: "The review shall be governed by the District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510) and the rules and regulations issued pursuant thereto."

SEC. 1253. The words "District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510) and the rules and regulations issued pursuant thereto" are substituted for "sections 11–742,

17–303" and all that follows in the following provisions of law:

Section 7 of the Act of March 2, 1929 (45 Stat. 1521, as amended; D.C. Code, sec. 2–406);

Section 13(a) of the Act of March 3, 1925 (43 Stat. 1125, as amended; D.C. Code, sec. 40–302(a));

Section 9 of the Act of August 25, 1937 (50 Stat. 794, as amended; D.C. Code, sec. 45–1409); and

The introductory clause of section 7, paragraph 42 of the Act of July 1, 1902 (32 Stat. 628, as amended; D.C. Code, sec. 47–2101).

SEC. 1254. The words "Appeal shall be as provided in the District of Columbia Administrative Procedure Act (82 Stat. 1204; D.C. Code, secs. 1–1501 to 1–1510) and the rules and regulations issued pursuant thereto.", are substituted for the second sentence and all that follow in the second paragraph of section 4 of the Act of May 25, 1954 (68 Stat. 122, as amended; D.C. Code, sec. 40–420).

SEC. 1255. The words ", and jurisdiction is conferred upon the United States Court of Appeals for the District of Columbia for this purpose" are deleted from section 6(d) of the Act of March 3, 1925 (43 Stat. 1121, as amended; D.C. Code, sec. 40–603(d)).

SEC. 1256. The third paragraph of section 8, paragraph 65 of the Act of March 4, 1913 (37 Stat. 989, as amended; D.C. Code, sec. 43–705), is deleted.

OTHER CONFORMING AMENDMENTS

SEC. 1257. The words "in accordance with the provisions of subsection (c), of section 5 of the Act of April 1, 1942 (56 Stat. 193, ch. 207; sec. 11–756(c), D.C. Code, 1951 edition)" are deleted from section 8 of the Act of September 6, 1960 (74 Stat. 803, as amended; D.C. Code, sec. 2–427).

SEC. 1258. Section 9 of the Act of September 10, 1962 (76 Stat. 536; D.C. Code, sec. 2–258); is amended to read:

"The 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."

SEC.1259. The words "the Superior Court" are inserted after the words "United States District Court for the District of Columbia" each time they appear in so much of section 1 of the Act of March 2, 1911, as relates to the workhouse (36 Stat. 1002, as amended; D.C. Code, sec. 24–403).

SEC. 1260. The words "section 11–1101 of the District of Columbia Code" are substituted for "Juvenile Court Act of the District of Columbia" in section 3 of the Act of June 24, 1953 (67 Stat. 77, as amended; D.C. Code, sec. 24–602).

SEC. 1261. The words "medical examiner" are substituted for "coroner" in the following provisions of law:

Section 683 of the Act of March 3, 1901 (31 Stat. 1298, as amended; D.C. Code, sec. 27–125);

Section 686 of the Act of March 3, 1901 (31 Stat. 1298, as amended; D.C. Code, sec. 27–128); and

Wherever it appears in the laws applicable to the District of Columbia.

SEC. 1262. The words "to the District of Columbia" are substituted for "to the United States" in section 632 of the Act of March 3, 1901 (31 Stat. 1288, as amended; D.C. Code, sec. 29–228).

SEC. 1263. The words "in the name of the United States" are deleted in the following provisions of law:

Section 786 of the Act of March 3, 1901 (31 Stat. 1319, as amended; D.C. Code, sec. 29–719);

Section 793 of the Act of March 3, 1901 (31 Stat. 1320, as amended; D.C. Code, sec. 29–725).

SEC. 1264. Section 6 of the Act of July 10, 1957 (71 Stat. 286, as amended; D.C. Code, sec. 30–306), is amended to read as follows:

"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 powers and authority heretofore vested in the Domestic Relations Branch of the Court of General Sessions."

SEC. 1265. The second paragraph of section 802(a) of the Act of March 3, 1901 (as added 49 Stat. 385, and amended; D.C. Code, sec. 40–606), is repealed.

SEC. 1266. Section 8, paragraph 68 of the Act of March 4, 1913 (37 Stat. 989, as amended; D.C. Code, sec. 43–708), is repealed.

SEC. 1267. Section 320 of the Act of March 2, 1962 (76 Stat. 16, as amended; D.C. Code, sec. 45–740), and section 611 of the Act of May 27, 1949 (63 Stat. 139, as amended; D.C. Code, sec. 47–2810), are amended by deleting the words ", except for such violations as are felonies" and all that follow and inserting in lieu thereof a period.

SEC. 1268. The words "provided for in subchapter one of chapter one," are deleted from section 1235 of the Act of March 3, 1901 (31 Stat. 1384, as amended; D.C. Code, sec. 45–909).

SEC. 1269. The words "; or the landlord may bring" and all that follow are deleted from section 1225 of the Act of March 3, 1901 (31 Stat. 1382, as amended; D.C. Code, sec. 45–910), and a period is inserted in lieu thereof.

SEC. 1270. Section 1228 of the Act of March 3, 1901 (31 Stat. 1383, as amended; D.C. Code, sec. 45–914), is repealed.

SEC. 1271. The last sentence of section 3(c)(10) of the Act of August 28, 1935 (49 Stat. 947, as amended; D.C. Code, sec. 46–303(c)(10)), is repealed.

SEC. 1272. Subsection (b) of section 12 of the Act of August 28, 1935 (49 Stat. 953, as amended; D.C. Code, sec. 46–312(b)) is repealed.

SEC. 1273. Section 7 of the Act of June 30, 1906 (34 Stat. 763, as amended; D.C. Code, sec. 47–204), is amended to read:

"Until the effective date of the District of Columbia Court Reorganization Act of 1969, sixty per centum of the expenditures for all of the expenses of the United States District Court for the District of Columbia mentioned below shall be reimbursed by the Commissioner of the District of Columbia to the United States, from any funds in the Treasury to the credit of the District of Columbia. For the twenty-four months following the effective date of that Act, the Executive Officer of the District of Columbia Court System shall reimburse the United States from funds in the Treasury to the credit of the District of Columbia Court System, forty per centum of such costs. For the eighteen months thereafter, the reimbursement shall be twenty per centum.

"Expenses shall include fees of witnesses, fees of jurors, pay of bailiffs and criers (including salaries of deputy marshals who act as bailiffs or criers), and all miscellaneous expenses of the United States District Court.

"Beginning four years after the date of enactment of the District of Columbia Court Reorganization Act of 1969, the reimbursement shall be the pro rata share of the cost of jury selection and grand jury expenses as determined by the Director of the Administrative Office of the United States Courts.

"Estimates for these expenditures for each fiscal year shall be submitted to the Joint Committee on Judicial Administration of the District of Columbia Court System for transmission with the annual estimates of the District of Columbia Court System."

SEC. 1274. (a) 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, as required by the Act of May 14, 1948 (62 Stat. 235), are canceled upon the effective date of this Act.

(b) Beginning on the effective date of this Act, the Executive Officer of the District of Columbia Court System shall reimburse to the United States from any funds in the Treasury to the credit of the District of Columbia Court System 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.

SEC. 1275. Section 6 of the Act of August 2, 1949 (63 Stat. 491; D.C. Code, sec. 47–213), is amended by adding at the end thereof "until thirty months after the date of enactment of the District of Columbia Court Reorganization Act of 1969."

SEC. 1276. The words "clerks of the Superior Court," are inserted after "clerk of the United States District Court for the District of Columbia," in section 4 of the Act of February 23, 1905 (33 Stat. 738, as amended; D.C. Code, sec. 47–407).

SEC. 1277. Section 6 of the Act of July 1, 1902 (32 Stat. 620, as amended; D.C. Code, sec. 47–1213), is repealed.

SEC. 1278. The words "of the United States District Court for the District of Columbia" in subsection (a) and the words ", not in excess of the fee usually charged and collected therefor by the clerk of the United States District Court for the District of Columbia," in subsection (b), are deleted from section 4, title IX of the Act of August 17, 1937 (as added 52 Stat. 371, and amended; D.C. Code, sec. 47–2404 (a) and (b)).

SEC. 1279. The following provisions of law are repealed:

The first four paragraphs and the paragraph designated (b) of section 2, title IX of the Act of August 17, 1937 (as added 52 Stat. 370, and amended; D.C. Code, sec. 47–2402);

Section 8, title IX of the Act of August 17, 1937 (as added 52 Stat. 374; D.C. Code, sec. 47–2408);

Section 9, title IX of the Act of August 17, 1937 (as added 52 Stat. 375, and amended; D.C. Code, sec. 47–2409); and

Section 7 of the Act of July 10, 1952 (66 Stat. 547; D.C. Code, sec. 47–2414).

SEC. 1280. The proviso of section 643 of the Act of March 3, 1901 (31 Stat. 1289, as amended; D.C. Code, sec. 44–102), is repealed.

TITLE XIII. SEPARABILITY, EFFECTIVE DATE, INTERIM PROVISIONS

SEC. 1301. If the provisions of any part of this Act or any amendments made thereby or the application thereof to any person or circumstance be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 1302. This Act and the amendments made thereby shall take effect upon the expiration of one hundred and eighty days after the date of enactment, and the date of such expiration shall be deemed the effective date of this Act; except that titles V through VIII and title XIII, along with sections 1103 through 1108, shall take effect immediately upon enactment of this Act.

SEC. 1303. Notwithstanding title 11 of the District of Columbia Code as it exists on the date of enactment of this Act—

(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 provided by and serve subject to the provisions of section 101 of this Act and who, upon taking the oath required by law, shall 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 provided for appointment to the Superior Court by section 101 of this Act and serve subject to the provisions of section 101 with respect to the judges of that court, and who, upon taking the oath required by law, shall enter into immediate service on the Court of General Sessions;

(3) the Director of the Administrative Office of the United States Courts shall submit a list of three qualified persons, as provided by section 101 of this Act, and a temporary committee (consisting of the chief judges of the District of Columbia Court of Appeals, Court of General Sessions, and Juvenile Court, one judge of the Court of Appeals elected by the judges thereof and one judge of the Court of General Sessions elected by the judges thereof) shall appoint an Executive Officer who shall be qualified as provided by section 101 of this Act and who shall receive temporarily compensation equal to that of an associate judge of the Court of General Sessions:

Provided, That, also notwithstanding title 11 of the District of Columbia Code as it exists on the date of enactment of this Act, the President of the United States, the Commissioner of the District of Columbia, the chief judge of the District of Columbia Court of Appeals, and the chief judge of the District of Columbia Court of General Sessions (in lieu of the chief judge of the Superior Court) shall appoint the District of Columbia Advisory Committee on Judicial Selection described in section 101 of this Act, which shall qualify and serve in accordance with the provisions of section 101, prior to any nomination pursuant to subdivisions (1) or (2) of this section; and any such nomination pursuant to subdivisions (1) or (2) shall be made in a manner consistent with the provisions of the aforementioned section 101.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maryland.

The motion was agreed to.

Mr. TYDINGS. Mr. President, I move that the Senate insist on its amendment to the House amendment and ask for a conference with the House on the disagreeing votes of the two Houses thereon. and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TYDINGS, Mr. BIBLE, Mr. SPONG, Mr. EAGLETON, Mr. PROUTY, Mr. GOODELL, and Mr. MATHIAS conferees on the part of the Senate.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the conference report on elementary and secondary education.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. PELL. Mr. President, I ask unanimous consent that the pending conference report on elementary and secondary education be temporarily laid aside for a period not to exceed 10 minutes, so that we may proceed to the consideration of the conference report on water pollution which will require a rollcall vote.

Mr. JAVITS. Mr. President, reserving the right to object, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, at the expiration of the time stipulated in the unanimous-consent request, will the pending conference report on elementary and secondary education automatically be the pending business?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. I thank the Presiding Officer. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Rhode Island? The Chair hears no objection, and it is so ordered.

The Senator from Maine is recognized.

AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, I submit a 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. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

CONFERENCE REPORT (H. REPT. No. 91-940)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

TITLE I—WATER QUALITY IMPROVEMENT

SEC. 101. This title may be cited as the "Water Quality Improvement Act of 1970".

SEC. 102. Existing sections 17 and 18 of the Federal Water Pollution Control Act, as amended, are hereby repealed. Section 19 of such Act is redesignated as section 27. Sections 11 through 16 of such Act are redesignated as sections 21 through 26, respectively. Such Act is further amended by inserting after section 10 the following new sections:

"CONTROL OF POLLUTION BY OIL

"SEC. 11. (a) For the purpose of this section, the term—

"(1) 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

"(2) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

"(3) 'vessel' means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

"(4) 'public vessel' means a vessel owned or bare-boat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(5) 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(6) 'owner or operator' means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

"(7) 'person' includes an individual, firm, corporation, association, and a partnership;

"(8) 'remove' or 'removal' refers to removal of the oil from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

"(9) 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

"(10) 'onshore facility' means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

"(11) 'offshore facility' means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

"(12) 'act of God' means an act occasioned by an unanticipated grave natural disaster;

"(13) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit.

"(b) (1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

"(2) The discharge of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters

of the contiguous zone in harmful quantities as determined by the President under paragraph (3) of this subsection, is prohibited, except (A) in the case of such discharges into the waters of the contiguous zone, where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

"(3) The President shall, by regulation, to be issued as soon as possible after the date of enactment of this paragraph, determine for the purposes of this section, those quantities of oil the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches, except that in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful.

"(4) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil from such vessel or facility in violation of paragraph (2) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisonment for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

"(5) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil is knowingly discharged in violation of paragraph (2) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $10,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

"(c)(1) Whenever any oil is discharged, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, the President is authorized to act to remove or arrange for the removal of such oil at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

"(2) Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan for removal of oil pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil discharges, including containment, dispersal, and removal of oil, and shall include, but not be limited to—

"(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

"(B) identification, procurement, maintenance, and storage of equipment and supplies;

"(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil pollution control equipment and material, and a detailed oil pollution prevention and removal plan;

"(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil to the appropriate Federal agency;

"(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

"(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil; and

"(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters.

The President may, from time to time, as he deems advisable, revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and actions to minimize damage from oil discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

"(d) Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provision of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil.

"(e) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

"(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil by the United States Government in an amount not to exceed $100 per gross ton of such vessel or $14,000,000, whichever is lesser, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

"(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil is discharged in violation of subsection (b)(2) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Secretary is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil in violation of subsection (b)(2) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

"(3) Except where an owner or operator of an offshore facility can prove that a dis-

charge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

"(g) In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil is discharged in violation of subsection (b)(2) of this section proves that such discharge of oil was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil in violation of subsection (b)(2) of this section, the liability of such third party under this subsection shall not exceed $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred, if such owner or operator were liable. If the United States can show that the discharge of oil in violation of subsection (b)(2) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

"(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) the United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil.

"(i)(1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil is discharged in violation of subsection (b)(2) of this section acts to remove such oil in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing clauses.

"(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

"(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the fund established pursuant to subsection (k).

"(j)(1) Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil, (B) establishing criteria for the development and implementation of local and regional oil removal contingency plans, (C) establishing procedures, methods, and requirements for equipment to prevent discharges of oil from vessels and from onshore facilities and offshore facilities, and (D) governing the inspection of vessels carrying cargoes of oil and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from such vessels in violation of this section.

"(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulation, shall be liable to a civil penalty of not more than $5,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

"(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provisions of subsection (c), (i), and (l) of this section and section 12 of this Act. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

"(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (i) of this section and section 12 of this Act. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

"(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i)(1), arising under this section. In the case of Guam, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

"(o)(1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly-owned or privately-owned property resulting from a discharge of any oil or from the removal of any such oil.

"(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil into any waters within such State.

"(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

"(p)(1) Any vessel over three hundred gross tons, including any barge of equivalent size, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14,000,000 whichever is the lesser, to meet the liability to the United States which such vessel could be subject under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

"(2) The provisions of paragraph (1) of this subsection shall be effective one year after the effective date of this section. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency head within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six months after the date of enactment of this section.

"(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required

under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

"(4) The Secretary of Transportation, in consultation with the Secretaries of Interior, State, Commerce, and other interested Federal agencies, representatives of the merchant marine, oil companies, insurance companies, and other interested individuals and organizations, and taking into account the results of the application of paragraph (1) of this subsection, shall conduct a study of the need for and, to the extent determined necessary—

"(A) other measures to provide financial responsibility and limitation of liability with respect to vessels using the navigable waters of the United States;

"(B) measures to provide financial responsibility for all onshore and offshore facilities; and

"(C) other measures for limitation of liability of such facilities;

for the cost of removing discharged oil and paying all damages resulting from the discharge of such oil. The Secretary of Transportation shall submit a report, together with any legislative recommendations, to Congress and the President by January 1, 1971.

"CONTROL OF HAZARDOUS POLLUTING SUBSTANCES

"SEC. 12. (a) The President shall, in accordance with subsection (b) of this section, develop, promulgate, and revise as may be appropriate, regulations (1) designating as hazardous substances, other than oil as defined in section 11 of this Act, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches; and (2) establishing, if appropriate, recommended methods and means for the removal of such substances.

"(b) Sections 551 through 559, inclusive (other than section 553(c)), and 701 through 706, inclusive, of title 5, United States Code, shall apply to regulations issued under authority of this section.

"(c) In order to facilitate the removal, if appropriate, of any hazardous substance any person in charge of a vessel or of an onshore or offshore facility of any kind shall, as soon as he has knowledge of any discharge of such substance from such vessel or facility, immediately notify the appropriate agency of the United States of such discharge.

"(d) Whenever any hazardous substance is discharged into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, unless removal is immediately undertaken by the owner or operator of the vessel or onshore or offshore facility from which the discharge occurs or which caused the discharge, pursuant to the regulations promulgated under this section, the President, if appropriate, shall remove or arrange for the removal thereof in accordance with such regulations. Nothing in this subsection shall be construed to restrict the authority of the President to act to remove or arrange for the removal of such hazardous substance at any time.

"(e) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, onshore or offshore facility to any person or agency under any provision of law for damages to any publicly- or privately-owned property resulting from a discharge of any hazardous substance or from the removal of any such substance.

"(f) (1) For the purpose of this section the definitions in subsection (a) of section 11 of this Act shall be applicable to the provisions of this section, except as provided in paragraph (2) of this subsection:

"(2) For the purpose of this section, the term—

"(A) 'remove' or 'removal' refers to removal of the hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

"(B) 'owner or operator' means any person owning, operating, chartering by demise, or otherwise controlling the operations of, a vessel, or any person owning, operating, or otherwise controlling the operations of an onshore or offshore facility; and

"(C) 'offshore or onshore faiclity' means any facility of any kind and related appurtenances thereto which is located in, on, or under the surface of any land, or permanently or temporarily affixed to any land, including lands beneath the navigable waters of the United States and which is used or capable of use for the purpose of processing, transporting, producing, storing, or transferring for commercial purposes any hazardous substance designated under this section.

"(g) The President shall submit a report to the Congress, together with his recommendations, not later than November 1, 1970, on the need for, and desirability of, enacting legislation to impose liability for the cost of removal of hazardous substances discharged from vessels and onshore and offshore facilities subject to this section including financial responsibility requirements. In preparing this report, the President shall conduct an accelerated study which shall include, but not be limited to, the method and measures for controlling hazardous substances to prevent this discharge, and the most appropriate measures for (1) enforcement (including the imposition of civil and criminal penalties for discharges and for failure to notify) and (2) recovery of costs incurred by the United States if removal is undertaken by the United States. In carrying out this study, the President shall consult with the interested representatives of the various public and private groups that would be affected by such legislation as well as other interested persons.

"(h) Any moneys in the funds established by section 11 of this Act shall be available to the President to carry out the purposes of this section. In carrying out this section the President shall utilize the personnel, services, and facilities of Federal departments, agencies, and instrumentalities in such manner as will avoid duplication of effort.

"CONTROL OF SEWAGE FROM VESSELS

"SEC. 13. (a) For the purpose of this section, the term—

"(1) 'new vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the United States, the construction of which is initiated after promulgation of standards and regulations under this section;

"(2) 'existing vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the United States, the construction of which is initialed after promulgation of standards and regulations under this section;

"(3) 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(4) 'United States' includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

"(5) 'marine sanitation device' includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

"(6) 'sewage' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

"(7) 'manufacture' means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

"(8) 'person' means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

"(9) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(b) (1) As soon as possible, after the enactment of this section and subject to the provisions of section 5(j) of this Act, the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as 'standards') which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters of the United States from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations, governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

"(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

"(c) (1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

"(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Secretary, may distinguish among classes, types, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation de-

vices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

"(d) The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

"(e) Before the standards and regulations under this section are promulgated, the Secretary and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

"(f) After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section. Upon application by a State, and where the Secretary determines that any applicable water quality standards require such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into those waters of such State which are the subject of the application and to which such standards apply.

"(g)(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

"(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Secretary as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

"(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Secretary or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Secretary or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by, the Secretary or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

"(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

"(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

"(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

"(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

"(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

"(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g)(1) and subsections (h)(1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(j) Any person who violates subsection (g)(1) or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

"(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Secretary, other Federal agencies, or the States to carry out the provisions of this section.

"(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(m) In the case of Guam, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

"AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC. 14. (a) The Secretary in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control.

"(b) The Secretary, in selecting watersheds for the purposes of this section, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

"(c) Federal participation in such projects shall be subject to the conditions—

"(1) that the State or interstate agency shall pay not less than 25 per centum of the actual project costs which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, or personal property or services, the value of which shall be determined by the Secretary; and

"(2) that the State or interstate agency shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

"(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds available under this section in any one year shall be granted to any one State.

"POLLUTION CONTROL IN GREAT LAKES

"SEC. 15 (a) The Secretary, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter

into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other abatement and remedial techniques which will contribute substantially to effective and practical methods of water pollution elimination or control.

"(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Secretary.

"(c) There is authorized to be appropriated $20,000,000 to carry out the provisions of this section, which sum shall be available until expended.

"TRAINING GRANTS AND CONTRACTS

"SEC. 16. The Secretary is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

"(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

"(B) training and retraining of faculty members;

"(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

"(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

"(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

"APPLICATION FOR TRAINING GRANT OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

"SEC. 17. (1) A grant or contract authorized by section 16 may be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

"(A) sets forth programs, activities, research, or development for which a grant is authorized under section 16, and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 18;

"(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

"(C) provides for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(2) The Secretary shall allocate grants or contracts under section 16 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purposes of this section.

"(3)(A) Payment under this section may be used in accordance with regulations of the Secretary, and subject to the terms and conditions set forth in an application approved under subsection (a), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

"(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under subsection (a).

"AWARD OF SCHOLARSHIPS

"SEC. 18. (1) The Secretary is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Secretary may determine but not to exceed four academic years.

"(2) The Secretary shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

"(A) provide an equitable distribution of such scholarships throughout the United States; and

"(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

"(3) The Secretary shall approve a program of an institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

"(A) that such program has as a principal objective the education and training of persons in the operation and maintenance of treatment works;

"(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

"(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 16 of this Act; and

"(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Secretary for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

"(4)(A) The Secretary shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(B) The Secretary shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Secretary finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation.

"(6) The Secretary shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Secretary determines appropriate.

"DEFINITIONS AND AUTHORIZATIONS

"SEC. 19. (1) As used in sections 16 through 19 of this Act—

"(A) The term 'State' includes the District of Columbia, Puerto Rico, the Canal Zone, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"(B) The term 'institution of higher education' means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(C) The term 'academic year' means an academic year or its equivalent, as determined by the Secretary.

"(2) The Secretary shall annually report his activities under sections 16 through 19 of this Act, including recommendations for needed revisions in the provisions thereof.

"(3) There are authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1970, $25,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for the fiscal year ending June 30, 1972, to carry out sections 16 through 19 of this Act (and planning and related activities in the initial fiscal year for such purpose). Funds appropriated for the fiscal year ending June 30, 1970, under authority of this subsection shall be available for obligation pursuant to the provisions of sections 16 through 19 of this Act during that year and the succeeding fiscal year.

"ALASKA VILLAGE DEMONSTRATION PROJECTS

"SEC. 20. (a) The Secretary is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and the elimination or control of water pollution in

those native villages of Alaska without such facilities. Such projects shall include provisions for community safe water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of water pollution for all native villages in such State.

"(b) In carrying out this section the Secretary shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

"(c) The Secretary shall report to Congress not later than January 31, 1973, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

"(d) There is authorized to be appropriated not to exceed $1,000,000 to carry out this section."

SEC. 103. Redesignated section 21 of the Federal Water Pollution Control Act, as amended, is amended to read as follows:

"COOPERATION BY ALL FEDERAL AGENCIES IN THE CONTROL OF POLLUTION

"SEC. 21. (a) Each Federal agency (which term is used in this section includes Federal departments, agencies, and instrumentalities) having jurisdiction over any real property or facility, or engaged in any Federal public works activity of any kind, shall, consistent with the paramount interest of the United States as determined by the President, insure compliance with applicable water quality standards and the purposes of this Act in the administration of such property, facility, or activity. In his summary of any conference pursuant to section 10(d)(4) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property, facility, or activity, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such property, facility, or activity. Notice of any hearing pursuant to section 10(f) of this Act involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property, facility, or activity involved, and the findings and recommendations of the hearing board conducting such hearing shall include references to any such discharges which are contributing to the pollution found by such board.

"(b)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters of the United States, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that there is reasonable assurance, as determined by the State or interstate agency that such activity will be conducted in a manner which will not violate applicable water quality standards. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where such standards have been promulgated by the Secretary pursuant to section 10(c) of this Act, or where a State or interstate agency has no authority to give such a certification, such certification shall be from the Secretary. If the State, interstate agency, or Secretary, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Secretary, as the case may be.

"(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Secretary of such application and certification. Whenever such a discharge may affect, as determined by the Secretary, the quality of the waters of any other State, the Secretary within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate its water quality standards, and within such sixty-day period notifies the Secretary and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Secretary shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Secretary, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality standards. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

"(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Secretary, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Secretary, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with applicable water quality standards because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, or (C) the water quality standards applicable to such waters. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or if appropriate, the interstate agency or the Secretary, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted which changes may result in violation of applicable water quality standards.

"(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters of the United States and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State or, if appropriate, the interstate agency or the Secretary to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable water quality standards will not be violated. Upon notification by the certifying State or, if appropriate, the interstate agency or the Secretary that the operation of any such federally licensed or permitted facility or activity will violate applicable water quality standards, such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Secretary, as the case may be, that there is reasonable assurance that such facility or activity will not violate applicable water quality standards.

"(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under section 10(h) of this Act that such facility or activity has been operated in violation of applicable water quality standards.

"(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

"(7) In any case where actual construction of a facility has been lawfully commenced prior to the date of enactment of the Water Quality Improvement Act of 1970, no certification shall be required under this subsection for a license or permit issued after the date of enactment of such Act of 1970 to operate such facility, except that any such license or permit issued without certification shall terminate at the end of the three-year period beginning on the date of enactment of such Act of 1970 unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this subsection.

"(8) Except as provided in paragraph (7), any application for a license or permit (A) that is pending on the date of enactment of the Water Quality Improvement Act of 1970 and (B) that is issued within one year following such date of enactment shall not require certification pursuant to this subsection for one year following the issuance of such license or permit, except that any such license or permit issued shall terminate at the end of one year unless prior to that time the licensee or permittee submits to the Federal agency that issued such license or permit a certification and otherwise meets the requirements of this subsection.

"(9)(A) In the case of any activity which will affect water quality but for which there are no applicable water quality standards, no certification shall be required under this subsection, except that the licensing or permitting agency shall impose, as a condition of any license or permit, a requirement that the licensee or permittee shall comply with the purposes of this Act.

"(B) Upon notice from the State in which the discharge originates or, as appropriate, the interstate agency or the Secretary, that such licensee or permittee has been notified of the adoption of water quality standards applicable to such activity and has failed, after reasonable notice, of not less than six months, to comply with such standards, the license or permit shall be suspended until notification is received from such State or interstate agency or the Secretary that there is reasonable assurance that such activity will comply with applicable water quality standards.

"(c) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with applicable water quality standards. The Secretary shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable water quality standards, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such standards.

"(d) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts."

SEC. 104. Redesignated section 22 of the Federal Water Pollution Control Act, as amended, is amended by adding at the end thereof the following:

"(f)(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method or device in their waste treatment and pollution abatement programs. The Secretary shall, in consultation with the appropriate State water pollution control agency, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality standards under this Act, and otherwise does not have a satisfactory record with respect to environmental quality.

"(2) The Secretary shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established by this subsection.

"(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Secretary, and the awarding of such recognition shall be published in the Federal Register."

SEC. 105. Section 5 of the Federal Water Pollution Control Act, as amended, is amended as follows:

(1) by redesignating subsections (g) and (h) as (m) and (n), respectively, including all references thereto;

(2) by inserting after subsection (f) the following new subsections:

"(g)(1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Secretary shall finance a pilot program, in cooperation in State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, or entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Secretary is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

"(2) The Secretary is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, control, and abatement of water pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

"(3) In furtherance of the purposes of this Act, the Secretary is authorized to—

"(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

"(B) establish and maintain research fellowships in the Department of the Interior with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellowships; and

"(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, and control of water pollution for personnel of public agencies and other persons with suitable qualifications.

"(4) The Secretary shall submit, through the President, a report to the Congress within eighteen months from the date of enactment of this subsection, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

"(h) The Secretary is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, and control of natural or manmade pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

"(i) The Secretary shall—

"(A) engage in such research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention and control of oil pollution;

"(B) publish from time to time the results of such activities; and

"(C) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used as dispersants or emulsifiers in the control of oil spills.

In carrying out this subsection, the Secretary may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

"(j) The Secretary shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Secretary shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any standards established under section 13 of this Act. In carrying out this subsection the Secretary may enter into contracts with, or make grants to, public or private organizations and individuals.

"(k) In carrying out the provisions of this section relating to the conduct by the Secretary of demonstration projects and the development of field laboratories and research facilities, the Secretary may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

"(l)(1) The Secretary shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than two years after the effective date of this subsection, develop and issue to the States for the purpose of adopting standards pursuant to section 10(c) the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

"(2) For the purpose of assuring effective implementation of standards adopted pursuant to paragraph (1) the President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct a study and investigation of methods to control the release of pesticides into the environment which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit a report on such investigation to Congress together with his recommendations for any necessary legislation within two years after the effective date of this subsection."

(3) in redesignated subsection (m)(4) by striking out the words "and June 30, 1969," and inserting in lieu thereof "June 30, 1969, June 30, 1970, and June 30, 1971,";

(4) by amending the first sentence of redesignated subsection (n) to read as follows: "There is authorized to be appropriated to carry out this section, other than subsection (g)(1) and (2), not to exceed $65,000,000 per fiscal year for each of the fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971. There is authorized to be appropriated to carry out subsection (g)(1) of this section $5,000,000 for the fiscal year ending June 30, 1970, and $7,500,000 for the fiscal year ending June 30, 1971. There is authorized to be appropriated to carry out subsection (g)(2) of this section $2,500,000 per fiscal year for each of the fiscal years ending June 30, 1970, and June 30, 1971.".

SEC. 106. Section 6(e) of the Federal Water Pollution Control Act (33 U.S.C. 466c–1) is amended as follows:

(1) Paragraph (1) is amended by striking out "three succeeding fiscal years" and inserting in lieu thereof "five succeeding fiscal years,".

(2) Paragraph (2) is amended by striking out "two succeeding fiscal years," and inserting in lieu thereof "four succeeding fiscal years,".

(3) Paragraph (3) is amended by striking out "two succeeding fiscal years," and in-

serting in lieu thereof "four succeeding fiscal years,".

SEC. 107. Redesignated section 24 of the Federal Water Pollution Control Act, as amended by deleting the following: "the Oil Pollution Act, 1924, or".

SEC. 108. The Oil Pollution Act, 1924 (43 Stat. 604), as amended (80 Stat. 1246–1252), is hereby repealed.

SEC. 109. The Secretary of the Interior shall conduct a full and complete investigation and study of the feasibility of all methods of financing the cost of preventing, controlling, and abating water pollution, other than methods authorized by existing law. The results of such investigation and study shall be reported to Congress no later than December 31, 1970, together with the recommendations of the Secretary for financing the programs for preventing, controlling, and abating water pollution for the fiscal years beginning after fiscal year 1971, including any necessary legislation.

SEC. 110. (a) The first sentence of section 2 of the Federal Water Pollution Control Act (33 U.S.C. 466–1) is amended by striking out "Federal Water Pollution Control Administration" and inserting in lieu thereof "Federal Water Quality Administration".

(b) Any other law, reorganization plan, regulation, map, document, record, or other paper of the United States in which the Federal Water Pollution Control Administration is referred to shall be held to refer to the Federal Water Quality Administration.

SEC. 111. Section 8(c) of the Federal Water Pollution Control Act is amended in the fourth sentence by inserting after "because of lack of funds" the following: "including States having projects eligible for reimbursement pursuant to the sixth and seventh sentences of this subsection".

SEC. 112. Section 10 of the Federal Water Pollution Control Act, as amended, is amended by adding at the end of subsection (c)(3) the following new sentence: "In establishing such standards the Secretary, the hearing board, or the appropriate State authority shall take into consideration their use and value for navigation."

TITLE II—ENVIRONMENTAL QUALITY

SHORT TITLE

SEC. 201. This title may be cited as the "Environmental Quality Improvement Act of 1970."

FINDINGS, DECLARATIONS, AND PURPOSES

SEC. 202. (a) The Congress finds—

(1) that man has caused changes in the environment;

(2) that many of these changes may affect the relationship between man and his environment; and

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b)(1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this title are—

(1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and

(2) to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91–190.

OFFICE OF ENVIRONMENTAL QUALITY

SEC. 203(a). There is established in the Exective Office of the President an office to be known as the Office of Environmental Quality (hereafter in this title referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91–190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Bureau of the Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this title and Public Law 91–190, except that he may employ no more than ten specialists and other experts without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91–190;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government.

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) in carrying out his functions.

REPORT

SEC. 204. Each Environmental Quality Report required by Public Law 91–190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

AUTHORIZATION

SEC. 205. There are hereby authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1970, not to exceed $750,000 for the fiscal year ending June 30, 1971, not to exceed $1,250,000 for the fiscal year ending June 30, 1972, and not to exceed $1,500,000 for the fiscal year ending June 30, 1973. These authorizations are in addition to those contained in Public Law 91–190.

EDMUND S. MUSKIE,
JENNINGS RANDOLPH,
BIRCH BAYH,
JOSEPH M. MONTOYA,
J. CALEB BOGGS,
JOHN COOPER,
HOWARD BAKER,
Managers on the part of the Senate.

JOHN A. BLATNIK,
ROBERT E. JONES,
JIM WRIGHT,
GEORGE H. FALLON,
WILLIAM C. CRAMER,
WILLIAM H. HARSHA,
JAMES R. GROVER, Jr.
Managers on the part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MUSKIE. Mr. President, this conference report is the culmination of efforts begun in 1966 to strengthen and expand the Nation's capability to deal with oil pollution disasters.

Mr. President, this legislation would probably not be before the Senate today had there not been in recent weeks several disastrous oil spills. I think that the grounding of the tanker off Nova Scotia, the spill from the tanker in Tampa Bay, and the ongoing disaster off New Orleans have convinced all of us in both bodies of the need to attach a different concept of liability to the extremely hazardous business of oil transportation, production, and use.

The very nature of these incidents and the cloudy question of fault assisted in bringing about the compromise which was finally achieved between the House and Senate conferees on this issue.

The attached discussion of the conference substitute describes in detail what this bill does and what the conferees intended. While I do not intend to present all the provision in detail in this statement, I would like to point out several impotrant features of the oil pollution section and emphasize the other more important features of the legislation itself.

Under the conference compromise, unless the owner or operator of a vessel, an offshore facility, or an onshore facility can prove that the discharge resulted solely from an act of God, an act of war, an act of U.S. Government negligence, or an act or omission of a third party such owner or operator will be absolutely liable to the United States for the costs of cleanup in an amount not to exceed $14 million for a vessel and $8 million for an onshore or offshore facility.

In the case of a vessel the liability is further limited to $100 per gross ton, an amount suggested by insurers as the in-

surable limit for this particular type of liability.

I am not satisfied that these figures completely reflect the potential liability of vessels in oil discharges. I am not satisfied that the insurers gave us the best available information. However, I am satisfied that we could get no better information and that the amounts set forth in this law would have been sufficient to clean up any oil spill on record.

I anticipate this figure will have to be revised, as will the outside limits, as the size of tankers increases and as the danger of oil spills increases. Nevertheless, at this time the gross tonnage and dollar limits should be adequate to cover a tanker twice as large as any vessel capable of using any port of the United States today.

More importantly, Mr. President, a review of these figures should be the kind of public policy consideration which precedes any increases in shipment of oil by sea either from foreign or domestic sources.

The hearings on this legislation have indicated that there is great room for improvement in the handling of oil in transport. There is still too much room for accidents.

I will introduce legislation to tighten the regulations governing the design and construction of vessels, the transportation of oil and other hazardous cargo, the training of crews, and the location of onshore and offshore facilities.

I also hope that we can develop a system for providing compensation for private damages resulting from oil spills.

For onshore and offshore facilities, the figure of $8 million was included in both the House and the Senate bills. Although there is no indication as to the accuracy of this figure, it is much more than the clean-up costs of any oil spills on record from onshore or offshore facilities. It too may have to be revised in the future.

This legislation does not affect the authority of the Secretary of the Interior regarding activities on the Outer Continental Shelf. It does not affect the regulations which provide absolute and unlimited liability oil operations on the OCS.

The penalties for failure to notify, for knowing discharge of oil, and for violation of regulations are as strict as either the House or Senate bill would permit.

Broad authority is given the President to determine by regulation what harmful quantities of oil cannot be discharged without violating the provisions of this act. The responsibility placed on the President is great. The urgency for his early action is evident.

Until the President develops at least preliminary regulations defining harmful quantities, parts of the law will be inoperative. At a minimum the President can and should immediately, by regulation, prohibit the discharge of oil which exceeds the amount normally anticipated in operation of a vessel, or onshore, or offshore facility.

Such regulations with appropriate definitions should be promulgated as soon after enactment of this legislation as possible.

The President should then set into motion the procedures necessary to determine in as exact a manner as possible the amounts and quantities of oil that can be discharged, under what circumstances, and what times, and what locations as required in this section. Further he should indicate, to the extent that it is possible, those areas of the coastal United States and the navigable waters of the United States where the discharge of oil is absolutely prohibited or partially prohibted.

Another important measure to assure tough enforcement of this act will be to provide adequate funds for improved Coast Guard surveillance activities along the coast of the United States. Tanker captains who deliberately disregard regulations and pump their bilges at will must be arrested and brought to trial for criminal discharges of oil. The Coast Guard also must be given funds to develop local and regional contingency plans and a strike force capacity to move against any oil pollution disaster strategically located in the United States.

Effective implementation of this legislation will require that adequate funds be devoted to developing new clean-up technology, to developing the specifications for chemicals which can be used to disperse oil as called for by the Kennedy amendment retained by the conferees, and to providing funds for the Federal Water Pollution Control Administration to study the effects of oil and dispersants on the aquatic environment.

I wish to emphasize for the Senate a provision of this legislation which has not received a great deal of attention. This provision may be the most important section of this legislation. I call the Senate's attention to section 21. This section requires that any applicant for a Federal license or permit obtain certification of reasonable assurance of compliance with water quality standards from a State before that applicant can receive any license or permit.

Any new industry that intends to locate on the navigable waters of the United States; that needs a permit to build a dock, a discharge pipe, a water-intake pipe, a bridge, or a road across Federal lands; that requires a license from the Atomic Energy Commission for a nuclear power plant or a license from the Federal Power Commission to build a dam will be required to obtain this certification of compliance with water quality standards.

No polluter will be able to hide behind a Federal license or permit as an excuse for a violation of water quality standard. No polluter will be able to make major investments in facilities under a Federal license or permit without providing assurance that the facility will comply with water quality standards. No State water pollution control agency will be confronted wtih a fait accompli by an industry that has built a plant without consideration of water quality requirements.

Mr. President, a question has been raised regarding the relationship between section 21(b) of the conference agreement and the provisions of sections 102 and 103 of the National Environmental Policy Act, Public Law 91–190, particularly with regard to the duties of Federal licensing and permitting agencies under the respective authorizations.

It should be clear that nothing in subsection 21(b) should be interpreted as discharging Federal licensing or permitting agencies from complying with the provisions of Public Law 90–190 as far as they relate to any environmental impact not associated with water quality standards.

Mr. President, the conference agreement includes a number of other major provisions which are discussed in the summary of conference action which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF CONFERENCE ACTION

The Senate-passed bill included four titles, the provisions of three of which are included in the conference agreement. Title III, which authorized acquisition of land for the use of the United States Senate, was deleted as no longer required.

Title I has been expanded to include several provisions of the House bill not in the Senate bill as well as a revised version of the Kennedy-Stevens amendment to provide Safe Water Facilities for Alaska. This "Alaska Village Demonstration Projects" provision which had been Title IV of S. 7 appears now as Section 20 of the Act.

House amendments not in the Senate bill which were adopted include provisions for manpower training, marine sanitation device research, change of the name of the Federal Water Pollution Control Administration to the Federal Water Quality Administration, a study of financing the cost of pollution control, and an award provision.

Title I of the conference agreement includes several provisions which were similar in both House and Senate bills. Those provisions are:

(a) Acid mine drainage research;
(b) Pollution control in the Great Lakes;
(c) Field laboratories land acquisition;
(d) Oil pollution removal research;
(e) Extension of the Section 5 and Section 6 basic act research authorization; and
(f) The Clean Lakes research section.

Also, Title I includes several features of the Senate bill which the House conferees accepted with minor modifications, including:

(a) The Scott amendment for pilot training programs to train sewage treatment plant operators;

(b) Senator Nelson's amendment to require development of scientific knowledge on the effects of pesticides on the environment for the purpose of developing water quality standards, and a study into methods to control the environmental release of pesticides;

(c) The Tydings-Javits amendment clarifying that re-allocated grant funds can be applied to projects eligible for reimbursement; and

(d) A requirement that the value and use of a waterway for navigation be considered in establishing water quality standards.

Title I includes a modified version of the Senate provision for identification and clean-up of hazardous substances. The provision authorizes the President to clean up, to the extent practicable, any discharges of designated hazardous substances and to report to the Congress, no later than November 1 of 1970, on the methods and measures for controlling the discharge of hazardous substances, procedures for enforcement against

discharges (including imposition of penalties for discharge and failure to notify,) and methods to recover Federal clean-up costs.

Pending the completion of this study, designation of hazardous substances should proceed. This activity will be especially useful to the Congress when it considers any legislative recommendations which result from the study.

The provision for control of sewage from vessels was similar in both bills with a few major differences. The Senate accepted the House provision which requires a report to the Congress on the results of marine sanitation device research prior to the effective date of any marine sanitation device performance standards.

The conferees agreed to require Defense Department vessels to comply with performance standards promulgated pursuant to this section but authorized the Secretary of Defense to establish regulations and certifications to implement application of those standards to Defense Department vessels.

The conferees modified the Senate "Grandfather clause" for vessels with sanitation devices installed prior to the effective date of Federal standards. Under the conference agreement existing devices which comply with initial Federal standards shall be considered in compliance. Thus, for example, if the Secretary certifies a holding tank, only a vessel owner with a previously installed holding tank which meets the new Federal standards and regulations could continue to operate such a device and avoid added costs.

The conferees agreed that Federal standards and regulations should replace State standards and enforcement after the effective date of the Federal standards. Under the agreed-upon pre-emption provision no State could regulate the design, installation, manufacture or use of any Federally certified marine sanitation device on any vessel subject to the provisions of this Act. However, the conference agreement authorizes the Secretary to prohibit completely the discharge of any sewage, whether treated or not, from any vessel, whether or not a vessel is equipped with a certified device if the Secretary finds, after application of a State that a specific water area (such as a marina, public water intake site or swimming area) requires a total prohibition.

The performance standards should relate to the specific waste treatment problems associated with vessel discharges and should not be confused with the methods of evaluating performance of land-based treatment works.

Title I does not include the provision which authorized commercial banks to underwrite municipal water and sewer revenue bonds, a provision on which a majority of the House conferees insisted was not within the jurisdiction of the Public Works Committees. The Senate conferees, cognizant of the jurisdiction of the Committee on Banking and Currency, receded.

I have discussed those provisions of Title I relating to oil pollution and Federal licenses and permits. Mr. President, the emphasis on this latter part of Section 21 should not obscure the change in the basic Federal Water Pollution Control Act relating to control of pollution from direct Federal activities.

The conferees agreed to language which deletes the existing requirement that Federal facilities and activities comply with water quality standards "insofar as practicable and consistent with the interests of the United States and within any available appropriations."

Under the conference agreement, Federal agencies, in their activities including direct facilities operation, contracts, grants and leases shall "consistent with the paramount interests of the United States as determined by the President" insure water quality standards compliance. In carrying out the intent of the conference agreement the President will have to specifically justify any Federal decision which would lead to violation of water quality standards. No longer can Federal agencies justify non-compliance with standards on the basis of lack of funds or impracticability. Federal agency budgets must include pollution control cost; Federal contracts and leases must include provisions to insure water quality compliance.

Mr. President, I have discussed Title II of the legislation at length, during consideration of S. 7 on October 7 and 8, during discussion of Senator Jackson's National Environmental Policy Act prior to conference, and during discussion of the conference report on Senator Jackson's bill.

The conference agreement on this Title II provides for establishment of an Office of Environmental Quality in the Executive Office of the President with substantially the same authority as originally voted by the Senate.

At the insistence of the House conferees the language of Title II was reduced, though the Senate intent was not changed. I would like to discuss several specific changes which have been included in the conference agreement to clarify the relationship between the Office and the recently established Council on Environmental Quality.

First, the conferees agreed to make the Chairman of the Council the Director of the Office while retaining the Office of Deputy Director—the appointee to which is subject to Senate confirmation.

The conference agreement includes a specific authorization to employ, in the Office, ten environmental specialists or other experts without regard to provision of law relating to appointment and payment in the competitive service.

This provision is essential if the Office is to have the staff capability to carry out its authorized functions and adequately assist Council and the President in environmental quality policy questions, preparation of the annual report and other assigned functions.

Finally the conference agreement provides that the Environmental Quality Report (required by P.L. 91–190) be referred to each standing committee of the Congress having jurisdiction over the subject matter included.

This provision was to have been a part of P.L. 91–190 but, due to questions raised in the conference on that legislation, was dropped. Inclusion in this bill should assure adequate oversight of environmental aspects of Federal activities by the Congressional committees with authority over Federal programs.

One matter of importance throughout the legislation is the meaning of the term "navigable waters of the United States."

The conference agreement does not define the term. Based on the history of consideration of this legislation it is obvious that its provisions and the extent of application should be construed broadly. It is intended that this term include all water bodies, such as lakes, streams, and rivers, regarded as public navigable waters in law which are navigable in fact. It is further intended that such waters shall be considered to be navigable in fact when they form, in their ordinary condition by themselves or by uniting with other waters or other systems of transportation, such as highways or railroads, a continuing highway over which commerce is or may be carried on with other states or with foreign countries in the customary means of trade and travel in which commerce is conducted today. In such cases, the commerce on such waters would have a substantial economic effect on interstate commerce.

Mr. MUSKIE. Mr. President, I ask unanimous consent to include in the RECORD at this point those portions of the statement of managers on the part of the House which discuss the conference substitute. The language of the statement of managers on the part of the House, in addition to remarks of the Senate conferees reflect the intent of the conference agreement. Further, I ask unanimous consent to include a carbon print which shows the changes in the existing Federal Water Pollution Control Act.

There being no objection the statements and the print were ordered to be printed in the RECORD, as follows:

PORTIONS OF STATEMENT OF MANAGERS ON THE PART OF HOUSE

CONTROL OF POLLUTION BY OIL

Section 102 of the conference substitute would add a new section 11 to the Federal Water Pollution Control Act. This proposed new section 11 deals solely with the control of pollution by oil.

Subsection (a) contains definitions. The definitions of "oil", "discharge", "vessel", "public vessel", "United States", "person", and "contiguous zone" are essentially identical with those definitions in the House bill. The definition of the term "owner or operator" would provide in the case of a vessel that it is the person owning, operating, or chartering by demise, and in the case of an onshore or offshore facility, it is the person owning or operating such facility, and in the case of an abandoned offshore facility, it is the person who owned or operated the facility immediately prior to its abandonment.

As a result of this definition, if an offshore facility has been abandoned by its former owner, and thereafter discharges oil in violation of this section, such former owner would be responsible under the provisions of this act for such subsequent discharge. The definition of the term "remove" or "removal" has been clarified to include specifically public or private property, shorelines, and beaches. The definition of "onshore facility" means any facility (including motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States other than submerged land. Thus, it is made clear that tank trucks and railroad tank cars are included in the definition as well as all other facilities such as storage tanks or refineries from which oil could be discharged into the waters in question. The definition would not include, however, facilities which are built upon any submerged lands in the United States.

The definition of "offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States other than a vessel or public vessel. This would include offshore drilling rigs as well as all other offshore facilities within the navigable waters of the United States which, in the case of the coastal waters would extend to the seaward boundaries of the States within the meaning of the Submerged Lands Act. The term "act of God" is defined to mean an act occasioned by an unanticipated grave natural disaster. This definition varies from that of the Senate definition and, under this definition, only those acts about which the owner could have had no foreknowledge, could have made no plans to avoid, or could not predict would be included. Thus, grave natural disasters which could not be anticipated in the design, location, or operation of the facility or vessel by reason of historic, geographic, or climatic circumstances or phenomena would be outside the scope of the owner's or operator's responsibility. The definition of the term "barrel" is established at 42 U.S. gallons at 60° F.

Paragraph (1) of subsection (b) is a declaration of policy by Congress that there ought not be discharges of oil into or upon the

navigable waters, adjoining shorelines, or the waters of the contiguous zone.

Paragraph (2) of subsection (b) prohibits the discharge of oil in the navigable waters, adjoining shorelines, or the waters of the contiguous zone, in harmful quantities as determined by the President under paragraph (3) with two exceptions: (A) discharges into the waters of the contiguous zone where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities at times and locations or under circumstances or conditions which the President by regulations determines not to be harmful. The President's regulations are required to be consistent with maritime safety, marine navigation laws and regulations, and applicable water quality standards.

Paragraph (3) of subsection (b) requires the President, by regulations to be issued as soon as possible, to determine for the purposes of this section those quantities of oil the discharge of which will be harmful to the public health or welfare of the United States, including fish, shellfish, wildlife, and public and private property, shorelines, and beaches with the exception that, in the case of oil discharged in the contiguous zone, only those discharges which threaten the fishery resources of the zone or threaten to pollute or contribute to the pollution of the territory or territorial sea of the United States may be determined to be harmful.

Paragraph (4) requires anyone in charge of a vessel or of an onshore or offshore facility, as soon as he has knowledge of any discharge of oil from that vessel or facility in violation of this section, to immediately notify the appropriate U.S. agency. Failure to do so subjects such person to a fine of not more than $10,000 or imprisonment for not more than a year, or both. This notification, however, is not to be used against any such person in any criminal case other than one for perjury or giving a false statement.

Paragraph (5) of this subsection imposes a civil penalty on the owner or operator of a vessel or onshore or offshore facility from which oil is knowingly discharged in violation of this section. This penalty is not to exceed $10,000 and is not to be assessed unless the owner or operator charged has been given notice and opportunity for hearing. Each violation is a separate offense, and the civil penalty may be compromised by the Secretary. The Secretary of the Treasury is required to withhold clearance from port of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted upon filing of a bond or other satisfactory surety.

Paragraph (1) of subsection (c) authorizes the President to act to remove or arrange for the removal of any oil discharged into the navigable waters, adjoining shorelines, or the waters of the contiguous zone. If he determines the removal will be properly done by the owner or operator of the vessel or facility from which the discharge occurs, he may permit them to do so. The conferees wish to make it clear that the basic responsibility for necessary cleaning up in these situations is placed upon the President. This is not to be construed to inhibit or prevent any owner or operator from undertaking whatever action is necessary to contain or remove an oil discharge.

Paragraph (2) of subsection (c) would require the President, within 60 days, to prepare and publish a National Contingency Plan for the removal of oil. The Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil discharges, including containment, dispersal, and removal of oil. The Plan is to include (A) assignment of duties and responsibilities, (B) identification, procurement, maintenance, and storage of equipment and supplies, (C) establishment of a strike force and emergency task forces, (D) a system of surveillance and notice, (E) establishment of a national center to coordinate and direct operations, (F) procedures and techniques to be employed in identifying, containing, dispersing and removing oil, and (G) a schedule identifying dispersants and other chemicals that may be used in carrying out the plan, the waters in which they may be used, and quantities which may be safely used. In the case of a dispersant, chemical or waters not specifically identified in the schedule, the President or his delegate may on a case-by-case basis, identify the dispersant or chemicals which may be used, the waters in which they may be used, and the quantities which may safely be used. The plan may be revised from time to time. Once the plan is published, however, removal of oil and actions to minimize damage therefrom shall, to the greatest extent possible, be in accordance with the plan.

The President is given general authority by subsection (1) of this section to delegate his responsibilities under this section. It is the hope of the conferees that with respect to the provisions of subsection (c)(2)(C) and (D) such responsibilities will be delegated to the Coast Guard and with respect to subsection (c)(2)(G) such responsibilities will be delegated to the Secretary of the Interior.

Subsection (d) provides authority for the United States to remove, and if necessary, to destroy vessels in cases where they pose a substantial threat of a pollution hazard through the discharge of oil. This is almost identical to the equivalent provision in the House bill with the exception that in lieu of the House provision making the expense of removal a charge against the vessel, its cargo, and owner and permitting the sale thereof, there has been substituted a provision from the Senate amendment which states that the expense incurred under this subsection will be deemed to be a cost incurred by the United States in the removal of oil for the purposes of liability under subsection (f) of this section.

Subsection (e) authorizes the President when there is an imminent and substantial threat to the public health and welfare because of an actual or threatened discharge of oil from an onshore or offshore facility to require the U.S. attorney for the district where the threat occurs to secure such relief as may be necessary to abate the threat, and the district courts of the United States are given jurisdiction to grant such relief as the public interest and equity may require.

Subsection (f) establishes the liability of owners and operators of vessels and on or offshore facilities for cleanup costs.

Paragraph (1) of subsection (f) provides that the owner or operator of a vessel from which oil is discharged in violation of subsection (b)(2) of this section shall be liable to the United States for actual costs incurred under subsection (c) for removal of that oil with a limit of liability of not to exceed $100 per gross ton of the vessel or $14 million, whichever is lesser. The owner or operator will have no liability if he can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States or (D) an act or omission of a third party whether or not negligent, or any combination of the foregoing clauses. Such owner or operator shall be liable without limitation if the United States can show that the discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner. These removal costs are to be a maritime lien on the vessel recoverable in an action in rem against the vessel and in addition the United States may bring an action against the owner or operator for these costs. The inclusion of specific language relating to the maritime lien and actions against the owner or operator are for the purposes of clarification only.

Paragraph (2) of subsection (f) provides that the owner or operator of an onshore facility is liable for actual costs for removal of oil discharged from that facility in violation of subsection (b)(2) of this section in an amount not to exceed $8 million. If such owner or operator can prove such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States, or (D) an act or omission of the third party whether or not negligent or any combination thereof, then such owner or operator shall have no liability. If the United States can show the discharge was a result of willful negligence or misconduct within the privity and knowledge of the owner, then the owner is liable for the full cost without limitation. The United States is authorized to bring an action against the owner or operator in any court of competent jurisdiction to recover these costs. Additionally the Secretary is authorized by regulation, after he has consulted with the Secretary of Commerce and the Small Business Administration, to establish classifications of those onshore facilities having a total fixed storage capacity of a thousand barrels or less which he determines do not present a substantial risk and apply with respect to these classifications differing limits of liability which may be less than the $8 million limit established statutorily by this paragraph.

Paragraph (3) of subsection (f) provides that the owner or operator of an offshore facility from which oil is discharged in violation of subsection (b)(2) of this section shall be liable to the United States for removal costs in an amount not to exceed $8 million. If such owner or operator can prove that the discharge is caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States, or (D) an act or omission of a third party whether or not negligent, or any combination thereof, then such owner or operator will have no liability. If the United States can show that the discharge was the result of willful negligence or misconduct within the privity and knowledge of the owner then he is liable for the full amount. The United States is authorized to bring an action against the owner or operator in a court of competent jurisdiction to recover these costs.

Subsection (g) of this section provides that in any case where an owner or operator of a vessel or of an onshore or offshore facility from which oil is discharged in violation of this section proves that the discharge is caused solely by an act or omission of a third party or solely by such act or omission in combination with an act of God, an act of war, or negligence on the part of the United States, then such third party shall be liable to the United States for the actual costs of removing the oil unless that third party can in turn prove that the discharge was caused solely by an act of God, an act of war, negligence on the part of the United States or the act or omission of another party or any combination thereof. If the third party is the owner or operator of a vessel which caused the discharge, then that third party's liability is limited to $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. In any other case the liability of the third party is limited by that which would have been applicable to the owner or operator of the vessel or facility from which the discharge actually occurred if such owner or operator would have been liable. If the United States proves the discharge of oil was the result of willful negligence or misconduct within the privity and knowledge of the third party, then such third party shall be liable for the full amount of the removal costs. The United States is authorized to bring a suit in a court of competent jurisdiction to recover these removal costs.

Subsection (h) provides that the liability established by this section will not affect any rights which the owner or operator of the

vessel or onshore or offshore facility may have against third parties whose acts in any way may have caused or contributed to the discharge of oil, or which the United States may have against any such party.

Paragraph (1) of subsection (i) authorizes an owner or operator from whose vessel or facility oil has been discharged and who voluntarily removes the oil in accordance with regulations to recover reasonable costs incurred in that removal in a suit against the United States in the court of claims if such owner or operator can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States, or (D) an act or omission of a third party without regard to its negligence, or any combination of the foregoing.

Paragraph (2) of subsection (i) provides that this subsection will not apply where liability is established by regulations adopted under authority of the Outer Continental Shelf Lands Act.

Paragraph (3) of subsection (i) authorizes the payment from the revolving fund established in subsection (k) of this section of any judgment entered against the United States under this subsection.

Paragraph (1) of subsection (j) requires the President, as soon as practicable and consistent with the national contingency plan, and maritime safety, and marine and navigation laws, to establish methods and procedures for removal of discharged oil, to establish criteria for the development and implementation of local and regional oil removal contingency plans, to establish procedures, methods, and requirements for equipment to prevent discharges of oil from vessels and onshore and offshore facilities, and regulations governing the inspection of vessels carrying oil as cargo, including inspecting such cargoes all for the purpose of reducing the likelihood of discharges of oil from such vessels. This language is in very general terms, and it is the understanding of all of the conferees that under this authority the President would be authorized by regulation to require vessels and facilities to carry on board or otherwise have available materials and equipment determined necessary to prevent and to clean up oil discharges.

Paragraph (2) of subsection (j) provides for a civil penalty of up to $5,000 for each violation of the regulations issued under this subsection. Authority is granted the President to compromise these penalties.

Subsection (k) authorizes the establishment of a revolving fund in the Treasury of not to exceed $35 million to carry out the provisions of subsections (c) (relating to the removal of oil which has been discharged), (i) (relating to costs payable by the United States for removal by volunteers), and (l) (relating to the administration of the section generally), as well as section 12 of this act (relating to the removal of hazardous polluting substances). Any other funds received by the United States under this section are to be deposited in this fund. Moneys in the fund are to be available until expended.

Subsection (l) is general authority to the President to delegate the administration of this section to the heads of those departments, agencies, and instrumentalities which he determines to be appropriate. Any department, agency, or instrumentality in which functions are vested is to avoid duplication of effort and to utilize personnel, services, and facilities of other departments, agencies, and instrumentalities wherever appropriate.

Subsection (m) provides that any person authorized by the President to enforce this section may, except as to public vessels, board and inspect vessels, arrest violators, and execute warrants or other process issued by an officer or court of competent jurisdiction. It is the hope of the conferees that the responsibility for this subsection will be vested in the Coast Guard.

Subsection (n) vests the district courts of the United States with jurisdiction for actions brought under this section other than those specifically authorized in the Court of Claims by subsection (l)(1). It further designates in the case of territories and possessions which of the district courts such actions shall be brought in.

Paragraph (1) of subsection (o) provides that nothing in this section will affect or modify the obligations of an owner or operator of a vessel or facility from which oil is discharged to any other person or agency under any provision of law for damages resulting from that discharge or the removal of that oil.

Paragraph (2) of subsection (o) disclaims any intention of preempting any State or political subdivision from imposing any requirement or liability with respect to the discharge of oil into waters in that State. Thus, any State would be free to provide requirements and penalties similar to those imposed by this section or additional requirements and penalties. These, however, would be separate and independent from those imposed by this section and would be enforced by the States through its courts.

Paragraph (3) of subsection (o) insures that nothing in this section is to be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality relative to onshore or offshore facilities under this Act, or any other provision of law, or to affect any State or local law not in conflict with this section.

Subsection (p) is essentially the same as the equivalent provisions of the House bill relating to the financial responsibility of vessels except that where the House bill required vessels over 100 gross registered tons to establish evidence of financial responsibility, this provision requires vessels over 300 gross tons to do so and the limits of liability are specified to be the same as those contained in subsection (f)(1), that is, $100 a gross ton or $14 million, whichever is lesser. Additionally, this provision spells out in paragraph (3) that claims for costs may be brought directly against the insurer providing the evidence of financial responsibility and in such case the insurer shall be entitled to all of the rights and defenses available to the owner or operator. It is the hope of the conferees that responsibility for administering paragraph (1) of this subsection will be vested in the Federal Maritime Commission. It is also the hope of the conferees that the marine insurance industry will modernize its coverage for protection of third parties without regard to the nature of the conduct of the insured.

Paragraph (4) of subsection (p) is essentially the same as the provisions of the House bill relating to a study of the need for other measures to provide financial responsibility and to limit liability on vessels and facilities subject to the provisions of this section. This report is to be submitted to Congress by January 1, 1971.

CONTROL OF HAZARDOUS POLLUTING SUBSTANCES

The conference substitute proposes to add a new section 12 to the Federal Water Pollution Control Act dealing with control of hazardous polluting substances. In general, this section is more nearly comparable to that proposed by the Senate amendment than to the House bill.

Section 12(a) would be the same as section 13(a) of the Senate amendment except that the President would be authorized to establish recommended methods and means for removing hazardous substances instead of establishing criteria therefor as provided in the Senate amendment.

Section 12(b) would apply the Administrative Procedure Act provisions as now contained in title V (other than the form of administrative proceeding provided in section 553(c)) in lieu of the detailed administrative proceedings and judicial review contained in the comparable Senate provisions.

Section 12(c) is essentially the same as section 13(g) of the Senate amendment except that the criminal penalty for failure to notify has been removed. This section does not contain the civil penalty provided in section 13(i) of the Senate amendment.

This section does not contain the authorities granted the President with respect to enforcement contained in sections 13(k) and 13(l) of the Senate amendment.

Section 12(g), relating to reports, with minor changes is essentially the same as section 13(n) of the Senate amendment.

Section 12(h) is essentially the same as section 13(o) of the Senate amendment.

CONTROL OF SEWAGE FROM VESSELS

The proposed new section 13 of the Federal Water Pollution Control Act relates to control of sewage from vessels.

Section 13(a) contains the same definitions as section 11 of the Senate amendment with the following changes:

(1) The term "public vessel" is defined to mean a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

(2) The definition of "manufacturer" is the same as contained in the House bill.

(3) The term "discharge" is defined as including, but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(4) The term "marine sanitation device" is defined as also including any process to treat sewage.

Section 13(b)(1) relating to the establishment of standards for marine sanitation devices is essentially the same as contained in the House bill. Language is included in the vessel pollution portion of the conference substitute for the purpose of assuring that unreasonable demands are not made on small recreational vessels, but that marine sanitation device performance standards would only be promulgated when our technology permits these standards to be practicable and reasonable, and the degree of treatment will be adequate. The exemption of vessels that do not have installed toilet facilities relieves a burden upon those vessel owners who otherwise could be driven out because of the lack of feasibility of installing toilet facilities and marine sanitation devices on certain types of vessels.

Section 13(b)(2) provides that any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section which device is in compliance with such initial standards and regulations shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

Section 13(c)(1) relating to the effective date of standards is the same as the House provision.

Section 13(c)(2) relating to differentiation and waiver is the same as the House provision with the exception that the Secretary of the department in which the Coast Guard is operating must consult with the Secretary of the Interior in distinguishing among classes, types, and sizes of vessels as well as between new and existing vessels; and, with respect to waiving applicability of standards and regulations as necessary or appropriate for such classes, types, or sizes, it is made clear that existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section are eligible for waiver of such standards.

Section 13(d) relating to federally owned vessels is essentially the same as the comparable provision of the House bill.

Section 13(e) relating to consultation with interested parties is the same as the provisions of the House bill.

Section 13(f) provides that after the effective date of the initial standards and regulations promulgated under this section no State or political subdivision thereof shall adopt or enforce any statute or regulation of any such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section. Upon application by a State and, where the Secretary determines that any applicable water quality standards require such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage whether treated or not into those waters of such State which are the subject of the application and to which such standards apply. The conferees expect there to be a wide dissemination of information of any such prohibition.

Sections 13 (g) through (m) relating to prohibitions and their enforcement are essentially the same as the equivalent provisions in the House bill.

AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

The proposed new section 15 is the same as the equivalent provisions in both the House bill and the Senate amendment which are substantially identical.

POLLUTION CONTROL IN THE GREAT LAKES

The proposed new section 15 is the same as the equivalent provisions in both the House bill and the Senate amendment which are substantially identical.

TRAINING GRANTS AND CONTRACTS

Sections 16 through 19 of the conference substitute relating to training grants and contracts are essentially the same as the equivalent provisions contained in the House bill.

ALASKA VILLAGE FACILITIES

The conference substitute proposes to add a new section 20 to the Federal Water Pollution Control Act entitled "Alaska Village Demonstration Projects".

This section would authorize the Secretary, in agreement with the State of Alaska, to carry out demonstration projects for central community facilities for safe water and the elimination or control of water pollution in native villages of Alaska without these facilities. These projects are to include provisions for safe water supply systems, toilets, bathing and laundering facilities, sewage disposal facilities, and similar facilities of that type. In addition, educational and informational facilities and programs relating to health and hygiene are authorized as part of the demonstration projects. The purpose of these demonstration projects is to assist in developing preliminary plans for providing these types of facilities for all native villages in Alaska.

In carrying out this section, the Secretary is to cooperate with the Secretary of Health, Education, and Welfare in order to utilize personnel and facilities of that department to the extent appropriate.

A report to Congress not later than January 31, 1973, is required.

There is authorized to be appropriated not to exceed $1,000,000 to carry out this new section.

It is the understanding of the conferees that these demonstration projects will not extend to the construction of facilities other than those which are centrally located and usable on a community-wide basis. Facilities for individual dwellings are not authorized under this section.

COOPERATION BY FEDERAL AGENCIES IN THE CONTROL OF POLLUTION

Section 103 of the conference substitute redesignates existing section 11 of the Federal Water Pollution Control Act as section 21 and revises that section substantially as follows:

Section 21(a) would require each Federal department, agency, and instrumentality (hereafter referred to as a "Federal agency") having jurisdiction over any real property or facility or engaged in any Federal public works activity to insure compliance with applicable water quality standards and the purposes of the Federal Water Pollution Control Act in the administration of that property, facility, or activity, to the extent consistent with the paramount interest of the United States as determined by the President. The jurisdiction of a Federal agency referred to in this provision includes operations of the agencies carried on by lease and by contract and therefore would subject these lease and contract operations to the requirements of this subsection. In his summary of the conference pursuant to section 10(d)(4) of the Act, the Secretary is required to include reference to any discharges alleged to contribute to pollution from any Federal property, facility, or activity and to send a copy of that summary to the head of the Federal agency having jurisdiction thereof. Notice of a hearing pursuant to section 10(f) of the Act involving any pollution alleged to be caused by any such discharges shall also be given the Federal agency having jurisdiction over the property, facility, or activity involved and the hearing board's findings and recommendations shall include references to such discharges to the extent they are contributing to the pollution.

Section 21(b) requires any applicant for a Federal license or permit to conduct any activity (this includes constructing or operating facilities) which may result in any discharge into navigable waters of the United States to provide the licensing or permitting agency with a certification from the State in which the discharge originates or will originate or a certification from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate if such a certification is appropriate from such interstate agency rather than from the State of origin. This certification must state that there is reasonable assurance as determined by the certifying State or interstate agency that the activity proposed to be licensed or permitted will be conducted in a manner which will not violate applicable water quality standards. The State is required to provide public notice with respect to all applications received by it for certification and, to the extent that the State determines it appropriate, to establish procedures for holding public hearings with respect to specific applications. If these standards have been promulgated by the Secretary, or, if a State or interstate agency has no authority to make such a certification, then the certification must be obtained from the Secretary. In order to insure that sheer inactivity by the State, interstate agency, or Secretary, as the case may be, will not frustrate the Federal application, a requirement, similar to that contained in the House bill is contained in the conference substitute that if within a reasonable period, which cannot exceed one year, after it has received a request to certify, the State, interstate agency, or Secretary, as this case may be, fails or refuses to act on the request for certification, then the certification requirement is waived. If a State refuses to give a certification, the courts of that State are the forum in which the applicant must challenge that refusal if the applicant wishes to do so. No Federal license or permit shall be granted unless this certification has first been obtained or there has been a waiver of the requirement as provided by this subsection. Denial of certification by a State, interstate agency, or the Secretary, as the case may be, results in a complete prohibition against the issuance of the Federal license or permit.

When a licensing or permitting agency receives an application and a certification, it must immediately notify the Secretary of the Interior thereof. Whenever such a discharge may affect the quality of the waters of any other State as determined by the Secretary, then the Secretary shall, within 30 days of the date he is notified of the application for the Federal license or permit, notify such other State, the licensing or permitting agency, and the applicant. If within 60 days thereafter the State so determined to be affected determines that the discharge will affect the quality of its waters so as to violate its water quality standards and within that 60-day period notifies the Secretary and the licensing or permitting agency of its objection to the issuance of the license or permit and requests a public hearing on its objection, such a public hearing shall be held by the licensing or permitting agency. At that hearing the Secretary of the Interior shall submit his evaluation and recommendations with respect to the objection to the licensing or permitting agency. Based upon the recommendations of the State, the Secretary, and any additional evidence presented at the hearing, the agency shall condition the license or permit so as to insure compliance with applicable water quality standards. If conditions cannot insure this compliance, the license or permit shall not be issued.

In the case where a Federal license or permit is required both as to the construction of a facility and its operation, the initial certification required for the construction license or permit shall fulfill the requirements of this subsection with respect to certification for a Federal license or permit to operate that facility unless the certifying State, interstate agency, or Secretary, as the case may be, after having been given notice of the application for an operating license or permit by the agency to whom the application is made notifies that agency within 60 days that there is no longer reasonable assurance of compliance with applicable water quality standards because of changes since the construction license or permit certification was issued in (1) the construction or operation of the facility, (2) the characteristics of the waters into which the discharge is to be made, or (3) the water quality standards applicable to those waters. This paragraph is made inapplicable if the applicant for the operating license or permit has not provided the certifying State, interstate agency, or Secretary, as the case may be, with notice of any proposed changes in the construction or operation of the facility which changes may result in violation of applicable water quality standards.

Before the initial operation of a federally licensed or permitted facility or activity with respect to which a certification has been obtained under this provision which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee is required to provide an opportunity to the certifying State, agency, or Secretary, as the case may be, to review the manner of operation of the facility for the purpose of assuring that applicable water quality standards will not be violated. Upon notification by such certifying State, agency, or Secretary, as the case may be, that operation of this facility will violate applicable water quality standards, the Federal agency may, after public hearing suspend the license or permit until notification is received from the certifying State, agency, or Secretary, as the case may be, that there is reasonable assurance that the facility or activity will not violate ap-

plicable water quality standards. This right to review the manner of operation of a facility or activity is not to be construed as authority to the State, agency, or Secretary, as the case may be, to impose operational requirements with respect to that facility or activity.

If a judgment is entered under section 10(h) of the Act that a federally licensed or permitted facility or activity has been operated in violation of applicable water quality standards, then the Federal license or permit with respect to which a certification has been obtained under this provision may be suspended or revoked by the Federal agency issuing that license or permit.

No Federal agency is to be deemed to be an applicant for the purposes of this subsection.

If the actual construction of a facility has been lawfully commenced before the date of enactment of the Water Quality Improvement Act of 1970, then no certification is to be required for a license or permit issued thereafter to operate such facility except that if such a license or permit is issued without this certification it shall terminate at the end of three years from the date of enactment of the Act of 1970 unless before such date a proper certification is submitted to the licensing or permitting agency and the person having that license or permit otherwise meets the requirements of this subsection.

Except as provided in the preceding paragraph, an applicant for a license or permit pending on the date of enactment of the Water Quality Improvement Act of 1970, which license or permit is issued within one year after that date, will not require certification for a one-year period following the date of issuance of the license or permit except that that license or permit will terminate at the end of one year unless before that expiration date the licensee or permittee submits a certification and otherwise meets the requirements of this subsection.

In the case of any activity which will affect water quality for which there are no applicable standards, no certification will be required. However, a Federal licensing or permitting agency, in such event, must impose, as a condition of any license or permit a requirement that the licensee or permittee shall comply with the purposes of the Act.

If a State in which a discharge originates or the Secretary notifies a Federal agency that its licensee or permittee has received notice of the adoption of water quality standards applicable to such activity and has failed to comply with the standards, the Federal agency must after a period of time, suspend license or permit until notice is received that there is reasonable assurance of compliance.

Nothing in this section is to be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with applicable water quality standards. The Secretary of the Interior is also directed to provide technical assistance to carry out the purposes of this Act.

This section will also authorize the Chief of Engineers to permit the use of spoil disposal areas under his jurisdiction by a Federal licensee or permittee to charge for that use with the moneys received to be deposited in miscellaneous receipts of the Treasury. In considering the "public interest" the Chief of Engineers should take into consideration the necessity to maintain non-Federal dock and berthing facilities which are essential to the functioning of the Federal navigation project. In determining the needs and utilization of spoil disposal areas under the jurisdiction of the Chief of Engineers, he should give appropriate consideration to the related requirements of the non-Federal dredging activities and should consider their needs for disposal on the same basis as those of the Federal Government. Where local interests donates land, or shares in the costs of construction of spoil disposal areas, local interest should be permitted reasonable use of the area, utilizing the same standards as set forth in the two preceding sentences, at a nominal charge.

AWARDS FOR EXCELLENCE

Section 104 of the conference substitute adds a new subsection (f) to redesignated section 22 of the Federal Water Pollution Control Act to authorize a program of official recognition by the United States to industrial organizations and political subdivisions which during the preceding year demonstrated either outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Secretary is to establish appropriate regulations for application for and granting of this award. No applicant is to be eligible if he is not in total compliance with all applicable water quality standards and does not otherwise have a satisfactory record with respect to environmental quality. The award is to be a certificate or plaque of suitable design, and notification of the award is to be published in the Federal Register.

RESEARCH, INVESTIGATIONS, TRAINING AND INFORMATION

Section 105 of the conference substitute amends section 5 of the Federal Water Pollution Control Act as follows:

(1) By relettering the last two subsections and inserting after subsection (f) new subsections (g) through (l).

(2) The new subsection (g) provides the same authority with respect to training of personnel as was provided by the Senate amendment in its amendment to section 5(g).

The new subsection (h) provides for the same authority with respect to lake eutrophication as was contained in the Senate amendment. It would authorize financial assistance for the construction of publicly owned research facilities by public agencies, including publicly owned universities.

The new subsection (i), relating to research on oil removal problems with the substitution of the requirement that the specifications be developed from time to time rather than by June 30, 1970, and with other minor changes is the same as the Senate amendment in this regard.

The new subsection (j), relating to marine sanitation device research is essentially the same as the provisions contained in the proposed subsection (j) in the House bill.

The new subsection (k), relating to land acquisition, is essentially the same as the comparable provisions in both the House bill and Senate amendment.

The new subsection (l) is essentially the same as the proposed subsection (j) in the Senate amendment relating to pesticides with the exception that reference to criteria has been deleted, and the term "scientific knowledge" substituted therefor, and the requirement of making the study on pesticides has been placed in the President rather than the Secretary. The conferees expect that the Secretary will consult with the Secretary of HEW on the health aspects of pesticides and will avoid duplication of the research activities of the Department of HEW.

In addition, this provision would extend through fiscal year 1971 the $1,000,000 authorized for the estuarine studies authorized in redesignated subsection (m) and would extend through fiscal year 1971 the authorization of $65,000,000 per year for carrying out section 5 on research and would authorize for subsection (g)(1) training $5,000,000 for fiscal year 1970 and $7,500,000 for fiscal year 1971, and $2,500,000 per fiscal year for each of those two fiscal years for carrying out subsection (g)(2) training. The extension of the estuarian authorization is necessary in connection with the gathering of additional information which may be required as the result of hearings now being held by the Public Works Committee.

FINANCING STUDY

Section 109 of the conference substitute, authorizes this study, excluding from it, however, the methods already authorized by existing law and extending to December 31, 1970, the reporting date. The authorization of this study is not to be construed as a weakening of the congressional commitment to the financing methods for water pollution control programs now authorized by law.

NAME CHANGE

Section 10 of the conference substitute provides for changing the name of the Federal Water Pollution Control Administration to that of the Federal Water Quality Administration.

REIMBURSEMENT

Section 111 of the conference substitute amends section 8(c) of the Federal Water Pollution Control Act to include for the purpose of making reimbursement, those States having projects eligible for reimbursement pursuant to the sixth and seventh sentences of subsection (c) of section 8.

The conferees agreed that this is merely a clarifying amendment and the authority for these reimbursements is contained in existing law. However, for clarification purposes, the specific words are added to the law.

NAVIGATION

Section 112 of the conference substitute adds a new sentence to section 10(c)(3) of the Federal Water Pollution Control Act. The intent and purpose of this sentence is the same as that of the Senate amendment, that is to ensure that "navigation" will be considered in the same manner and to the same extent as the other enumerated classes in the establishment of standards. The conference substitute differs from the Senate amendment only in technique in order to avoid any possible misinterpretation of this provision.

ENVIRONMENTAL QUALITY

Title II of the conference substitute relates to environmental quality.

Section 201 cites the title as the "Environmental Quality Improvement Act of 1970".

Section 202 makes certain congressional findings relating to the national policy set forth in existing statutes relating to environmental pollution, control, water, and land resources, transportation, and economic and regional development. It also finds that the primary responsibility for implementing this national policy rests with the State and local governments, and encourages the implementation of the policy through regional organizations.

The section declares that the purposes of the title are to assure that existing Federal departments and agencies conducting or supporting public works activities affecting the environment shall implement the policies established under existing law and to authorize an Office of Environmental Quality.

Section 203 establishes in the Executive Office of the President an Office of Environmental Quality. The Chairman of the Council on Environmental Quality is to be the Director of this Office. A Deputy Director is authorized to be appointed by the President by and with the advice and consent of the Senate, and his compensation is provided for. The Director is authorized to employ necessary personnel. These personnel would be employed in accordance with the general classification laws and paid in accordance with the General Schedule, except that authority is granted for the employment of not to exceed ten specialists and experts without regard to the provisions of law governing appointment and payment in the competitive service, with the further condition that no such specialist or expert shall be

paid at a rate above that of the maximum for GS–18. The conferees expect a report to the Public Works Committees from the Council on Environmental Quality within 90 days after the date of enactment of this Act on their staff needs, in terms of numbers, grades, and functions of temporary and permanent staff personnel.

In carrying out his functions, the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government which affect environmental quality as well as those specific major projects designated by the President which do not require individual project authorization by Congress and which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research and evaluation.

The Director in carrying out his functions is authorized to contract with public or private agencies, institutions, and organizations and individuals.

Section 204 provides for referral of the Environmental Quality Report to each standing committee of Congress having jurisdiction over any part of its subject matter.

Section 204 authorizes $500,000 for fiscal year 1970, $750,000 for fiscal year 1971, $1,250,000 for fiscal year 1972, and $1,500,000 for fiscal year 1973, in addition to the existing authorizations.

APPENDIX A

CHANGES IN THE FEDERAL WATER POLLUTION CONTROL ACT PROPOSED TO BE MADE BY THE CONFERENCE SUBSTITUTE FOR H.R. 4148

For the information of the Members of the House of Representatives, changes in the Federal Water Pollution Control Act proposed to be made by the conference substitute for H.R. 4148, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

AN ACT To provide for water pollution control activities in the Public Health Service of the Department of Health, Education, and Welfare, and for other purposes.

DECLARATION OF POLICY

SECTION 1. (a) The purpose of this Act is to enhance the quality and value of our water resources and to establish a national policy for the prevention, control, and abatement of water pollution.

(b) In connection with the exercise of jurisdiction over the waterways of the Nation and in consequence of the benefits resulting to the public health and welfare by the prevention and control of water pollution, it is hereby declared to be the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of the States in preventing and controlling water pollution, to support and aid technical research relating to the prevention and control of water pollution, and to provide Federal technical services and financial aid to State and interstate agencies and to municipalities in connection with the prevention and control of water pollution. The Secretary of Health, Education, and Welfare (hereinafter in this Act called "Secretary") shall administer this Act through the Administration created by section 2 of this Act, and with the assistance of an Assistant Secretary of Health, Education, and Welfare designated by him, shall supervise and direct (1) the head of such Administration in administering this Act and (2) the administration of all other functions of the Department of Health, Education, and Welfare related to water pollution. Such Assistant Secretary shall perform such additional functions as the Secretary may prescribe.

(c) Nothing in this Act shall be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

FEDERAL WATER POLLUTION CONTROL ADMINISTRATION

SEC. 2. Effective ninety days after the date of enactment of this section there is created within the Department of Health, Education, and Welfare a [Federal Water Pollution Control Administration] *Federal Water Quality Administration* (hereinafter in this Act referred to as the "Administration"). The head of the Administration shall be appointed, and his compensation fixed, by the Secretary. The head of the Administration may, in addition to regular staff of the Administration, which shall be initially provided from the personnel of the Department, obtain, from within the Department or otherwise as authorized by law, such professional, technical, and clerical assistance as may be necessary to discharge the Administration's functions and may for that purpose use funds available for carrying out such functions; and he may delegate any of his functions to, or otherwise authorize their performance by, an officer or employee of, or assigned or detailed to the Administration.

COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

SEC. 3. (a) The Secretary shall, after careful investigation, and in cooperation with other Federal agencies, with State water pollution control agencies and interstate agencies, and with the municipalities and industries involved, prepare or develop comprehensive programs for eliminating or reducing the pollution of interstate waters and tributaries thereof and improving the sanitary conditions of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. For the purpose of this section, the Secretary is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may adversely affect such waters.

(b)(1) In the survey or planning of any reservoir by the Corps of Engineers, Bureau of Reclamation, or other Federal agency, consideration shall be given to inclusion of storage for regulation of stream-flow for the purpose of water quality control, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source.

(2) The need for and the value of storage for this purpose shall be determined by these agencies, with the advice of the Secretary, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

(3) The value of such storage shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

(4) Costs of water quality control features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

(c)(1) The Secretary shall, at the request of the Governor of a State, or a majority of the governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed 3 years, if such agency provides for adequate representation of appropriate State, interstate, local, or (when appropriate) international, interests in the basin or portion thereof involved and is capable of developing an effective comprehensive water quality control and abatement plan for a basin.

(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control and abatement plan for the basin which—

(A) is consistent with any applicable water quality standards established pursuant to current law within the basin;

(B) recommends such treatment works and sewer systems as will provide the most effective and economical means of collection, storage, treatment, and purification of wastes and recommends means to encourage both municipal and industrial use of such works and systems; and

(C) recommends maintenance, and improvement of water quality standards within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan.

(3) For the purposes of this subsection the term "basin" includes, but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby.

INTERSTATE COOPERATION AND UNIFORM LAWS

SEC. 4. (a) The Secretary shall encourage cooperative activities by the States for the prevention and control of water pollution; encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution; and encourage compacts between States for the prevention and control of water pollution.

(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of water pollution and the enforce-

ment of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress.

RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

SEC. 5. (a) The Secretary shall conduct in the Department of Health, Education, and Welfare and encourage, cooperate with, and render assistance to other appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals, in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, control, and prevention of water pollution. In carrying out the foregoing, the Secretary is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information as to research, investigations, and demonstrations relating to the prevention and control of water pollution, including appropriate recommendations in connection therewith;

(2) make grants-in-aid to public or private agencies and institutions and to individuals for research or training projects and for demonstrations, and provide for the conduct of research, training, and demonstrations by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

(3) secure, from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a);

(4) establish and maintain research fellowships in the Department of Health, Education, and Welfare with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellowships: *Provided*, That the Secretary shall report annually to the appropriate committees of Congress on his operations under this paragraph; and

(5) provide training in technical matters relating to the causes, prevention, and control of water pollution to personnel of public agencies and other persons with suitable qualifications.

(b) The Secretary may, upon request of any State water pollution control agency, or interstate agency, conduct investigations and research and make surveys concerning any specific problem of water pollution confronting any State, interstate agency, community, municipality, or industrial plant, with a view of recommending a solution of such problem.

(c) The Secretary shall, in cooperation with other Federal, State, and local agencies having related responsibilities, collect and disseminate basic data on chemical, physical, and biological water quality and other information insofar as such data or other information relate to water pollution and the prevention and control thereof.

(d) In carrying out the provisions of this section the Secretary shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

(A) practicable means of treating municipal sewage and other waterborne wastes to remove the maximum possible amounts of physical, chemical, and biological pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

(B) improved methods and procedures to identify and measure the effects of pollutants on water uses, including those pollutants created by new technological developments; and

(C) methods and procedures for evaluating the effects on water quality and water uses of augmented streamflows to control water pollution not susceptible to other means of abatement.

(e) The Secretary shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention and control of water pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out.

(f) The Secretary shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, and evaluation of the water quality needs of those to be served by such waters, and evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving water pollution problems (including additional waste treatment measures) with respect to such waters.

(g) (1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Secretary shall finance a pilot program, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, or entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Secretary is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

(2) The Secretary is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, control, and abatement of water pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

(3) In furtherance of the purposes of this Act, the Secretary is authorized to—

(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

(B) establish and maintain research fellowships in the Department of the Interior with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellowships; and

(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, and control of water pollution for personnel of public agencies and other persons with suitable qualifications.

(4) The Secretary shall submit, through the President, a report to the Congress within eighteen months from the date of enactment of this subsection, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

(h) The Secretary is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, and control of natural or manmade pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities, for such purpose.

(i) The Secretary shall—

(A) engage in such research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention and control of oil pollution;

(B) publish from time to time the results of such activities; and

(C) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used as dispersants or emulsifiers in the control of oil spills.

In carrying out this subsection, the Secretary may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

(j) The Secretary shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Secretary shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any standards established under section 13 of this Act. In carrying out this subsection the Secretary may enter into contracts with, or make grants to, public or private organizations and individuals.

(k) In carrying out the provisions of this section relating to the conduct by the Secretary of demonstration projects and the development of field laboratories and research facilities, the Secretary may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(l) (1) The Secretary shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than two years after the effective date of this subsection, develop and issue to the States for the purpose of adopting standards pursuant to section 10(c) the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

(2) For the purpose of assuring effective implementation of standards adopted pursuant to paragraph (1) the President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct a study and investigation of methods to control the release of pesticides into the environment, which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit a report on such investigation to Congress together with his recommendations for any necessary legislation within two years after the effective date of this subsection.

[(g)] (m)(1) The Secretary shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, and encourage contributions to, a comprehensive study of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such study shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

(2) In conducting the above study, the Secretary shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones, carry out a program of investigations and surveys to supplement existing information in representative estuaries and estuarine zones and identify the problems and areas where further research and study are required.

(3) The Secretary shall submit to the Congress a final report of the study authorized by this subsection not later than three years after the date of enactment of this subsection. Copies of the report shall be made available to all interested parties, public and private. The report shall include, but not be limited to—

(A) an analysis of the importance of estuaries to the economic and social well-being of the people of the United States and of the effects of pollution upon the use and enjoyment of such estuaries;

(B) a discussion of the major economic, social, and ecological trends occurring in the estuarine zones of the Nation;

(C) recommendations for a comprehensive national program for the preservation, study, use, and development of estuaries of the Nation, and the respective responsibilities which should be assumed by Federal, State, and local governments and by public and private interests.

(4) There is authorized to be appropriated the sum of $1,000,000 per fiscal year for the fiscal years ending June 30, 1967, June 30, 1968, [and June 30, 1969,] *June 30, 1969, June 30, 1970, and June 30, 1971,* to carry out the purposes of this subsection.

(5) For the purpose of this subsection, the term "estuarine Zones" means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term "estuary" means all or part of the mouth of a navigable or interstate river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

[(h)] (n) There is authorized to be appropriated to carry out this section, other than subsection [(g), not to exceed $60,000,000 for the fiscal year ending June 30, 1968, and $65,000,000 for the fiscal year ending June 30, 1969] *(g) (1) and (2), not to exceed $65,000,000 per fiscal year for each of the fiscal years ending June 30, 1969, and June 30, 1970, and June 30, 1971. There is authorized to be appropriated to carry out subsection (g) (1) of this section $5,000,000 for the fiscal year ending June 30, 1970, and $7,500,000 for the fiscal year ending June 30, 1971. There is authorized to be appropriated to carry out subsection (g)(2) of this section $2,500,000 per fiscal year for each of the fiscal years ending June 30, 1970, and June 30, 1971.* Sums so appropriated shall remain available until expended.

GRANTS FOR RESEARCH AND DEVELOPMENT

SEC. 6. (a) The Secretary is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of—

(1) assisting in the development of any project which will demonstrate a new or improved method of controlling the discharge into any waters of untreated or inadequately treated sewage or other wastes from sewers which carry storm water or both storm water and sewage or other wastes, or

(2) assisting in the development of any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes) or new or improved methods of joint treatment systems for municipal and industrial wastes,

and for the purpose of reports, plans, and specifications in connection therewith.

(b) The Secretary is authorized to make grants to persons for research and demonstration projects for prevention of pollution of waters by industry including but not limited to, treatment of industrial waste.

(c) Federal grants under subsection (a) of this section shall be subject to the following limitations:

(1) No grant shall be made for any project pursuant to this section unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Secretary;

(2) No grant shall be made for any project in an amount exceeding 75 per centum of the estimated reasonable cost thereof as determined by the Secretary; and

(3) No grant shall be made for any project under this section unless the Secretary determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a).

(d) Federal grants under subsection (b) of this section shall be subject to the following limitations:

(1) No grant shall be made under this section in excess of $1,000,000;

(2) No grant shall be made for more than 70 per centum of the cost of the project; and

(3) No grant shall be made for any project unless the Secretary determines that such project will serve a useful purpose in the development or demonstration of a new or improved method of treating industrial wastes or otherwise preventing pollution of waters by industry, which method shall have industry-wide application.

(e) For the purposes of this section there are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1966, and for each of the next [three] *five* succeeding fiscal years, the sum of $20,000,000 per fiscal year for the purposes set forth in subsections (a) and (b) of this section, including contracts pursuant to such subsections for such purposes;

(2) for the fiscal year ending June 30, 1967, and for each of the next [two] *four* succeeding fiscal years, the sum of $20,000,000 per fiscal year for the purpose set forth in clause (2) of subsection (a); and

(3) for the fiscal year ending June 30, 1967, and for each of the next [two] *four succeeding* fiscal years, the sum of $20,000,000 per fiscal year for the purpose set forth in subsection (b).

GRANTS FOR WATER POLLUTION CONTROL PROGRAMS

SEC. 7. (a) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each succeeding fiscal year to and including the fiscal year ending June 30, 1961, $3,000,000, for each succeeding fiscal year to and including the fiscal year ending June 30, 1967, $5,000,000, and for each succeeding fiscal year to and including the fiscal year ending June 30, 1971, $10,000,000 for grants to States and to interstate agencies to assist them in meeting the costs of establishing and maintaining adequate measures for the prevention and control of water pollution, including the training of personnel of public agencies.

(b) The portion of the sums appropriated pursuant to subsection (a) for a fiscal year which shall be available for grants to interstate agencies and the portion thereof which shall be available for grants to States shall be specified in the Act appropriating such sums.

(c) From the sums available therefor for any fiscal year the Secretary shall from time to time make allotments to the several States, in accordance with regulations, on the basis of (1) the population, (2) the extent of the water pollution problem, and (3) the financial need of the respective States.

(d) From each State's allotment under subsection (c) for any fiscal year the Secretary shall pay to such State an amount equal to its Federal share (as determined under subsection (h)) of the cost of carrying out its State plan approved under subsection (f), including the cost of training personnel for State and local water pollution control work and including the cost of administering the State plan.

(e) From the sums available therefor for any fiscal year the Secretary shall from time to time make allotments to interstate agencies, in accordance with regulations, on such basis as the Secretary finds reasonable and equitable. He shall from time to time pay to each such agency, from its allotment, an amount equal to such portion of the cost of carrying out its plan approved under subsection (f) as may be determined in accordance with regulations, including the cost of training personnel for water pollution control work and including the cost of administering the interstate agency's plan. The regulations relating to the portion of the cost of carrying out the interstate agency's plan which shall be borne by the United States shall be designed to place such agencies, so far as practicable, on a basis similar to that of the States.

(f) The Secretary shall approve any plan for the prevention and control of water pollution which is submitted by the State water pollution control agency or, in the case of an interstate agency, by such agency, if such plan—

(1) provides for administration or for the supervision of administration of the plan by the State water pollution control agency or, in the case of a plan submitted by an interstate agency, by such interstate agency;

(2) provides that such agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require to carry out his functions under this Act;

(3) sets forth the plans, policies, and methods to be followed in carrying out the State (or interstate) plan and in its administration;

(4) provides for extension or improvement of the State or interstate program for prevention and control of water pollution;

(5) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan; and

(6) sets forth the criteria used by the State in determining priority of projects as provided in section 8(b)(4).

The Secretary shall not disapprove any plan without first giving reasonable notice and opportunity for hearing to the State water pollution control agency or interstate agency which has submitted such plan.

(g)(1) Whenever the Secretary, after reasonable notice and opportunity for hearing to a State water pollution control agency or interstate agency finds that—

(A) the plan submitted by such agency and approved under this section has been so changed that it no longer complies with a requirement of subsection (f) of this section; or

(B) in the administration of the plan there is a failure to comply substantially with such a requirement,

the Secretary shall notify such agency that no further payments will be made to the State or to the interstate agency, as the case may be, under this section (or in his discretion that further payments will not be made to the State, or to the interstate agency, for projects under or parts of the plan affected by such failure) until he is satisfied that there will no longer be any such failure. Until he is so satisfied, the Secretary shall make no further payments to such State, or to such interstate agency, as the case may be, under this section (or shall limit payments to projects under or parts of the plan in which there is no such failure).

(2) If any State or any interstate agency is dissatisfied with the Secretary's action with respect to it under this subsection, it may appeal to the United States court of appeals for the circuit in which such State (or any of the member States, in the case of an interstate agency) is located. The summons and notice of appeal may be served at any place in the United States. The findings of fact by the Secretary, unless contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action. Such new or modified findings of fact shall likewise be conclusive unless contrary to the weight of the evidence. The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

(h)(1) The "Federal share" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the Federal share shall in no case be more than 66⅔ per centum or less than 33⅓ per centum, and (B) the Federal share for Puerto Rico and the Virgin Islands shall be 66⅔ per centum.

(2) The "Federal shares" shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce.

(3) As used in this subsection, the term "United States" means the fifty States and the District of Columbia.

(4) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe a Federal share for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available for the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.

(i) The population of the several States shall be determined on the basis of the latest figures furnished by the Department of Commerce.

(j) The method of computing and paying amounts pursuant to subsection (d) or (e) shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State (or to each interstate agency in the case of subsection (e)) under the provisions of such subsection for such period, such estimate to be based on such records of the State, (or the interstate agency) and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay to the State (or to the interstate agency), from the allotment available therefor, the amount so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State (or such interstate agency) for any prior period under such subsection was greater or less than the amount which should have been paid to such State (or such agency) for such prior period under such subsection. Such payments shall be made through the disbursing facilities of the Treasury Department, in such installments as the Secretary may determine.

GRANTS FOR CONSTRUCTION

SEC. 8. (a) The Secretary is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of necessary treatment works to prevent the discharge of untreated or inadequately treated sewage or other waste into any waters and for the purpose of reports, plans, and specifications in connection therewith.

(b) Federal grants under this section shall be subject to the following limitations: (1) No grant shall be made for any project pursuant to this section unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Secretary and unless such project is included in a comprehensive program developed pursuant to this Act; (2) no grant shall be made for any project in an amount exceeding 30 per centum of the estimated reasonable cost thereof as determined by the Secretary; (3) no grant shall be made unless the grantee agrees to pay the remaining cost; (4) no grant shall be made for any project under this section until the applicant has made provision satisfactory to the Secretary for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof; and (5) no grant shall be made for any project under this section unless such project is in conformity with the State water pollution control plan submitted pursuant to the provisions of section 7 and has been certified by the appropriate State water pollution control agency as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs; (6) the percentage limitation of 30 per centum imposed by clause (2) of this subsection shall be increased to a maximum of 40 per centum in the case of grants made under this section from funds allocated for a fiscal year to a State under subsection (c) of this section if the State agrees to pay not less than 30 per centum of the estimated reasonable cost (as determined by the Secretary) of all projects for which Federal grants are to be made under this section from such allocation; (7) the percentage limitations imposed by clause (2) of this subsection shall be increased to a maximum of 50 per centum in the case of grants made under this section from funds allocated for a fiscal year to a State under subsection (c) of this section if the State agrees to pay not less than 25 per centum of the estimated reasonable costs (as determined by the Secretary) of all projects for which Federal grants are to be made under this section from such allocation and if enforceable water quality standards have been established for the waters into which the project discharges, in accordance with section 10(c) of this Act in the case of interstate waters, and under State law in the case of intrastate waters.

(c) In determining the desirability of projects for treatment works and of approving Federal financial aid in connection therewith, consideration shall be given by the Secretary to the public benefits to be derived by the construction and the propriety of Federal aid in such construction, the relation of the ultimate cost of constructing and maintaining the works to the public interest and to the public necessity for the works, and the adequacy of the provisions made or proposed by the applicant for such Federal financial aid for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof. The sums appropriated pursuant to subsection (d) for each fiscal year ending on or before June 30, 1965, and the first $100,000,000 appropriated pursuant to subsection (d) for each fiscal year beginning on or after July 1, 1965, shall be allotted by the Secretary from time to time, in accordance with regulations, as follows: (1) 50 per centum of such sums in the ratio that the population of each State bears to the population of all the States, and (2) 50 per centum of such sums in the ratio that the quotient obtained by dividing the per capita income of the United States by the per capita income of each State bears to the sum of such quotients for all the States. All sums in excess of $100,000,000 appropriated pursuant to subsection (d) for each fiscal year beginning on or after July 1, 1965, shall be allotted by the Secretary from time to time, in accordance with regulations, in the ratio that the population of each State bears to the population of all States. Sums allotted to a State under the two preceding sentences which are not obligated within six months following the end of the fiscal year for which they were allotted because of a lack of projects which have been approved by the State water pollution control agency under subsection (b)(1) of this section and certified as entitled to priority under sub-

section (b)(4) of this section, shall be reallotted by the Secretary, on such basis as he determines to be reasonable and equitable and in accordance with regulations promulgated by him, to States having projects approved under this section for which grants have not been made because of lack of funds *including States having projects eligible for reimbursement pursuant to the sixth and seventh sentences of this subsection: Provided, however,* That whenever a State has funds subject to reallocation and the Secretary finds that the need for a project in a community in such State is due in part to any Federal institution or Federal construction activity, he may, prior to such reallocation, make an additional grant with respect to such project which will in his judgment reflect an equitable contribution for the need caused by such Federal institution or activity. Any sum made available to a State by reallotment under the preceding sentence shall be in addition to any funds otherwise allotted to such State under this Act. The allotments of a State under the second, third, and fourth sentences of this subsection shall be available, in accordance with the provisions of this section, for payments with respect to projects in such State which have been approved under this section, except that in the case of any project on which construction was initiated in such State after June 30, 1966, which was approved by the appropriate State water pollution control agency and which the Secretary finds meets the requirements of this section but was constructed without such assistance, such allotments for any fiscal year ending prior to July 1, 1971, shall also be available for payments in reimbursement of State or local funds used for such project prior to July 1, 1971, to the extent that assistance could have been provided under this section if such project had been approved pursuant to this section and adequate funds had been available. In the case of any project on which construction was initiated in such State after June 30, 1966, and which was constructed with assistance pursuant to this section but the amount of such assistance was a lesser per centum of the cost of construction than was allowable pursuant to this section, such allotments shall also be available for payments in reimbursement of State or local funds used for such project prior to July 1, 1971, to the extent that assistance could have been provided under this section if adequate funds had been available. Neither a finding by the Secretary that a project meets the requirements of this subsection, nor any other provision of this subsection, shall be construed to constitute a commitment or obligation of the United States to provide funds to make or pay any grant for such project. For purposes of this section, population shall be determined on the basis of the latest decennial census for which figures are available, as certified by the Secretary of Commerce, and per capita income for each State and for the United States shall be determined on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce.

(d) There are hereby authorized to be appropriated for each fiscal year through and including the fiscal year ending June 30, 1961, the sum of $50,000,000 per fiscal year for the purpose of making grants under this section. There are hereby authorized to be appropriated, for the purpose of making grants under this section, $80,000,000 for the fiscal year ending June 30, 1962, $90,000,000 for the fiscal year ending June 30, 1963, $100,000,000 for the fiscal year ending June 30, 1964, $100,000,000 for the fiscal year ending June 30, 1965, $150,000,000 for the fiscal year ending June 30, 1966, $150,000,000 for the fiscal year ending June 30, 1967; $450,000,000 for the fiscal year ending June 30, 1968; $700,000,000 for the fiscal year ending June 30, 1969; $1,000,000,000 for the fiscal year ending June 30, 1970; and $1,250,000,000 for the fiscal year ending June 30, 1971. Sums so appropriated shall remain available until expended. At least 50 per centum of the funds so appropriated for each fiscal year ending on or before June 30, 1965, and at least 50 per centum of the first $100,000,000 so appropriated for each fiscal year beginning on or after July 1, 1965, shall be used for grants for the construction of treatment works servicing municipalities of one hundred and twenty-five thousand population or under.

(e) The Secretary shall make payments under this section through the disbursing facilities of the Department of the Treasury. Funds so paid shall be used exclusively to meet the cost of construction of the project for which the amount was paid. As used in this section the term "construction" includes preliminary planning to determine the economic and engineering feasibility of treatment works, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of treatment works; and the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works; and the inspection and supervision of the construction of treatment works.

(f) Notwithstanding any other provisions of this section, the Secretary may increase the amount of a grant made under subsection (b) of this section by an additional 10 per centum of the amount of such grant for any project which has been certified to him by an official State, metropolitan, or regional planning agency empowered under State or local laws or interstate compact to perform metropolitan or regional planning for a metropolitan area within which the assistance is to be used, or other agency or instrumentality designated for such purposes by the Governor (or Governors in the case of interstate planning) as being in conformity with the comprehensive plan developed or in process of developemnt for such metropolitan area. For the purposes of this subsection, the term "metropolitan area" means either (1) a standard metropolitan statistical area as defined by the Bureau of the Budget, except as may be determined by the President as not being appropriate for the purposes hereof, or (2) any urban area, including those surrounding areas that form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns or urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities, which in the opinion of the President lends itself as being appropriate for the purposes hereof.

(g) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects for which grants are made under this section shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., secs. 276a through 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

WATER POLLUTION CONTROL ADVISORY BOARD

SEC. 9. (a)(1) There is hereby established in the Department of Health, Education, and Welfare, a Water Pollution Control Advisory Board, composed of the Secretary or his designee, who shall be chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate and local governmental agencies, of public or private interests contributing to, affected by, or concerned with water pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of water pollution prevention and control, as well as other individuals who are expert in this field.

(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term but terms commencing prior to the enactment of the Water Pollution Control Act Amendments of 1956 shall not be deemed "preceding terms" for purposes of this sentence.

(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not exceeding $50 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(b) The Board shall advise, consult with, and make recommendations to the Secretary on matters of policy relating to the activities and functions of the Secretary under this Act.

(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Department of Health, Education, and Welfare.

ENFORCEMENT MEASURES AGAINST POLLUTION OF INTERSTATE OR NAVIGABLE WATERS

SEC. 10. (a) The pollution of interstate or navigable waters in or adjacent to any State or States (whether the matter causing or contributing to such pollution is discharged directly into such waters or reaches such waters after discharge into a tributary of such waters), which endangers the health or welfare of any persons, shall be subject to abatement as provided in this Act.

(b) Consistent with the policy declaration of this Act, State and interstate action to abate pollution of interstate or navigable waters shall be encouraged and shall not, except as otherwise provided by or pursuant to court order under subsection (h), be displaced by Federal enforcement action.

(c)(1) If the Governor of a State or a State water pollution control agency files, within one year after the date of enactment

of this subsection, a letter of intent that such State, after public hearings, will before June 30, 1967, adopt (A) water quality criteria applicable to interstate waters or portions thereof within such State, and (B) a plan for the implementation and enforcement of the water quality criteria adopted, and if such criteria and plan are established in accordance with the letter of intent, and if the Secretary determines that such State criteria and plan are consistent with paragraph (3) of this subsection, such State criteria and plan shall thereafter be the water quality standards applicable to such interstate waters or portions thereof.

(2) If a State does not (A) file a letter of intent or (B) establish water quality standards in accordance with paragraph (1) of this subsection, or if the Secretary or the Governor of any State affected by water quality standards established pursuant to this subsection desires a revision in such standards, the Secretary may, after reasonable notice and a conference of representatives of appropriate Federal departments and agencies, interstate agencies, States, municipalities and industries involved, prepare regulations setting forth standards of water quality to be applicable to interstate waters or portions thereof. If, within six months from the date the Secretary publishes such regulations, the State has not adopted water quality standards found by the Secretary to be consistent with paragraph (3) of this subsection, or a petition for public hearing has not been filed under paragraph (4) of this subsection, the Secretary shall promulgate such standards.

(3) Standards of quality established pursuant to this subsection shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. In establishing such standards the Secretary, the Hearing Board, or the appropriate State authority shall take into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. *In establishing such standards the Secretary, the hearing board, or the appropriate State authority shall take into consideration their use and value for navigation.*

(4) If at any time prior to 30 days after standards have been promulgated under paragraph (2) of this subsection, the Governor of any State affected by such standards petitions the Secretary for a hearing, the Secretary shall call a public hearing, to be held in or near one or more of the places where the water quality standards will take effect before a Hearing Board of five or more persons appointed by the Secretary. Each State which would be affected by such standards shall be given an opportunity to select one member of the Hearing Board. The Department of Commerce and other affected Federal departments and agencies shall each be given an opportunity to select a member of the Hearing Board and not less than a majority of the Hearing Board shall be persons other than officers or employees of the Department of Health, Education, and Welfare. The members of the Board who are not officers or employees of the United States, while participating in the hearing conducted by such Hearing Board or otherwise engaged on the work of such Hearing Board, shall be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2), for persons in the Government service employed intermittently. Notice of such nearing shall be published in the Federal Register and given to the State water pollution control agencies, interstate agencies and municipalities involved at least 30 days prior to the date of such hearing. On the basis of the evidence presented at such hearing, the Hearing Board shall make findings as to whether the standards published or promulgated by the Secretary should be approved or modified and transmit its findings to the Secretary. If the Hearing Board approves the standards as published or promulgated by the Secretary, the standards shall take effect on receipt by the Secretary of the Hearing Board's recommendations. If the Hearing Board recommends modifications in the standards as published or promulgated, by the Secretary, the Secretary shall promulgate revised regulations setting forth standards of water quality in accordance with the Hearing Board's recommendations which will become effective immediately upon promulgation.

(5) The discharge of matter into such interstate waters or portions thereof, which reduces the quality of such waters below the water quality standards established under this subsection (whether the matter causing or contributing to such reduction is discharged directly into such waters or reaches such waters after discharge into tributaries of such waters), is subject to abatement in accordance with the provisions of paragraph (1) or (2) of subsection (g) of this section, except that at least 180 days before any abatement action is initiated under either paragraph (1) or (2) of subsection (g) as authorized by this subsection, the Secretary shall notify the violators and other interested parties of the violation of such standards. In any suit brought under the provisions of this subsection the court shall receive in evidence a transcript of the proceedings of the conference and hearing provided for in this subsection, together with the recommendations of the conference and Hearing Board and the recommendations and standards promulgated by the Secretary, and such additional evidence, including that relating to the alleged violation of the standards, as it deems necessary to a complete review of the standards and to a determination of all other issues relating to the alleged violation. The court, giving due consideration to the practicability and to the physical and economic feasibility of complying with such standards, shall have jurisdiction to enter such judgment and orders enforcing such judgment as the public interest and the equities of the case may require.

(6) Nothing in this subsection shall (A) prevent the application of this section to any case to which subsection (a) of this section would otherwise be applicable, or (B) extend Federal jurisdiction over water not otherwise authorized by this Act.

(7) In connection with any hearings under this section no witness or any other person shall be required to divulge trade secrets or secret processes.

(d) (1) Whenever requested by the Governor of any State or a State water pollution control agency, or (with the concurrence of the Governor and of the State water pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Secretary shall, if such request refers to pollution of waters which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originates, give formal notification thereof to the water pollution control agency and interstate agency, if any, of the State or States where such discharge or discharges originate and shall call promptly a conference of such agency or agencies and of the State water pollution control agency and interstate agency, if any, of the State or States, if any, which may be adversely affected by such pollution. Whenever requested by the Governor of any State, the Secretary shall, if such request refers to pollution of interstate or navigable waters which is endangering the health or welfare of persons only in the requesting State in which the discharge or discharges (causing or contributing to such pollution) originate, give formal notification thereof to the water pollution control agency and interstate agency, if any, of such State and shall promptly call a conference of such agency or agencies, unless, in the judgment of the Secretary, the effect of such pollution on the legitimate uses of the waters is not of sufficient significance to warrant exercise of Federal jurisdiction under this section. The Secretary shall also call such a conference whenever, on the basis of reports, surveys, or studies, he has reason to believe that any pollution referred to in subsection (a) and endangering the health or welfare of persons in a State other than that in which the discharge or discharges originate is occurring; or he finds that substantial economic injury results from the inability to market shellfish or shellfish products in interstate commerce because of pollution referred to in subsection (a) and action of Federal, State, or local authorities.

(2) Whenever the Secretary, upon receipt of reports, surveys, or studies from any duly constituted international agency, has reason to believe that any pollution referred to in subsection (a) of this section which endangers the health or welfare of persons in a foreign country is occurring, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State in which such discharge or discharges originate and to the interstate water pollution control agency, if any, and shall call promptly a conference of such agency or agencies, if he believes that such pollution is occurring in sufficient quantity to warrant such action. The Secretary, through the Secretary of State, shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the conference, and the representative of such country shall, for the purpose of the conference and any further proceeding resulting from such conference, have all the rights of a State water pollution control agency. This paragraph shall apply only to a foreign country which the Secretary determines has given the United States essentially the same rights with respect to the prevention and control of water pollution occurring in that country as is given that country by this paragraph. Nothing in this paragraph shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of water pollution in waters covered by those treaties.

(3) The agencies called to attend such conference may bring such persons as they desire to the conference. In addition, it shall be the responsibility of the chairman of the conference to give every person contributing to the alleged pollution or affected by it an opportunity to make a full statement of his views to the conference. Not less than three week's prior notice of the conference date shall be given to such agencies.

(4) Following this conference, the Secretary shall prepare and forward to all the water pollution control agencies attending the conference a summary of conference discussions including (A) occurrence of pollution of interstate or navigable waters subject to abatement under this Act; (B) adequacy of measures taken toward abatement of the pollution; and (C) nature of delays, if any, being encountered in abating the pollution.

(e) If the Secretary believes, upon the conclusion of the conference or thereafter, that effective progress toward abatement of such pollution is not being made and that the health or welfare of any persons is being endangered, he shall recommend to the ap-

propriate State water pollution control agency that it take necessary remedial action. The Secretary shall allow at least six months from the date he makes such recommendations for the taking of such recommended action.

(f) (1) If, at the conclusion of the period so allowed, such remedial action has not been taken or action which in the judgment of the Secretary is reasonably calculated to secure abatement of such pollution has not been taken, the Secretary shall call a public hearing, to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originated, before a Hearing Board of five or more persons appointed by the Secretary. Each State in which any discharge causing or contributing to such pollution originates and each State claiming to be adversely affected by such pollution shall be given an opportunity to select one member of the Hearing Board and at least one member shall be a representative of the Department of Commerce, and not less than a majority of the Hearing Board shall be persons other than officers or employees of the Department of Health, Education, and Welfare. At least three weeks' prior notice of such hearing shall be given to the State water pollution control agencies and interstate agencies, if any, called to attend the aforesaid hearing and the alleged polluter or polluters. It shall be the responsibility of the Hearing Board to give every person contributing to the alleged pollution or affected by it an opportunity to make a full statement of his views to the Hearing Board. On the basis of the evidence presented at such hearing, the Hearing Board shall make findings as to whether pollution referred to in subsection (a) is occurring and whether effective progress toward abatement thereof is being made. If the Hearing Board finds such pollution is occurring and effective progress toward abatement thereof is not being made it shall make recommendations to the Secretary concerning the measures, if any, which it finds to be reasonable and equitable to secure abatement of such pollution. The Secretary shall send such findings and recommendations to the person or persons discharging any matter causing or contributing to such pollution, together with a notice specifying a reasonable time (not less than six months) to secure abatement of such pollution, and shall also send such findings and recommendations and such notice to the State water pollution control agency and to the interstate agency, if any, of the State or States where such discharge or discharges originate.

(2) In connection with any hearing called under this section the Secretary is authorized to require any person whose alleged activities result in discharges causing or contributing to water pollution to file with him, in such form as he may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the Secretary may prescribe, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe, unless additional time be granted by the Secretary. No person shall be required in such report to divulge trade secrets or secret processes, and all information reported shall be considered confidential for the purposes of section 1905 of title 18 of the United States Code.

(3) If any person required to file any report under paragraph (2) of this subsection shall fail to do so within the time fixed by the Secretary for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where such person has his principal office or in any district in which he does business. The Secretary may upon application therefor remit or mitigate any forfeiture provided for under this paragraph and he shall have authority to determine the facts upon all such applications.

(4) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

(g) If action reasonably calculated to secure abatement of the pollution within the time specified in the notice following the public hearing is not taken, the Secretary—

(1) in the case of pollution of waters which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, may request the Attorney General to bring a suit on behalf of the United States to secure abatement of pollution, and

(2) in the case of pollution of waters which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, may, with the written consent of the Governor of such State, request the Attorney General to bring a suit on behalf of the United States to secure abatement of the pollution.

(h) The court shall receive in evidence in any such suit a transcript of the proceedings before the Board and a copy of the Board's recommendations and shall receive such further evidence as the court in its discretion deems proper. The court, giving due consideration to the practicability and to the physical and economic feasibility of securing abatement of any pollution proved, shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the case may require.

(i) Members of any Hearing Board appointed pursuant to subsection (f) who are not regular full-time officers or employees of the United States shall, while participating in the hearing conducted by such Board or otherwise engaged on the work of such Board, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(j) As used in this section the term—

(1) "person" includes an individual, corporation, partnership, association, State, municipality, and political subdivision of a State, and

(2) "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(k) (1) At the request of a majority of the conferees in any conference called under this section the Secretary is authorized to request any person whose alleged activities result in discharges causing or contributing to water pollution, to file with him a report (in such form as may be prescribed in regulations promulgated by him) based on existing data, furnishing such information as may reasonably be requested as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. No person shall be required in such report to divulge trade secrets or secret processes, and all information reported shall be considered confidential for the purposes of section 1905 of title 18 of the United States Code.

(2) If any person required to file any report under this subsection shall fail to do so within the time fixed by regulations for filing the same, and such failure shall continue for thirty days after notice of such default, such person may, by order of a majority of the conferees, be subject to a forfeiture of $100 for each and every day of the continuance of such failure which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States brought in the district where such person has his principal office or in any district in which he does business. The Secretary may upon application therefor remit or mitigate any forfeiture provided for under this subsection and he shall have authority to determine the facts upon all such applications.

(3) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States to prosecute for the recovery of such forfeitures.

Control of pollution by oil

Sec. 11. (a) For the purpose of this section, the term—

(1) "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(2) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(3) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

(4) "public vessel" means a vessel owned or bare-boat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce:

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(6) "owner or operator" means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

(7) "person" includes an individual, firm, corporation, association, and a partnership;

(8) "remove" or "removal" refers to removal of the oil from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(9) "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

(10) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(11) "offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

(12) "act of God" means an act occasioned by an unanticipated grave natural disaster;

(13) "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

(b)(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

(2) The discharge of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in harmful quantities as determined by the President under paragraph (3) of this subsection, is prohibited, except (A) in the case of such discharge into the waters of the contiguous zone, where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

(3) The President shall by regulation, to be issued as soon as possible after the date of enactment of this paragraph, determine for the purposes of this section, those quantities of oil the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches except that in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful.

(4) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil from such vessel or facility in violation of paragraph (2) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(5) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil is knowingly discharged in violation of paragraph (2) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $10,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

(c)(1) Whenever any oil is discharged, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, the President is authorized to act to remove or arrange for the removal of such oil at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

(2) Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan for removal of oil pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil discharges, including containment, dispersal, and removal of oil, and shall include, but not be limited to—

(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

(B) identification, procurement, maintenance, and storage of equipment and supplies;

(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil pollution control equipment and material, and a detailed oil pollution prevention and removal plan;

(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil to the appropriate Federal agency;

(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil; and

(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters.

The President may, from time to time, as he deems advisable, revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and actions to minimize damage from oil discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

(d) Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provision of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil.

(e) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil by the United States Government in an amount not to exceed $100 per gross ton of such vessel or $14,000,000, whichever is lesser, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil is discharged in violation of subsection (b)(2) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Secretary is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which

he determines because of size, type, and location do not present a substantial risk of the discharge of oil in violation of subsection (b) (2) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil is discharged in violation of subsection (b) (2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

(g) In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil is discharged in violation of subsection (b) (2) of this section proves that such discharge of oil was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil in violation of subsection (b) (2) of this section, the liability of such third party under this subsection shall not exceed $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred, if such owner or operator were liable. If the United States can show that the discharge of oil in violation of subsection (b) (2) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third partly shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) the United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil.

(i) (1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil is discharged in violation of subsection (b) (2) of this section acts to remove such oil in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing causes.

(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the fund established pursuant to subsection (k).

(j) (1) Consistent with the National Contingency Plan required by subsection (c) (2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil, (B) establishing criteria for the development and implementation of local and regional oil removal contingency plans, (C) establishing procedures, methods, and requirements for equipment to prevent discharges of oil from vessels and from onshore facilities and offshore facilities, and (D) governing the inspection of vessels carrying cargoes of oil and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from such vessels in violation of this section.

(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulation, shall be liable to a civil penalty of not more than $5,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provisions of subsections (c), (i), and (l) of this section and section 12 of this Act. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (i) of this section and section 12 of this Act. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i) (1), arising under this section. In the case of Guam, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

(o) (1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly-owned or privately-owned property resulting from a discharge of any oil or from the removal of any such oil.

(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil into any waters within such State.

(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

(p) (1) Any vessel over three hundred gross tons, including any barge of equivalent size, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14,000,000 whichever is the lesser, to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters, more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

(2) The provisions of paragraph (1) of this subsection shall be effective one year after the effective date of this section. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency head within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six

months after the date of enactment of this section.

(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

(4) The Secretary of Transportation, in consultation with the Secretaries of Interior, State, Commerce, and other interested Federal agencies, representatives of the merchant marine, oil companies, insurance companies, and other interested individuals and organizations, and taking into account the results of the application of paragraph (1) of this subsection, shall conduct a study of the need for and, to the extent determined necessary—

(A) other measures to provide financial responsibility and limitation of liability with respect to vessels using the navigable waters of the United States;

(B) measures to provide financial responsibility for all onshore and offshore facilities; and

(C) other measures for limitation of liability of such facilities;

for the cost of removing discharged oil and paying all damages resulting from the discharge of such oil. The Secretary of Transportation shall submit a report, together with any legislative recommendations, to Congress and the President by January 1, 1971.

Control of hazardous polluting substances

Sec. 12. (a) The President shall, in accordance with subsection (b) of this section, develop, promulgate, and revise as may be appropriate, regulations (1) designating as hazardous substances, other than oil as defined in section 11 of this Act, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches; and (2) establishing, if appropriate, recommended methods and means for the removal of such substances.

(b) Sections 551 through 559, inclusive (other than section 553(c)), and 701 through 706, inclusive, of title 5, United States Code, shall apply to regulations issued under authority of this section.

(c) In order to facilitate the removal, if appropriate, of any hazardous substance any person in charge of a vessel or of an onshore or offshore facility of any kind shall, as soon as he has knowledge of any discharge of such substance from such vessel or facility, immediately notify the appropriate agency of the United States of such discharge.

(d) Whenever any hazardous substance is discharged into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, unless removal is immediately undertaken by the owner or operator of the vessel or onshore or offshore facility from which the discharge occurs or which caused the discharge, pursuant to the regulations promulgated under this section, the President, if appropriate, shall remove or arrange for the removal thereof in accordance with such regulations. Nothing in this subsection shall be construed to restrict the authority of the President to act to remove or arrange for the removal of such hazardous substance at any time.

(e) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, onshore or offshore facility to any person or agency under any provision of law for damages to any publicly- or privately-owned property resulting from a discharge of any hazardous substance or from the removal of any such substance.

(f)(1) For the purposes of this section the definitions in subsection (a) of section 11 of this Act shall be applicable to the provisions of this section, except as provided in paragraph (2) of this subsection:

(2) For the purpose of this section, the term—

(A) "remove" or "removal" refers to removal of the hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(B) "owner or operator" means any person owning, operating, chartering by demise, or otherwise controlling the operations of, a vessel, or any person owning, operating, or otherwise controlling the operations of an onshore or offshore facility; and

(C) "offshore or onshore facility" means any facility of any kind and related appurtenances thereto which is located in, on, or under the surface of any land, or permanently or temporarily affixed to any land, including lands beneath the navigable waters of the United States and which is used or capable of use for the purpose of processing, transporting, producing, storing, or transferring for commercial purposes any hazardous substance designated under this section.

(g) The President shall submit a report to the Congress, together with his recommendations, not later than November 1, 1970, on the need for, and desirability of, enacting legislation to impose liability for the cost of removal of hazardous substances discharged from vessels and onshore and offshore facilities subject to this section including financial responsibility requirements. In preparing this report, the President shall conduct an accelerated study which shall include, but not be limited to, the method and measures for controlling hazardous substances to prevent this discharge, and the most appropriate measures for (1) enforcement (including the imposition of civil and criminal penalties for discharges and for failure to notify) and (2) recovery of costs incurred by the United States if removal is undertaken by the United States. In carrying out this study, the President shall consult with the interested representatives of the various public and private groups that would be affected by such legislation as well as other interested persons.

(h) Any moneys in the funds established by section 11 of this Act shall be available to the President to carry out the purposes of this section. In carrying out this section the President shall utilize the personnel, services, and facilities of Federal departments, agencies, and instrumentalities in such manner as will avoid duplication of effort.

Control of Sewage from Vessels

Sec. 13. (a) For the purpose of this section, the term—

(1) "new vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the United States, the construction of which is initiated after promulgation of standards and regulations under this section;

(2) "existing vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the United States, the construction of which is initiated before promulgation of standards and regulations under this section;

(3) "public vessel" means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(4) "United States" includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands; Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

(5) "marine sanitation device" includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

(6) "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

(7) "manufacturer" means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

(8) "person" means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

(9) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(b)(1) As soon as possible, after the enactment of this section and subject to the provisions of section 5(j) of this Act, the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as "standards") which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters of the United States from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations, governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

(c)(1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Secretary, may distinguish among classes, types, and sizes of vessels as well as between new and existing vessels, and may waive ap-

plicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

(d) The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

(e) Before the standards and regulations under this section are promulgated, the Secretary and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

(f) After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section. Upon application by a State, and where the Secretary determines that any applicable water quality standards require such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into those waters of such State which are the subject of the application and to which such standards apply.

(g)(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Secretary as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactred by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Secretary or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Secretary or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by, the Secretary or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

(1) for the manufacture of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g)(1) and subsections (h)(1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(j) Any person who violates subsection (g)(1) or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Secretary, other Federal agencies, or the States to carry out the provisions of this section.

(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(m) In the case of Guam, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

Area Acid and Other Mine Water Pollution Control Demonstrations

Sec. 14. (a) The Secretary in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control.

(b) The Secretary, in selecting watersheds for the purposes of this section shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

(c) Federal participation in such projects shall be subject to the conditions—

(1) that the State or interstate agency shall pay not less than 25 per centum of the actual project costs which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, or personal property or services, the value of which shall be determined by the Secretary; and

(2) that the State or interstate agency shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds available under this section in any one year shall be granted to any one State.

Pollution Control in Great Lakes

Sec. 15. (a) The Secretary, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political

subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other abatement and remedial techniques which will contribute substantially to effective and practical methods of water pollution elimination or control.

(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Secretary.

(c) There is authorized to be appropriated $20,000,000 to carry out the provisions of this section, which sum shall be available until expended.

Training grants and contracts

Sec. 16. The Secretary is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

(B) training and retraining of faculty members;

(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

Application for Training Grant or Contract; Allocation of Grants or Contracts

Sec. 17. (1) A grant or contract authorized by section 16 may be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

(A) sets forth programs, activities, research, or development for which a grant is authorized under section 16, and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 18.

(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursements of and accounting for Federal funds paid to the applicant under this section; and

(C) provides for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verifications of such reports.

(2) The Secretary shall allocate grants or contracts under section 16 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purposes of this section.

(3)(A) Payment under this section may be used in accordance with regulations of the Secretary, and subject to the terms and conditions set forth in an application approved under subsection (a), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under subsection (a).

Award for Scholarships

Sec. 18. (1) The Secretary is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Secretary may determine but not to exceed four academic years.

(2) The Secretary shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

(A) provide an equitable distribution of such scholarships throughout the United States; and

(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

(3) The Secretary shall approve a program of an institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

(A) that such program has as a principal objective the education and training of persons in the operation and maintenance of treatment works;

(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 16 of this Act; and

(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Secretary for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

(4)(A) The Secretary shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(B) The Secretary shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Secretary finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation.

(6) The Secretary shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Secretary determines appropriate.

Definitions and Authorizations

Sec. 19. (1) As used in sections 16 through 19 of this Act—

(A) The term "State" includes the District of Columbia, Puerto Rico, the Canal Zone, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(B) The term "institution of higher education" means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(C) The term "academic year" means an academic year or its equivalent, as determined by the Secretary.

(2) The Secretary shall annually report his activities under sections 16 through 19 of this Act, including recommendations for needed revisions in the provisions thereof.

(3) There are authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1970, $25,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for the fiscal year ending June 30, 1972, to carry out sections 16 through 19 of this Act (and planning and related activities in the initial fiscal year for such purpose). Funds appropriated for the fiscal year ending June 30, 1970, under authority of this subsection shall be available for obligation pursuant to the provisions of sections 16 through 19 of this Act during that year and the succeeding fiscal year.

Alaska Village Demonstration Projects

Sec. 20. (a) The Secretary is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and the elimination or control of water pollution in those native villages of Alaska without such facilities. Such project shall include provisions for community safe water supply systems,

toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of water pollution for all native villages in such State.

(b) In carrying out this section the Secretary shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

(c) The Secretary shall report to Congress not later than January 31, 1973, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

(d) There is authorized to be appropriated not to exceed $1,000,000 to carry out this section.

[COOPERATION TO CONTROL POLLUTION FROM FEDERAL INSTALLATIONS

[SEC. 11. It is hereby declared to be the intent of the Congress that any Federal department or agency having jurisdiction over any building, installation, or other property shall, insofar as practicable and consistent with the interests of the United States and within any available appropriations, cooperate with the Department of Health, Education, and Welfare, and with any State or interstate agency or municipality having jurisdiction over waters into which any matter is discharged from such property, in preventing or controlling the pollution of such waters. In his summary of any conference pursuant to section 10(d)(3) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any Federal property. Notice of any hearing pursuant to section 10(f) involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property involved and the findings and recommendations of the Hearing Board conducting such hearing shall also include references to any such discharges which are contributing to the pollution found by such Hearing Board.]

Cooperation by All Federal Agencies in the Control of Pollution

Sec. 21. (a) Each Federal agency (which term is used in this section includes Federal departments, agencies, and instrumentalities) having jurisdiction over any real property or facility, or engaged in any Federal public works activity of any kind, shall, consistent with the paramount interest of the United States as determined by the President, insure compliance with applicable water quality standards and the purposes of this Act in the administration of such property, facility, or activity. In his summary of any conference pursuant to section 10(d)(4) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property, facility, or activity, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such property, facility, or activity. Notice of any hearing pursuant to section 10(f) of this Act involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property, facility, or activity involved, and the findings and recommendations of the hearing board conducting such hearing shall include references to any such discharges which are contributing to the pollution found by such board.

(b)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters of the United States, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that there is reasonable assurance, as determined by the State or interstate agency that such activity will be conducted in a manner which will not violate applicable water quality standards. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where such standards have been promulgated by the Secretary pursuant to section 10(c) of this Act, or where a State or interstate agency has no authority to give such a certification, such certification shall be from the Secretary. If the State, interstate agency, or Secretary, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Secretary, as the case may be.

(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Secretary of such application and certification. Whenever such a discharge may affect, as determined by the Secretary, the quality of the waters of any other State, the Secretary within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate its water quality standards, and within such sixty-day period notifies the Secretary and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Secretary shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Secretary, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality standards. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Secretary, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Secretary, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with applicable water quality standards because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, or (C) the water quality standards applicable to such waters. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or if appropriate, the interstate agency or the Secretary, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted which changes may result in violation of applicable water quality standards.

(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters of the United States and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or if appropriate, the interstate agency or the Secretary to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable water quality standards will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Secretary that the operation of any such federally licensed or permitted facility or activity will violate applicable water quality standards, such Federal agency may, after public hearing suspend such license or permit. If such license or permit is suspended it shall remain suspended until notification is received from the certifying State, agency, or Secretary, as the case may be, that there is reasonable assurance that such facility or activity will not violate applicable water quality standards.

(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under section 10(h) of this Act that such facility or activity has been operated in violation of applicable water quality standards.

(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

(7) In any case where actual construction of a facility has been lawfully commenced prior to the date of enactment of the Water Quality Improvement Act of 1970, no certification shall be required under this subsection for a license or permit issued after the date of enactment of such Act of 1970 to operate such facility, except that any such license or permit issued without certification shall terminate at the end of the three-year period beginning on the date of enactment of such Act of 1970 unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this subsection.

(8) Except as provided in paragraph (7), any application for a license or permit (A) that is pending on the date of enactment of the Water Quality Improvement Act of 1970 and (B) that is issued within one year following such date of enactment shall not require certification pursuant to this subsection for one year following the issuance of such license or permit, except that any such license or permit issued shall terminate at

the end of one year unless prior to that time the licensee or permittee submits to the Federal agency that issued such license or permit a certification and otherwise meets the requirements of this subsection.

(9)(A) In the case of any activity which will affect water quality but for which there are no applicable water quality standards, no certification shall be required under this subsection, except that the licensing or permitting agency shall impose, as a condition of any license or permit, a requirement that the licensee or permittee shall comply with the purposes of this Act.

(B) Upon notice from the State in which the discharge originates or, as appropriate, the interstate agency or the Secretary, that such licensee or permittee has been notified of the adoption of water quality standards applicable to such activity and has failed, after reasonable notice, of not less than six months, to comply with such standards, the license or permit shall be suspended until notification is received from such State or interstate agency or the Secretary that there is reasonable assurance that such activity will comply with applicable water quality standards.

(c) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with applicable water quality standards. The Secretary shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable water quality standards, and shall when requested by any such department or agency or State or interstate agency, or applicant, comment on any method to comply with such standards.

(d) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

ADMINISTRATION

SEC. [12] *22.* (a) The Secretary is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

(b) The Secretary, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

(c) There are hereby authorized to be appropriated to the Department of Health, Education, and Welfare such sums as may be necessary to enable it to carry out its functions under this Act.

(d) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(e) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

(f)(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method or device in their waste treatment and pollution abatement programs. The Secretary shall, in consultation with the appropriate State water pollution control agency, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality standards under this Act, and otherwise does not have a satisfactory record with respect to environmental quality.

(2) The Secretary shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established by this subsection.

(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Secretary, and the awarding of such recognition shall be published in the Federal Register.

DEFINITIONS

SEC. [13] *23.* When used in this Act:

(a) The term "State water pollution control agency" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for enforcing State laws relating to the abatement of water pollution, it means such other State agency.

(b) The term "interstate agency" means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution of waters.

(c) The term "treatment works" means the various devices used in the treatment of sewage or industrial wastes of a liquid nature, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances, and includes any extensions, improvements, remodeling, additions, and alterations thereof.

(d) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

(e) The term "interstate waters" means all rivers, lakes, and other waters that flow across or form a part of State boundaries, including coastal waters.

(f) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, and an Indian tribe or an authorized Indian tribal organization.

OTHER AUTHORITY NOT AFFECTED

SEC. [14] *24.* This Act shall not be construed as (1) superseding or limiting the functions, under any other law, of the Surgeon General or of the Public Health Service, or of any other officer or agency of the United States, relating to the water pollution, or (2) affecting or impairing the provisions of [the Oil Pollution Act, 1924, or] sections 13 through 17 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors and for other purposes", approved March 3, 1899, as amended, or (3) affecting or impairing the provisions of any treaty of the United States.

SEPARABILITY

SEC. [15] *25.* If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. [16] *26.* (a) In order to provide the basis for evaluating programs authorized by this Act, the development of new programs, and to furnish the Congress with the information necessary for authorization of appropriations for fiscal years beginning after June 30, 1968, the Secretary, in cooperation with State water pollution control agencies and other water pollution control planning agencies, shall make a detailed estimate of the cost of carrying out the provisions of this Act; a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain such water quality standards as established pursuant to this Act or applicable State law. The Secretary shall submit such detailed estimate and such comprehensive study of such cost for the five-year period beginning July 1, 1968, to the Congress no later than January 10, 1968, such study to be updated each year thereafter.

(b) The Secretary shall also make a complete investigation and study to determine (1) the need for additional trained State and local personnel to carry out programs assisted pursuant to this Act and other programs for the same purpose as this Act, and (2) means of using existing Federal training programs to train such personnel. He shall report the results of such investigation and study to the President and the Congress not later than July 1, 1967.

[SEC. 17. The Secretary of the Interior shall, in consultation with the Secretary of the Army, the Secretary of the department in which the Coast Guard is operating, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce conduct a full and complete investigation and study of the extent of the pollution of all navigable waters of the United States from litter and sewage discharged, dumped, or otherwise deposited into such waters from watercraft using such waters, and methods of abating either in whole or in part such pollution. The Secretary shall submit a report of such investigation to Congress, together with his recommendations for any necessary legislation, not later than July 1, 1967.

[SEC. 18. The Secretary of the Interior shall conduct a full and complete investigation and study of methods for providing incentives designed to assist in the construction of facilities and works by industry designed to reduce or abate water pollution. Such study shall include, but not be limited to, the possible use of tax incentives as well as other methods of financial assistance. In carrying out this study the Secretary shall consult with the Secretary of the Treasury as well as the head of any other appropriate department or agency of the Federal Government. The Secretary shall report the results of such investigation and study, together with his recommendations, to the Congress not later than January 30, 1968.]

SHORT TITLE

SEC. [19] *27.* This Act may be cited as the "Federal Water Pollution Control Act".

Mr. RANDOLPH. Mr. President, this conference measure is the result of almost 2½ years of legislative effort and 5 months of extensive and arduous conferences with the other body.

Many members of the committee as well as the staff have labored earnestly. The oil liability provisions were among the most complex and controversial features which have been considered in the Public Works Committee in the 11 years

I have served on that committee, and for the almost 4 years as its chairman.

Though, as I stated, all members of the committee have contributed to this landmark legislation, the Senator deserving special credit for bringing it to fruition is the able chairman of our Subcommittee on Air and Water Pollution, EDMUND S. MUSKIE.

The conference measure is an equitable and effective and enforceable piece of legislation. In the oil spill provisions, it adheres to the basic philosophy of the Senate bill S. 7, which declared that the oil industry and oil shippers will bear the risk of cleanup of oil spills rather than the public. The conference measure, I believe, on the basis of our present information, makes a proper assignment of liabilities and responsibilities with effective protection of the public interest.

I also add that during our consideration of this vital subject, it has been my experience that the oil industry has shown an active desire to cooperate with the committee in its effort to develop effective and equitable legislation. This attitude has also been evident among other industrial and commercial interests.

I commend not only Senator MUSKIE for his leadership in the legislation but also Senator COOPER, ranking minority member of the Committee on Public Works, but also Senator BOGGS, Senator BAKER, and other Members of both the majority and minority for their constructive contributions to this significant legislation.

Mr. COOPER. Mr. President, today the Senate Members of the conference bring back to the Senate and ask approval of a very comprehensive and excellent water pollution control bill, H.R. 4148. It was a difficult conference, because of the complex nature of the legislation. Simple remedies are not sufficient in environmental legislation. The issues involve intergovernmental relationships, the economic system, technology and appropriate legal measures for enforcement. This bill attempts to chart a course to achieve water quality in the complex of factors I have described.

The House- and Senate-passed bills contained many differences. Resolving these differences in the context of the factors I have described required careful consideration and drafting. It was a time-consuming conference lasting from November 1969 until March 1970, but it has resulted in fair and necessary legislation. I pay my tribute to the chairman of the subcommittee, Senator MUSKIE, for his creativity and leadership, to Senator BOGGS, the ranking Republican members, Senator RANDOLPH, the chairman of the Committee on Public Works, Senators BAKER, BAYH, and MONTOYA, for their great contribution to the conference and their participation in it. A similar commendation is due the Members of the House who also participated actively in this conference, and to the staff of both committees. I would like to say that Senator BOGGS and Senator RANDOLPH, with their large experience, and Senator BAKER whose leadership on the knotty legal problems involved was so helpful, deserve especial credit.

There are many important provisions in this bill, but I will touch on only two or three at this time.

OIL POLLUTION REMOVAL LIABILITY

Due in very large part to Senator BAKER'S clear articulation of the necessity of protecting the public interest through the concept of absolute liability, the Senate, and now the conference, agreed upon a basic formula imposing such liability upon owners and operators of vessels and onshore and offshore facilities for cleanup costs incurred by the United States. Consistent with the philosophy of absolute liability, limits of liability are provided. This is an important provision, which I consider draws a proper balance between the public interest and the ability of private enterprise to respond. I think it should be pointed out that the provision was adopted only after the most careful consideration and thorough study.

In the bill that passed the Senate any discharge of oil in violation of levels set by regulation was subject to fines and removal penalties. The Conference bill adopts the Senate approach, with additional guidance to the President in establishing, by regulation, such amounts.

Subsection 11(b)(3) provides that the President shall by regulation establish those quantities of oil which will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches. The subsection goes on to provide with regard to the contiguous zone that the President shall establish as harmful quantities only those discharges that threaten the fishery resources of the contiguous zone or quantities which would threaten to promote or contribute to the pollution of the territorial sea.

It should be clear that the judgment of harmful, in the case of the contiguous zone, as in the case of navigable waters of the United States and adjoining shorelines, is to be made at the time of the establishment of the regulation and not at the time of the discharge of oil.

HAZARDOUS SUBSTANCES

During the course of executive sessions in the Committee on Public Works, Senator DOLE offered an amendment, subsequently adopted by the committee, included in the Senate bill and now in the conference bill, separating from the oil pollution liability provisions the legislative treatment of hazardous substances discharged into the waters of the United States. The committee recognized that hazardous substances present different problems than oil, and the solution of these problems requires additional knowledge and technology not yet available. The conference bill maintains the provision of the Senate bill, establishing a new designation procedure for hazardous substances, and requiring notice when such designated substances are discharged. The conference bill further authorizes an accelerated study of the removal methods and enforcement measures appropriate to deal with releases of hazardous substances into the waters of the United States.

FEDERAL ACTIVITIES COMPLIANCE

It is possible that the most significant provision in this bill is the section, section 21, requiring compliance with water quality standards by Federal facilities and activities and by federally licensed or permitted facilities and activities. The conference bill maintains the position of the Senate bill that the Federal Government shall comply with water quality standards in the conduct of all of its activities. The President has already taken a significant step in this direction in the Executive order issued in February, Executive Order No. 11507. Section 21(a) provides clear authority for the President to achieve this compliance.

Following the same concept, section 21(b) of the conference bill will require those activities which the Federal Government licenses or permits to comply with water quality standards. At the time the bill passed the Senate, it included an amendment offered by Senator MATHIAS requiring public hearings in State procedures leading to issuance of a certification of compliance with water quality. The conference bill adds a requirement that the State must give notice of all applications received by such State for certification pursuant to subsection 21(b). Maintaining the intention of the Mathias amendment, it provides that the State will provide an opportunity for public hearings as it deems appropriate. I believe it correct to say it was the intent of the conference that a State may, without a public hearing, pass upon certification requests of a routine nature which do not involve risks to water quality. However, the committee expects the opportunity for public hearings to be provided upon projects that involve significant risks to water quality for which certification is being sought. This should certainly include most licenses issued by the Atomic Energy Commission, the Federal Power Commission, and dredge and fill permits of the Corps of Engineers.

TITLE II

The last specific provision I would like to touch upon is that establishing in the Executive Office of the President an Office of Environmental Quality. This provision is very closely related to the National Environmental Policy Act, Public Law 91–190, which established the Council on Environmental Quality. It will be recalled that the relationship of these two acts was described prior to the adoption of S. 7 by the Senate on October 8, 1969. The conference bill further supports the Office of Environmental Quality, with particular emphasis on its function of providing a competent professional staff to the Council on Environmental Quality.

The statutory responsibilities placed upon the Council on Environmental Quality and the Office of Environmental Quality are large and broad; without competent staff these responsibilities will not be met. The public's concern over environmental quality, is well known; the President's commitment to achieve it is also well known. Therefore, it was incumbent on us to provide adequate staff authority and I believe the confer-

ence will do so. The conference bill also designates that the chairman of the Council on Environmental Quality established by Public Law 91–190 shall serve as the Director of the Office of Environmental Quality. We look forward to the implementation of the authority to establish the office, and believe that together with Public Law 91–190 the authority is at hand to begin the task of responding to the demand for and interest in environmental quality.

Mr. President, my colleague, the distinguished Senator from Delaware (Mr. BOGGS), had hoped to be on the floor when this important conference report was discussed. It is his belief that this is one of the most important pieces of legislation that will be considered by the 91st Congress, and he had very much hoped to be here today when the conference report is to be acted upon by the Senate. However, he is necessarily absent. In his absence, he has asked me to place in the RECORD the statement he intended to make on the Senate floor. I would like to say that Senator BOGGS, as ranking minority member of the subcommittee, and of the Senate conferees, worked indefatigably upon the bill and the conference report. His knowledge, experience and leadership contributed in very large degree to this important legislation now before the Senate for final action.

I ask unanimous consent that Senator BOGGS' statement be printed at this point in the RECORD.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

Mr. BOGGS. Mr. President, approximately one year has passed since the Senate Subcommittee on Air and Water Pollution began executive sessions to mark up the Water Quality Improvement Act of 1969. During that period of time the Subcommittee, the full Committee on Public Works, the Senate, and finally the Committee on Conference investigated and discussed the knotty issues that run throughout this legislation.

This bill, as the distinguished Senator from Kentucky (Mr. Cooper) and others have pointed out, seeks to deal with many aspects of water pollution, each a difficult and time-consuming issue. This bill deals with the pollution of our waters with petroleum, sewage from vessels, acid mine drainage, licensing of facilities discharging into interstate waters, and several other water pollution problems.

Senator Cooper has discussed several of these aspects of this legislation. He has pointed out the very helpful and constructive role played by Senator Baker in developing language that deals with liability for an oil spill. I support Senator Cooper's comments.

There are two other aspects of this legislation that I believe merit comment. One concerns sewage discharges from vessels. The Conference Report contains language that is very similar to the bill approved by the Senate. This is true in relation to the certification of devices for installation aboard pleasure and commercial craft.

The major alteration from the Senate version appears in Subsection (f) of Section 13 of the new bill. The original Senate version left to the States the determination on whether sewage discharges should be barred completely in specific areas within that State if the "implementation of applicable water quality standards requires such prohibition."

The House version gave the States a right to bar sewage discharge only in waters where all other discharges of sewage were prohibited.

The new proposed version wisely inserts the Secretary of the Interior into this procedure. Under the compromise version, a State may apply to the Secretary for the right to prohibit discharges in a specified area. The Secretary may then prohibit such discharges in that area if he finds that compliance with applicable water quality standards requires such a prohibition.

This new language, I believe, preserves the intent of the Senate version, leaving with the States the right to achieve as full protection as possible in the areas of shellfish beds, marinas, drinking water intakes, bathing beaches, and other areas that could be adversely affected by a discharge from even the most highly treated vessel sewage.

Another portion of the bill to which I would like to address myself is Sections 16, 17, and 18 of H.R. 4148, submitted by the Committee on Conference. These sections provide for a very essential program for the education and training of personnel to plan, develop, operate, and maintain existing and future water quality programs.

The Senate version, which appeared in Subsection (g) of Section 104 had provided for a pilot program under which the Federal Water Pollution Control Administration would train several thousand technicians to make certain that the costly pollution control facilities we are building throughout the nation will be operated in the most effective and efficient manner possible. This section had been proposed by the distinguished Republican Leader (Mr. Scott).

This training program is retained in the proposed bill offered by the Committee on Conference. The new version also includes a House proposal for scholarship programs and "innovative and experimental programs" for the training of persons in the operation and maintenance of sewage treatment work.

Together, these proposals offer a balanced approach toward alleviating any shortages now existing in the water treatment field.

In addition, I want to express my gratitude to the distinguished ranking Republican Member of the Committee on Public Works (Mr. Cooper), the distinguished Chairman of the Committee (Mr. Randolph), the distinguished Chairman of the Subcommittee (Mr. Muskie), as well as the other distinguished members of the Conference on the part of the Senate and the House of Representatives. Each devoted a great deal of time in an effort to resolve numerous differences in approach and language in the Senate and House bills.

The resulting bill has my full support. It is legislation that will go far in coming months and years to enhance the quality of our nation's water resources.

A NEW ADVANCE IN THE STRUGGLE AGAINST POLLUTION

Mr. YARBOROUGH. Mr. President, the bill to which we are giving final approval today, and which I am proud to cosponsor, is another landmark in our effort to curb water pollution.

Specifically, the bill will hopefully encourage the oil companies who drill for oil off the U.S. coastline to exercise greater care. We have seen too many examples of what oil leaks can do to a stretch of beach, to marine and animal life, and to the ecology of any region where they occur. This bill fixes absolute liability for oil leaks on those from whose wells they occur. Hopefully, these companies will now be far more careful in their work.

The other part of the bill which I feel will greatly assist in the Nation's effort to curb water pollution is the one which provides for research into oil removal and lake pollution. In spite of the fact that we have seen the damage which oil can do, we know very little about rapid, effective ways to remove it from beaches and from the water's surface. Also, although we have watched the slow "death" of Lake Erie, we know too little, I think, about the processes which caused this problem or about how to remedy it. Hopefully, the bill will help us in our search for ways to handle these problems.

Mr. President, this is the sixth major piece of water pollution control legislation I have either cosponsored or supported since I came to the Senate in 1957. I think its passage will give further evidence of our determination to stop the slow destruction of the earth. I urge the adoption of the conference report.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on agreeing to the conference report.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BELLMON). The question is on agreeing to the conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. BIBLE), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

I further announced that if present and voting, the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. BIBLE), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. GOODELL), the Senator from Maryland (Mr. MATHIAS), the Senator from California (Mr. MURPHY), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Kansas (Mr. PEARSON) are detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 80, nays 0, as follows:

[No. 108 Leg.]

YEAS—80

Aiken	Fong	Muskie
Allen	Fulbright	Nelson
Allott	Gore	Packwood
Baker	Gravel	Pastore
Bayh	Griffin	Pell
Bellmon	Gurney	Prouty
Bennett	Hansen	Proxmire
Brooke	Harris	Randolph
Burdick	Hart	Ribicoff
Byrd, Va.	Hatfield	Saxbe
Byrd, W. Va.	Holland	Schweiker
Cannon	Hruska	Scott
Case	Hughes	Smith, Ill.
Church	Inouye	Smith, Maine
Cook	Jackson	Sparkman
Cooper	Javits	Spong
Cotton	Jordan, Idaho	Stennis
Cranston	Jordan, N.C.	Stevens
Curtis	Magnuson	Talmadge
Dodd	Mansfield	Thurmond
Dole	McClellan	Tower
Dominick	McGee	Williams, Del.
Eagleton	McIntyre	Williams, N.J.
Eastland	Metcalf	Yarborough
Ellender	Miller	Young, N. Dak.
Ervin	Mondale	Young, Ohio
Fannin	Moss	

NAYS—0

NOT VOTING—20

Anderson	Kennedy	Murphy
Bible	Long	Pearson
Boggs	Mathias	Percy
Goldwater	McCarthy	Russell
Goodell	McGovern	Symington
Hartke	Montoya	Tydings
Hollings	Mundt	

So the conference report was agreed to.

Mr. SPONG. Mr. President, the conference report just adopted establishes a foundation for improving our capability to control oil pollution, vessel pollution, and thermal pollution.

It is gratifying that the Senate concept of absolute liability for the cleanup of oil spills has prevailed in the conference. About 6 billion gallons of petroleum products pass through the Port of Hampton Roads each year, and there have been several spills which damaged the harbor.

The concept of absolute liability places the risk on the responsible party, not innocent third parties and the general public. Provision for criminal penalties for failure to give notice of a spill should expedite cleanup action.

Other desirable features of the oil pollution section of the bill authorize expanded research for the development of new cleanup methods, and contingency planning against oil pollution disasters.

The report takes a preventive approach toward activities over which the Federal Government already exercises a degree of control. Applicants for a Federal license or permit to build or operate any facility which might discharge pollutants into navigable waters would be required to comply with applicable water quality standards. In most instances, the certification would come from the State in which the discharge occurs. These provisions would assure that thermal discharges from such facilities as nuclear powerplants would conform to water quality standards.

The vessel pollution section provides for Federal preemption of authority to set performance standards for marine sanitation devices. I hope the Department of Defense will expedite its program to equip naval vessels with sewage treatment equipment, and will request the funds necessary to carry out the intention of the legislation.

Mr. President, the Senate conferees are to be commended for their perseverance in reconciling the differences in the Senate and House versions of this legislation. They have been meeting on a regular basis since last October 8. In particular as a member of the Subcommittee on Air and Water Pollution, I wish to thank the Senator from Maine (Mr. MUSKIE), our distinguished chairman, and the ranking minority member the Senator from Delaware (Mr. BOGGS).

Mr. DOLE. Mr. President, I am gratified that the House-Senate conference has agreed on the provisions of H.R. 4148, to prevent and control water pollution.

After the Santa Barbara incident and the more immediate oil spillage in Louisiana, the Congress has moved rapidly to take appropriate legislative action. As statements on the increasing size and use of oil tankers are made available, the threat of greater pollution to our navigable waterways is becoming even more apparent.

Throughout our committee hearings and in the House-Senate conference, it became apparent that there was a wide diversity of views on this legislation. Questions raised on liability and other sections of the legislation have now been resolved. I was particularly pleased to see that the conference accepted a section of S. 7, which dealt with the problem of the discharge of hazardous substances. The Senate Public Works Committee became aware of the fact that hazardous substances could not be treated as an equivalent of oil and subject to the same provisions of liability for the cost of removal.

Two important differences require that hazardous substances be treated separately: First, oil is a readily recognizable substance that is not miscible with water; hazardous substances, on the other hand, cover a tremendous range of chemical elements and compounds with various characteristics, and, second, oil is, at least in most circumstances, removable from water; hazardous substances, on the other hand, may or may not be.

Faced with this difficult situation, I offered an amendment to separate hazardous substances from the oil liability provisions to enable a response to the clear problem of the sudden discharge of hazardous substances into our navigable waterways.

The amendment I proposed which, with certain modifications, was adopted by the committee and the House-Senate conference, provides essential authority to give this Nation the ability to respond.

I commend the Senate conferees for their dedication during the months of discussion and urge acceptance of this report.

Mr. ALLOTT. Mr. President, the grim details of water pollution in America are a cause of grave national concern. A few facts reveal why.

Last year an estimated 15 million fish were killed by oil spills and heat and chemical pollution.

The Cuyahoga River in Ohio is so noxious that even the leeches and sludge worms that thrive on the bottom of normally polluted waters cannot survive. And the surface of this river is so saturated with flammable substances that the river has actually been declared a fire hazard. There is good reason for this: last year the river caught fire and nearly destroyed two railroad trestles.

Representative LOWELL WEICKER, of Connecticut, has come up with these facts:

> Of 62 beaches along Lake Erie's U.S. shores, only three are rated completely safe for swimming. Even wading is unpleasant because 30,000 sludge worms may be found in each square yard of lake bottom. . . . When you dive into Long Island Sound, you are diving into 196 million gallons of waste that comes from 46 municipal plants, 59 industrial plants and seven Federal installations every day.

The Hudson River is so thoroughly polluted that the streambed is laden with excess pollutants. These pollutants are excess in the sense that they are not carried by the water. But they are still a threat.

Experts estimate that if, starting tomorrow, not a single drop or grain or pollution were ever again put into the Hudson, water washing over pollution on the streambed would repollute the river constantly for as long as 15 years. Or, to put the matter differently, if we cleansed the Hudson at point "A", riverbed pollution would make it necessary to cleanse it again at point "B" 15 miles downstream. That is, there is enough settled pollution in the Hudson to repollute it every 15 miles.

The Ohio River serves a 10-State drainage area with a population of 24 million persons and 38,000 industrial plants. Nearly a billion dollars has been spent in the past 20 years to clean it up. Meanwhile the Army Corps of Engineers has been laboring on the same stretch of water, improving it for navigation. But the engineers have been creating, in effect, a series of reservoirs along the river route. These do not drain well. Pollution accumulates, including the thermal pollution that raises the temperature of various pools in the river. Both of these programs—the antipollution efforts and the Corps of Engineers' efforts—are worthwhile. But the net effect may be to take away with one hand what is given with the other.

Today efforts are being made to improve coordination between the Engineers Corps and the Interior Department's Water Pollution Control Administration.

There is a form of water pollution—and it is extremely destructive—that need not involve putting any chemical impurities into the water. This is the thermal pollution mentioned above. It involves raising the water temperature. It occurs when a plant uses water in cooling processes and returns heated water to a river or lake. Any significant change

in the temperature of a body of water can destroy the animal and plant life that nature uses to keep the water balanced and continually renewed.

For example, warm water may cause fish eggs to hatch prematurely and, because warm water absorbs less oxygen, it slows the decomposition of organic wastes.

Most of the water used by American industry is used for cooling. And the amount used for cooling purposes in nuclear powerplants generating electricity is astonishing. For example, a 500-million-watt nuclear plant that is cooled by a lake or river must pump approximately 7,650 gallons of cooling water every second. That is approximately 660 million gallons per day.

Present and future demands indicate that industrial cooling water, when viewed on the national scale, is a first order source of waste heat. The electric power generating industry alone accounts for about 80% of the cooling water used. Therefore, the best single index of the thermal pollution potential lies in projecting future electric power production. Power generation has approximately doubled each 10 years during this century, and estimated future demands indicate a shortening of the time span for similar increases. Waste heat output has not multiplied as fast as power generation because of continued improvements in thermal plant efficiency and development of hydropower. However, fossil-fueled plants are reaching a limit of efficiency because of metallurgical restrictions, and nuclear plants, planned or built, necessarily waste an even higher proportion of heat than fossil-fueled plants. Waste heat increase can be expected to more closely parallel power production increase in the foreseeable future.

With these considerations in mind, heat rejection from the predicted mixture of nuclear and fossil power plants is expected to increase almost ninefold by the year 2000. Waste heat output from the manufacturing industries will also increase. However, the demand for electricity is expected to continue to increase at a more pronounced rate than the demand for manufactured goods. This indicates a somewhat smaller rate of increase in heat rejection from manufacturing as compared with the power industry.

Numerous cooling devices—for example, cooling ponds and towers—and cooling techniques—for example, methods of dispersing and diluting warm water discharges—are already being used. Considerable research is being devoted to perfecting these and developing new devices and techniques. Concern for America's energy needs and for our water resources should motivate active Government support for such research.

This seems especially imperative when we consider the facts about America's huge appetite for clean water.

It takes 200 gallons to make a dollar's worth of paper. It takes 100,000 gallons to make one car. It takes 320,000 gallons to produce one ton of aluminum. It takes 750,000 gallons to irrigate an acre of farmland. National water usage is 350 billion gallons a day. Three hundred and fifty billion gallons would form a puddle 1 foot deep over an area one and a half times the size of the State of Rhode Island.

By the year 2000 we may be using a trillion gallons of water a day.

Domestic sewers alone account for 5.3 trillion gallons of waste water per year. One scientist has estimated that by 1980 sewage and related waterborne waste will be so voluminous that in dry seasons they will consume all the oxygen in our river systems. That would severely damage our fresh water resources, especially when we consider that by 1980 we will be using fresh water at twice the current rate.

Much can be done to end pollution by vigorously enforcing existing laws, including some laws that have been around for a very long time.

The Justice Department has recently filed criminal charges against a number of firms—and some individuals—accused of polluting waterways. The charges involve an attempt to use an 1899 law in the modern fight on water pollution. The Refuse Act of 1899 (33 U.S.C. 407) makes the deposit of pollutants into navigable waters a misdemeanor punishable by a maximum fine of $2,500 and a year in prison for each offense.

The punishment provision contains an informer clause which could generate an interesting kind of citizen participation in the antipollution fight. This clause stipulates that half the fines collected are to be given to any citizen whose information leads to a conviction.

But there is another aspect of this law that deserves attention. This is the $2,500 limit on the fine that can be collected for each offense.

Assume for the moment that a jail sentence is not applicable in a particular case. But also assume that the case involves a firm that discharges pollutants once a day, thereby making itself liable to being recharged under the statute each day.

If this firm were charged—every day of the year, and fined the maximum amount each day, the total 1-year cost to the firm would be $912,000.

This looks like an awesome total—until one considers the huge cost, in capital outlay and maintenance, of some pollution abatement systems. It is not inconceivable that a firm might wish to be fined the maximum amount, 365 days a year, rather than go to the expense of ending pollution.

In such a case, the fine would, in effect, cease to be a fine and would become a kind of tax. The trouble with this is twofold. First, it would not do what the law intended—it would not diminish pollution. Second, behavior we tax is behavior we think is permissible. If firms are allowed to treat a fine as a tax, they will be allowed to treat pollution as permissible. This cannot be allowed.

Thus, there must be a constant review of the punishment provision of such statutes, to make sure the fines are effective inducements to pollution control by industries.

However, the administration recognizes that the task of ending water pollution demands more than vigorous police action. It also requires new knowledge and new equipment. This is especially urgent in attacking pollution caused by inadequate municipal sewage treatment facilities. Here massive capital investment is needed.

Since 1952 the Nation has spent $15 billion to construct 7,500 municipal sewage-treatment plants and related facilities. But much more needs to be done and it needs to be done in large cities. In the 12 years between 1956 and 1968, about half the new waste treatment facilities were built in towns with populations of less than 2,500 and 92 percent were built in towns with populations under 50,000.

In his message to Congress on the environment the President notes:

In the four years since the Clean Waters Restoration Act of 1966 was passed, we have failed to keep our promises to ourselves: Federal appropriations for constructing municipal treatment plants have totaled only about one-third of authorizations.

It is estimated that a 5-year program involving a $10 billion investment in treatment plants and interceptor lines will be needed to meet national water quality standards.

Accordingly, the President proposes a Clean Waters Act involving an immediate $4 billion for fiscal 1971 to cover the full Federal share of the $10 billion total on a matching fund basis.

But another program is needed to insure that non-Federal bodies will be able to meet their obligations.

The municipal bond market is so saturated that in 1969 509 issues totaling $2.9 billion proved unsalable. Thus the President proposes "a new Environmental Financial Authority to insure that every municipality in the country has an opportunity to sell its waste treatment plant construction bonds."

The EFA will buy unsalable bonds and sell its own bonds on the taxable market. In this way the President seeks to insure that "construction of pollution control facilities will depend not on a community's credit rating, but on its waste disposal needs."

The President has also urged that Federal assistance carry some conditions.

First, federally assisted treatment plants must comply with Federal design, operation, and maintenance standards. Second, municipalities receiving Federal assistance in constructing plants will be required to impose user's fees on industrial users. These fees must be sufficient to meet the costs of treating industrial wastes. This is a fair response to existing conditions.

In 1968 public sewers handled 15 percent of the industry's waste water. Forty percent of all the wastes handled by municipalities came from industry.

Three hundred thousand industrial plants discharge used water into municipal sewage treatment plants that are not equipped to process complex industrial pollutants.

As the President says in his environment message:

Industry itself has recognized the problem, and many industrial firms are making vigorous efforts to control their water-borne wastes. But strict standards and strict enforcement are nevertheless necessary—not only to ensure compliance, but also in fairness to those who have voluntarily assumed the often costly burden while their competitors have not. Good neighbors should not be placed at a competitive disadvantage because of their good neighborliness.

The President also proposes to attack industrial pollution by consolidating governmental jurisdictions, imposing more precise and stringent effluent requirements, and strengthening police powers and sanctions.

His program calls for granting the Secretary of the Interior authority to seek immediate injunctive relief in emergency water pollution situations. Under the proposed program, failure to meet Federal standards or implementation schedules could result in court-imposed fines of up to $10,000 per day. Further, the President wants to increase threefold Federal operating grants to State pollution control enforcement agencies in the next 5 years. This would involve an increase from $10 million to $30 million by 1976.

In addition, we need to consider sharply curbing our use of certain kinds of common products that are especially damaging to water. The household detergent is a good example.

No one wants to choose between clean water and clean laundry, but something must be done about phosphates in detergents. Phosphates pollute all water and hasten the aging of lakes.

Five billion pounds of detergent were sold last year. Some of these consisted of as much as 44 percent phosphate. Canada is planning to ban phosphate detergents. It might be well worth our while to have strict standards governing permissible phosphate content of detergents.

Further, we must become more alert to the many ways in which normal activities, and unspectacular developments in business conditions, can combine to create a threat to our environment. Consider one example of this combination. We do not normally think that changing our car's oil threatens the environment. But America's 210,000 service stations must dispose of 350 million gallons of used oil every year. For many years much of this used oil was re-refined and put to work in railroad journals, to freeze-proof coal, as dust control for rural roads and as industrial lubricants.

But for a variety of reasons, re-refining has become a marginal business. In the last 7 years at least half the re-refiners have gone out of business and too much used and unsalable oil is being dumped into city sewer systems.

Research should be directed toward finding ways of collecting and reusing this used oil.

Finally, one crucial fact we sometimes overlook is this: Even in our booming industrial society, siltation is the largest single pollutant of water. Thus all reclamation programs, and all programs aimed at fighting erosion, are important parts of a comprehensive attack on water pollution.

Mr. President, one of Benjamin Franklin's timely sayings is this:

> When the well's dry, we know the worth of water.

Today we can revise that to read: When the water is polluted, we will know the worth of water.

Hopefully we already know the worth of water. Certainly we in the West know how much of America's bountiful life depends on adequate supplies of fresh water.

We have no intention of waiting until America's waters are ruined before we become alert to the value of water. We know it is time to act.

Mr. President, we are not asking for miracles. We are not expecting anyone to turn water into wine. We just want to preserve clean water, and to find ways of restoring polluted waters.

Most of the earth is covered with water. No water is immune from pollution. Thus the fight for clean water is a fight of global proportions, with immense stakes.

But a livable environment—like charity—must begin at home. Let us all work together to save our waters which give such lasting benefits to us all.

LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, would the majority leader tell us the remaining order of business for the remainder of this week and thereafter?

Mr. MANSFIELD. Mr. President, may we have order first?

The PRESIDING OFFICER. The Senate will be in order.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS PACKWOOD AND TOWER TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the prayer tomorrow, the distinguished Senator from Oregon (Mr. PACKWOOD) be recognized for not to exceed 30 minutes, and that, following the Senator from Oregon, the distinguished Senator from Texas (Mr. TOWER) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Following which I ask unanimous consent that there be a period for the transaction of routine morning business as in legislative session, with a time limitation on statements of 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, on the expiration of the period for the transaction of routine morning business, is my understanding correct that the conference report on H.R. 514 will be the pending business?

Mr. MANSFIELD. That is correct.

Mr. President, I wish I could offer some solace to the Members of this body by definitely stating when a vote would be taken on the pending conference report and the Carswell nomination, as well as the prospects for a solution to the postal difficulty which confronts the Nation at this time. Unfortunately, I cannot make a definite statement with respect to any of those spheres. It appears at the present time as if the consideration of the conference report on the elementary and secondary education bill may well go into next week. It appears also at the present time that the consideration of the Carswell nomination may go into next week. I have endeavored to obtain an agreement on both of these matters; so far I have been unsuccessful, but I shall continue trying.

I hope that in the case of both it will be possible, and as far as the joint leadership is concerned, it will be our policy to give at least 24 hours notice before voting to all Senators so that, no matter where they are, they can get back in plenty of time, and none of them will be so far away that they cannot make it back in plenty of time to conduct the business of the Senate.

As far as the postal situation is concerned, it appears the reports are encouraging today, with many of the postal workers returning.

Mr. SCOTT. With 90 percent of them back on the job.

Mr. MANSFIELD. That is encouraging. I do not know what will happen in Congress insofar as the Post Office and Civil Service Committees of the two Houses are concerned, but I wish to state, and I do so after consultation with the distinguished Republican leader, that if conditions warrant it, the Senate will be prepared to forgo its 2-day Easter recess, and face up to whatever responsibilities the present situation may entail.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCOTT. If I could finish, I would say thoughts too deep for tears suffuse me with regard to the majority leader's suggestion: nevertheless, it is a condition and not a theory we are dealing with. I do express some regret that we are uncertain as to how long it will take us to dispose of the conference report which is the pending business. I had had some hope during the day that perhaps we could arrive at some accommodation, but the majority leader indicates there is no present assurance of that.

Mr. MANSFIELD. I have been tried and found wanting.

Mr. SCOTT. The majority leader is never found wanting.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. JAVITS. I think the majority leader may have misspoken himself a little bit as to this 24-hour notice as it relates to our conference report. Did I understand that was to apply after the recess? It could hardly apply if we were to be able to act on the conference report this week.

Mr. MANSFIELD. If something should be worked out for tomorrow, we could vote at 5 o'clock—approximately 24 hours from now. But nothing is presently in prospect. If something happened Thursday, we could notify Senators in plenty of time tomorrow. How-

ever, prospects are very dim for that event as well.

I must say it is with deep regret that I make these announcements. I hope we will have something more definite later.

Mr. SCOTT. Mr. President, if the majority leader will yield further, it is my own understanding, from conference with him, that he is expeditious to expedite the business of the Senate, and that includes the nomination before the Senate, and he and I are prepared to do whatever we can to assist in bringing this matter to a vote as early as the Senate is prepared to vote.

Mr. MANSFIELD. Yes, indeed. As the minority leader knows, the Senator from Montana likes nothing better than a clear calendar.

Mr. PELL. Mr. President, will the Senator from Montana yield for a question?

Mr. MANSFIELD. I yield.

Mr. PELL. To follow up the question of the Senator from New York, when the time comes to vote on the conference report, I wonder if the Senator from Montana means we should then wait 24 hours to give notice of the vote on the conference report, or only on the Carswell nomination.

Mr. MANSFIELD. No. I commend the Senator from New York and the Senator from Rhode Island for calling my attention to that possibility. What I meant was the Carswell nomination. As far as the conference report is concerned, I am sure there will be enough guardians on the floor to take care of that matter.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, one of the wisest men as well as one of the soundest jurists America has ever known was the late Benjamin N. Cardozo, long-time chief judge of the New York Court of Appeals and subsequently an Associate Justice of the Supreme Court of the United States. He wrote a treatise entitled "The Growth of the Law." In that treatise he said:

> In breaking one set of shackles, we are not to substitute another.

Ever since May 1954, there has been an effort in some quarters to substitute for the State school segregation outlawed in Brown against Board of Education of the City of Topeka federally coerced integration, especially in the schools of the South. This has been a rather peculiar effort.

Mr. BYRD of West Virginia. Mr. President, we need a little better order in the Senate.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. ERVIN. This has been a rather strange effort to be made in a nation which proclaims that it is a free society. We boast of the fact that our ideal, our dream, is that we shall be a land of people who are both equal and free. The effort to substitute federally coerced integration for outlawed State-imposed segregation has been an effort characterized by zeal on the part of certain pressure organizations—and, I might add, certain politicians—which apparently look to converting the American dream of equality and freedom into a nightmare in which all Americans will be made equal only by robbing all of them of their freedom. It has been peculiar in this connection that both the executive branch of the Government and the judicial branch of the Government have joined these pressure groups and these zealots in an attempt to substitute one set of shackles for another, in disregard of the advice of Justice Cardozo.

Some things that have happened are rather marvelous. I offered an amendment some time ago that would have deprived the Federal courts of jurisdiction to require busing of children from one place to another merely to alter the racial composition of the public schools. I was willing to do the only thing that Congress can do to prevent tyranny when that tyranny is practiced by a Federal court.

Someone has said that we should respect all judicial opinions and all judicial decisions. In my judgment, the parties to a judicial decision should obey that decision even though they consider it to be unwise and unconstitutional; but I do not think that any obligation rests upon any American to respect any judicial decision unless that judicial decision is respectable, and candor compels the confession that some judicial decisions are hardly respectable.

In the effort to substitute for outlawed State-imposed segregation federally coerced integration, or forced integration, some peculiar things have happened, even at the hands of men who, in the words of Edmund Burke, were charged with the obligation to act with the cold neutrality of the impartial judge.

In 1964, following the Brown case, Congress undertook to implement the interpretation placed upon the equal-protection clause of the 14th amendment by the Supreme Court. It passed a statute which defined desegregation of schools in the same fashion in which the Brown case had defined such term. It declared that desegregation shall mean the assignment of students to public schools without regard to their race, color, creed, or national origin. Then, to make its action clear beyond any shadow of a doubt, Congress placed a limitation in express words upon the meaning of the term "desegregation." After declaring what desegregation should be—that is, the assignment of students to public schools without regard to their race—it proceeded, in the second clause of the same paragraph, to say what desegregation should not be. In specifying this limitation upon the meaning of the word "desegregation," Congress declared that desegregation shall not be the assignment of children to public schools to overcome a racial imbalance.

The same act, the Civil Rights Act of 1964, contained another limitation upon what could be done by the executive department of the Government and what could be done by the Federal courts; and it stated, in words as plain as can be found in the English language, that no officer or court of the United States should transport children from one place to another, or from one school to another school, or from one school district to another school district, for the purpose of achieving racial balance. When Congress adopted that act, it said in about as emphatic a fashion as possible that the act should apply to all areas of the United States, that it should apply to the North and to the South, to the East and to the West. It did this not by stating that in those precise words, but, in passing a law which was to be applicable throughout the entire country.

Now, one of the strange things that happened in this connection was the celebrated decision—in fact, I would say a most notorious case—that would come nearer to describing it—the decision handed down by Circuit Judges Wisdom and Thornberry, with District Judge Cox dissenting, which is cited ordinarily as United States against Jefferson County Board of Education.

This is the strangest decision on statutory construction my eyes have ever beheld—and I have been reading law books for more than a half century—considerably longer than that.

The fundamental canon of statutory construction which every judge is bound to observe and the one having primacy and priority over all others is that when a legislative body passes a law, the law means exactly what it says if it is couched in language which is understandable.

Here was an act of Congress which according to its language, according to its terms, according to its clearly expressed intent, and according to the words of those who had charge of the bill during its consideration by the House of Representatives and the Senate, applied to every area of the United States, just as all the laws should apply in like manner to all persons.

Yet, in this case of the United States against Jefferson County Board of Education, we had a strange method of statutory construction followed which, so far as I know, was without precedent in the annals of Anglo-American jurisprudence.

The majority of the court consisted of Circuit Judge Wisdom, who wrote the opinion, and Circuit Judge Thornberry, who concurred in Judge Wisdom's opinion. The majority held that a remark which Hubert Humphrey, the floor manager of the bill, made when it was under consideration by the Senate altered entirely the meaning of the two limitations which the bill placed upon the desegregation of schools. This remark made it known in some strange way that those two limitations were to be applied to the North, the East, and the West but were inapplicable to the South.

Now, during the time that the bill was under consideration in the Senate, as the CONGRESSIONAL RECORD will clearly disclose, Senator Humphrey, the floor manager of the bill, was asked on a number of occasions what the bill was designed to do insofar as school desegregation was concerned. He uniformly replied that the bill was designed merely to prohibit discrimination; that is, to prohibit a State agency from denying a schoolchild admission to a public school because of the child's race or color.

On each of these occasions he stated that the bill was not designed to compel integration.

In responding to these questions, he referred to various decisions of law in Federal courts, such as the original Brown case itself, and the Clarendon County case which was considered by the court and decided with the Brown case. He also referred to a case which had arisen in Indiana called Bell against the City of Gary School Board.

I recall that on one occasion the able and distinguished junior Senator from West Virginia rose on the floor of the Senate and put this question in substance to Senator Humphrey, the floor manager of the bill. He asked him if the bill would permit little children to be bused to and fro, at the expense of the taxpayers, merely for the purpose of integrating the schools.

Senator Humphrey answered that question, within my hearing, and within the hearing of the able and distinguished junior Senator from West Virginia, who honors the Senate on this occasion with his presence, and as recorded in the CONGRESSIONAL RECORD, with an emphatic "No."

But Judge Wisdom, whose parents, incidentally, christened him Minor Wisdom [laughter] says this on page 80 of that decision, a copy of which I hold in my hand:

Senator Humphrey spoke several times in the language of Briggs.

Mind you, Mr. President (Mr. HUGHES), the language of Briggs refers to the Clarendon County case where, after reversal of the original judgment upholding the validity of Plessy against Ferguson on the equal and separate doctrine, one of the greatest jurists this Nation has ever known, a native of my State, Chief Judge John J. Parker, said that in the Brown case the Supreme Court had not required integration. He adjudged that discrimination—that is, exclusion of a child from a school on the basis of race—as being a violation of the equal-protection clause of the 14th amendment.

Judge Parker went ahead and said there is nothing in the Brown case, nothing in the Constitution, which denied children the right to go to the school of their choice, and there was nothing in that decision which outlawed voluntary segregation.

He said that people still remained as free to go to the schools of their choice as they had been and as they were to go to the churches of their choice.

Notwithstanding the fact that Hubert Humphrey continually referred to the Briggs case, and notwithstanding the fact that Judge Minor Wisdom represented that Senator Humphrey spoke several times of the language in the Briggs case, Judge Wisdom proceeded to say that his reference to the Bell case—that is the case from Gary, Ind.—indicates that the restrictions of the act in question were pointed at Gary, Ind., at the de facto type of segregation.

Strange to say, right after he said that, he held, in effect, that the prohibition against assigning children to public schools on the basis of race and the prohibition against busing children to achieve a racial balance did not apply to the Southern States because, forsooth, Hubert Humphrey referred to the Bell case.

And in the same connection, he refers to another question put to former Senator Humphrey by the Senator from West Virginia (Mr. BYRD).

He asked if Senator Humphrey would give him assurances that under title 6 schoolchildren may not be bused from one end of the community to another end of the community at taxpayers' expense to relieve so-called racial imbalance in the schools.

Former Senator Humphrey replied, "I do." He said that language is to be found in title IV.

The provision merely quotes the substance of recent court decisions which I have with me, but which are too long to include in the RECORD, the so-called Gary case.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. ERVIN. Mr. President, I yield to the distinguished Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, may I say to the able Senator that it was on the basis of that assurance offered to me by then Senator Humphrey, later Vice President Humphrey, that I did not offer an amendment that would have been more strongly worded than the verbiage that is in the 1964 act.

Mr. ERVIN. He then goes ahead and quotes from former Senator Humphrey, that the bill does not attempt to integrate the schools, but it does attempt to eliminate segregation in the schools. The national factors such as population and so forth should be taken into consideration. Then he states the fact that racial imbalance per se is something which is not unconstitutional.

Although former Senator Humphrey assured the Senator from West Virginia that the bill was not designed to require or to justify or to permit the busing of schoolchildren from one place to another to achieve racial balance, Judge Wisdom held that the mere fact that former Senator Humphrey had referred to the Bell case from Gary, Ind., showed that these prohibitions and limitations were only intended to apply to Northern States and not to the Southern States.

I think that a man could search judicial annals from the time that the caveman first undertook to adjudicate a controversy down to the time this case was handed down for a precedent which would sustain the action of judges of ignoring the plain and unlimited and all-inclusive words of a legislative body and holding that it did not mean what it said because someone had referred to a case that they had in Gary, Ind.

Yet, on the basis of this, we have heard a lot today about de jure and de facto segregation. I think the terms are misleading because there has been no de jure segregation—that is segregation according to law—since May 1964, in this Nation.

To be sure, there may have been some school boards which undertook to deny children the right to be admitted to a school on the basis of race. But that was illegal and not de jure. It was unconstitutional according to the Brown case.

This is the kind of treatment the South has received ever since 1954. Efforts were made to have cases like this reviewed by the Supreme Court of the United States. But they refused to grant certiorari. And so today in the South, it does not make any difference whether segregation in a school is the result of discrimination or the result of residential preferences; that is, de facto segregation. It is treated as if it were discriminatory segregation without really any inquiry being made into the facts. And little children, both black and white, are turned into guinea pigs by both the HEW and by the Federal courts by being denied the right to go to the neighborhood school and by being transported hither and yon, either because children of their race are too numerous in the neighborhood school in the eyes of some Federal judge or HEW official or because a balance of their race is needed to mix the races in the school somewhere else.

Mr. President, I do not like to be so critical. But so far as I can recall in recent years, the only southerners that were recognized and accorded their constitutional rights were either southerners who were suspected of being Communists or charged with crime.

States are not even heard when they endeavor to obtain a writ of certiorari to review outrageous cases, such as the Jefferson County Board of Education case, in which the court absolutely ignored the plain, understandable, and unambiguous words of an act of Congress which said that no children anywhere in the United States should be assigned to any public school to overcome racial imbalance or should be transported from one place to another merely for the purpose of achieving a racial balance in a public school.

We have reached a tragic day in this Nation when judges resort to such tactics as that to deny some helpless little children, both black and whites, the rights vouchsafed to them by a solemn act of the Congress of the United States.

Mr. President, that is not the only decision to which I wish to refer. In the same fifth circuit, where judicial activism in this field has been rampant, we have a solemn adjudication made that the safety of helpless little children is of minor consequence as compared with the overriding necessity of forced integration.

In one of the towns of Mississippi, the town is divided into two sections by a bayou and also by dangerous railroad

tracks. It happened that one of the sections was largely inhabited by members of the Caucasian race and the other section across the bayou and across the railroad tracks was largely inhabited by blacks.

In laying out the two school districts, one on one side of the bayou and one on the other side of the bayou, and taking as a boundary line between the two a natural boundary created by the Lord God Almighty Himself, the school board was actuated by the desire to save these little children, both black and white, from the hazard of crossing the dangerous railroad tracks and the dangerous bayou.

But the Fifth Court of Appeals said that would not do. They said the safety of little children was of minor consequence to the overall necessity of mixing the races in both school districts and, therefore, they solemnly adjudicated that the school board would have to make some of the little black children cross the bayou and the railroad tracks at the risk of their lives, and some of the little white children to do the same thing in order to mix the schools on both sides of the bayou.

Then, we had another decision to the effect that even if the action of the school board was nondiscriminatory in nature, it was unconstitutional unless it produced substantial integration of the races.

Mr. President, I ask unanimous consent that I may yield to the junior Senator from Florida for the introduction and consideration of a resolution, which I understand has been cleared with the leadership, without losing my right to the floor, and without having these remarks and a continuation of these remarks counted as more than one speech in opposition to the conference report on the pending elementary and secondary education bill.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection and it is so ordered.

Mr. GURNEY. Mr. President, first, I wish to thank the Senator from North Carolina for his courtesy.

The PRESIDING OFFICER. The Senator from Florida is recognized.

COMMENDATION FOR CAPT. ROBERT M. WILBUR, JR., AND COPILOT JAMES F. HARTLEY FOR THEIR HEROISM

Mr. GURNEY. Mr. President, I send to the desk a resolution and ask for its immediate consideration. The resolution is cosponsored by some 40 other Senators.

The PRESIDING OFFICER (Mr. HUGHES). The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 375

Whereas on March 17, 1970, the pilot of an Eastern Airlines DC–9, Captain Robert M. Wilbur, Junior, of Fair Lawn, New Jersey, and his co-pilot, James E. Hartley, of Jacksonville, Florida, displayed extraordinary courage, heroism, and professional competence, thereby averting a major air disaster and saving the lives of the crew and the sixty-six passengers of the DC–9;

Whereas the co-pilot, James E. Hartley, although mortally wounded, disarmed and subdued an assailant who began firing a gun upon entering the cockpit of the DC–9 as the plane made its final approach turn toward Logan International Airport, Boston, Massachusetts; and

Whereas Captain Robert M. Wilbur, Junior, thereafter, although wounded in both arms, kept his assailant subdued and simultaneously performed the complex task of safely landing the DC–9 at the Logan International Airport: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Senate honors, commends, and pays tribute to the heroic deeds of co-pilot James E. Hartley, who, by acting in total disregard for his own personal safety and disarming the assailant, sacrificed his life to protect the plane and passengers committed to his care; and the Senate further honors, commends, and pays tribute to Captain Robert M. Wilbur, Junior, for his display of courage, skill, and selflessness, which averted a major air disaster, in safely landing the DC–9 under these circumstances of extreme danger.

SEC. 2 In addition to the normal enrollment and printing of this resolution, the Secretary of the Senate shall have printed two copies of this resolution on such stock and of such design as may be appropriate, and he shall transmit one such copy to the said Robert M. Wilbur, Junior and the other copy to the widow of the said James E. Hartley.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—and I do not think I shall object—I wish to establish for the RECORD that the proposed action on the resolution has been discussed with the leadership on both sides of the aisle and that it has been cleared thereby.

Mr. GURNEY. Mr. President, the Senator is correct. I have discussed the matter personally with the distinguished majority leader (Mr. MANSFIELD), and also the distinguished minority leader (Mr. SCOTT), with the chairman of the Committee on Rules and Administration, and the ranking minority member of the Committee on Rules and Administration, all of whom are cosponsors of the resolution.

Mr. BYRD of West Virginia. Mr. President, I have no objection and I join in the unanimous request that there be immediate consideration by the Senate of the resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PELL. Mr. President, I ask that my name be added as a cosponsor of the resolution.

Mr. GURNEY. Mr. President, I ask unanimous consent that the name of the Senator from Rhode Island (Mr. PELL) be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. Mr. President, last week on March 18, there occurred a most tragic incident aboard an Eastern Airlines jet over Boston. We are only now beginning to piece together the pieces of this bizarre episode and we are beginning to realize its implications. It is apparent that a tragedy of the first magnitude was avoided by the courage, selflessness, and devotion to duty of two Eastern Airlines pilots, copilot James F. Hartley, and pilot and captain, Robert M. Wilbur, Jr.

On the Newark to Boston shuttle on March 18, a stewardess, Miss Christine Peterson, approached a passenger, John J. Divivo, who was sitting in the last row of the passenger section and asked for his fare. Fares are customarily collected on board shuttle flights, rather than at the ticket counter.

The stewardess could not hear his reply but apparently he said he did not have enough money. The fare is $21 and Divivo took out a small bag which rested on the floor beneath his seat and drew out a gun, saying that he wanted to see the captain. The stewardess notified the copilot on the intercom and, at the stewardess' insistence and so as not to alarm the other passengers, Divivo put the gun under his shirt and entered the cockpit. Ten minutes later shots rang out. The cockpit door opened to reveal copilot Hartley slumped in his seat, the assailant, Divivo, wounded and lying on the floor and Captain Wilbur upright but obviously wounded.

She asked the captain if she could do anything. "No," Wilbur replied, "I am trying to get the plane down."

Captain Wilbur then continued his landing approach and requested emergency clearance from Logan Airfield, telling the tower that his copilot had been wounded, but nothing was mentioned of his own wounds. He also requested an ambulance, a doctor, and the police to stand by for his arrival. Then, although grievously wounded in both arms, Captain Wilbur landed the plane without the aid of a copilot. He even turned on the "No Smoking" signs. He taxied the plane to the correct gate. Passengers on board said the landing was nearly perfect.

Copilot Hartley, who was a native of Jacksonville, Fla., was pronounced dead on his arrival at Massachusetts General Hospital at 3:35 p.m. Captain Wilbur and the assassin, Divivo, both were admitted to the same hospital in serious condition.

From later statements, we can reconstruct the battle in the cabin. Apparently, when words failed to convince Divivo to return to his seat, Divivo began firing. He hit and mortally wounded Hartley in the ensuing struggle, then shot and wounded Captain Wilbur. Although mortally wounded, Hartley nevertheless disarmed Divivo and wounded and subdued him.

Divivo has been charged with murder and he is now in custody in the hospital. Divivo apparently is and has been for some time deranged. He still carries a bullet lodged in his head from a previous gun episode.

I am today introducing a resolution expressing the Senate's feelings in this matter, commending in the highest fashion, the courageous act of Copilot Hartley, who gave his life to protect the passen-

gers committed to his care. My resolution also commends Captain Wilbur for his selflessness, courage, and devotion to duty: he landed the plane safely in spite of serious wounds in both arms. His courage doubtless saved the lives of the 70 people aboard his aircraft. James Hartley's family deserves to know that his sacrifice was noted and appreciated and that he died a hero's death. Captain Wilbur deserves our thanks and commendation also for his extraordinary behavior and coolness in his hour of trial.

I urge every Member to join me in this expression of honor to these two fine young men.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 375) was agreed to.

ORDER OF BUSINESS—ORDER FOR RECOGNITION OF SENATOR ERVIN TOMORROW

Mr. ERVIN. Mr. President, the Senator from Missouri and the Senator from Rhode Island have a matter to place in the RECORD. I was going to discuss an extra long decision handed down by Judge Wright in the District of Columbia, which would require considerable time.

Mr. President, I ask unanimous consent that I may yield to the Senator from Rhode Island and the Senator from Missouri, and that I may continue this discussion tomorrow when the pending business is laid before the Senate; that I may be recognized to continue at that time, and that statements I make today and that I will make tomorrow will be counted only as one speech on this subject; and that I now be permitted to yield under those circumstances.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I thank the Senator from North Carolina. I would like to make one point before going into a dialog with the Senator from Missouri. That is in connection with the statement I made earlier opposing the nomination of Judge Carswell.

I said at that time I would not engage in a filibuster. I think it does not add to the glory or the credit of the Senate when we delay action, when we know the facts and our minds are pretty well made up.

We are in a peculiar parliamentary situation here. There appears to be an effort to delay voting by both conservatives and liberals. When both conservatives and liberals engage in a filibuster for any time, it would seem that the Senate business is being postponed. I hope that we could arrive at a vote tomorrow on this conference report. I would very much hope that the liberals would not delay the nomination of Judge Carswell, and that we could get on with our business.

Mr. ERVIN. Mr. President, will the Senator yield for one moment?

Mr. PELL. I am delighted to yield.

Mr. ERVIN. I will say to the Senator that, as far as I am concerned, if the vote upon this matter depended on the vote on the nomination of Judge Carswell, which has been pending for some time, I would certainly cooperate in arranging for a vote on this tomorrow.

Mr. PELL. Perhaps both votes could be had tomorrow, but I cannot speak for other Senators with respect to the vote on the nomination of Judge Carswell.

Mr. WILLIAMS of Delaware. Mr. President, if the Senator will yield, since everybody is agreed that both filibusters should be ended, I suggest that we get an agreement to vote tomorrow at a certain time.

Mr. PELL. I would like to agree to get a vote on the conference report, but I am not authorized to speak with respect to a vote on the Carswell nomination. The Senator from Indiana is present, a member of the Judiciary Committee. Perhaps he may want to comment.

Mr. BAYH. Mr. President, as a member of the Judiciary Committee and as one who has expressed some concern over the confirmation of the nominee, I have talked with a number of Senators who are in opposition to the nomination of Judge Carswell. I have not talked to anyone who is inclined to feel, or who indeed feels, that by participating in the debate that has transpired over the last week or so he is engaging in a filibuster. It is contrary to what many of us believe in.

I know it has been rumbled about this Chamber and in the halls outside that that is what is happening. I do not think anyone reading the RECORD and seeing the data that is unfolding each new day would believe that that is the proper way to describe it.

I would agree, as I stand here, with the Senator from Rhode Island, that this should not be the course of action, and I think it is not the course of action.

Mr. ERVIN. Mr. President, reserving the right to object to the unanimous-consent request made by the Senator from Delaware, I would like to assure him that I would not object to a request to have a vote on the Carswell nomination tomorrow.

Mr. BAYH. Mr. President, is the Senator from Indiana hearing things? Did the Senator from Delaware make such a request?

The PRESIDING OFFICER. No such request is before the Chair.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. PELL. I yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that beginning tomorrow, following the prayer, there be a limitation of debate of 2 hours on the nomination and 2 hours on the conference report and then we proceed to a vote.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, I am very much in favor of the unanimous-consent request, but unless it has been cleared by the leadership on both sides, I would be constrained, albeit reluctantly, to object at this time.

Mr. WILLIAMS of Delaware. I am only trying to be helpful. Every Senator seemed to be in agreement that nobody is filibustering.

Mr. BYRD of West Virginia. The Senator always tries to be helpful.

Mr. WILLIAMS of Delaware. I would not want to hurt anybody's feelings by describing this as a filibuster, but I cannot help but think, if it continues as it is going, and if the Senate continues to debate something on which everybody has his mind made up, I wonder if our constituents are not going to question our competency if we cannot arrive at a decision any sooner than we have been able to do.

Mr. BAYH. Mr. President, if the Senator will yield further, I would like to thank the distinguished Senator from Delaware for moving us toward a decision on both these matters.

Mr. WILLIAMS of Delaware. All I was trying to do was help.

Mr. BAYH. I do not, however, think that every Senator has made up his mind. I have been rather surprised at the amount of questions expressed over the country on the direction in which we are headed in this nomination. As a matter of fact, today, or late yesterday, distinguished members of the Philadelphia bar unanimously expressed their opposition to this nomination. It just seems that the more the people of this country have the opportunity to hear the relative merits of the nominee discussed, the more they express their concern.

The Senator from Indiana has confidence enough to believe that those who may have made up their minds may change them, and vote another way.

It is not my desire at all to have a filibuster. In fact, we are now exploring means of arriving at a day certain around some of the Senators' schedules. I am hopeful that we will be able to arrive at an agreement.

Mr. WILLIAMS of Delaware. I understand such negotiations are going on and that many Members of the Senate want to take a trip around the country or world, but when we have urgent business here, I wonder if we should not stay here until we get a vote on this nomination, rather than go on a junket and postpone a decision on it until we get back.

Mr. BAYH. Mr. President, let me have one last word. It may not be the last word, but only an additional word.

Mr. PELL. A last word is rare in the Senate.

Mr. BAYH. I concur in what the distinguished Senator from Delaware has said about our duties to stay here. I am a Member from this body of the Interparliamentary Union Conference. I have had the opportunity to participate in discussions on two previous occasions. I have found it to be very rewarding, in aiding me to comprehend some of the complicated and intricate international problems that confront us. Despite that fact, the Senator from Indiana feels that if the question comes to one of two alternatives, to be here and pursue the business, even perhaps not to get it to a final vote, but to pursue it and get it closer to the day of voting, and to go and be a member of the delegation, the Senator from Indiana would have no alternative ut to stay here and get the matter resolved.

m n t sure what the position of the Senator from Delaware is on this nomi-

nation. I know he will look at it in the depths of his conscience, as he did the last one. If he decides differently, it will not, in any way, diminish the respect that the Senator from Indiana has for him. But I want to get this issue resolved. I want to get it settled. I would like to see the President send to us the nomination of a better man. I know the Senator from Florida believes differently. But I will be here with the Senator from Delaware.

Mr. WILLIAMS of Delaware. I was only trying to be helpful.

Mr. EAGLETON. Mr. President, I would like to propound a series of questions to the Senator from Rhode Island, if I may have his answers to them.

Mr. PELL. Mr. President, before the Senator from Missouri propounds those questions, let me say the last word to the last word. We are at this point squeezed between two filibusters. Personally, I regret that we cannot vote on both of these matters tomorrow. I had hoped we could get a vote on the conference report tomorrow.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. BYRD of West Virginia. I did not hear what the Senator said. What did he say we were squeezed between?

Mr. PELL. Between two filibusters.

Mr. BYRD of West Virginia. I thank the Senator.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. EAGLETON. I would like to address this question to the Senator from Rhode Island: With respect to the inclusion of children living in public housing in the impact aid program, I am going to quote from a statement made by Senator YARBOROUGH, February 5, 1970, CONGRESSIONAL RECORD, page 2578, at the time he introduced an amendment, subsequently adopted by the Senate, concerning the funding of such public housing entitlements, and then ask you whether this is a correct statement of the manner in which such entitlements may be funded:

> The amendment I am offering will set up two line items in appropriations acts making funds available for payment under Public Law 874.
>
> One line item would be for payment of entitlements on the basis of A and B children as we understand them in the present law.
>
> The other line item would be for payment of entitlements created by children living in low-rent public housing units.
>
> The amendment further provides that, if a single-line appropriation is large enough to cover the full entitlements for A and B children with money left over, then the remainder may be used for low-rent housing children.

Mr. PELL. Yes, since the conferees adopted the Senate version of the public housing sections, the Yarborough amendment is retained in the final version of the bill and the public housing entitlements may be funded in either of the ways described by Senator YARBOROUGH.

Mr. EAGLETON. Is it then correct to say that funds would be allocated by the commissioner to local school districts for entitlements based on public housing children in either of the following hypothetical situations?

First. If the payment of the full entitlements under subsections (a) and (b) of section 3 of Public Law 874 in its present form were to require an appropriation of $600 million, and the Appropriations Committee provided $700 million for this program, the excess over $600 million, or $100 million, would be distributed to local school districts for public housing entitlements; or

Second. On the other hand, regardless of the amount appropriated for entitlements based on subsections (a) and (b) of section 3 of the present law, the Appropriations Committee could make a separate appropriation—or separate line item, as it is commonly called—for payment of entitlements based on public housing children and payments could be made for public housing children based on that separate line item appropriation.

Mr. PELL. Yes, that is correct. This bill authorizes alternative methods of payment of public housing entitlements in the manner you have described.

Mr. EAGLETON. Then assuming that some funds are appropriated for payment of public housing entitlements through either of the methods we have discussed, but the appropriation is insufficient to pay such entitlements in full, how will these funds be allocated among school districts which qualify for payments based on public housing children?

Mr. PELL. Section 5(c)(2) of Public Law 874, as proposed, describes the allocation system under the first appropriation method you described, that is, in the case of an excess of appropriations over the amount needed to pay the full entitlements for children coming under section 3(a) and (b) of present Public Law 874. In such case, each school district qualifying is to be paid a percentage of that district's total public housing entitlements. This percentage is the same percentage which the amount of the excess appropriation is of the total amount of all public housing entitlements.

The next paragraph, the proposed section 5(c)(3) of the act, provides that the allocation system would be the same for the alternative method of appropriating funds for this program—the separate line item appropriation method. The allocation system is not set out in full in paragraph (3) but the provisions of paragraph (2) are incorporated therein, by reference, to the extent that they deal with the manner in which funds are to be allocated when an appropriation is not sufficient to pay public housing entitlements in full. However, paragraph (3) does not incorporate the language of paragraph (2) relating to the full payment of entitlements under section 3(a) and (b) of the present law before any funds can be allocated for public housing entitlements.

Mr. EAGLETON. That is how I understood the allocation system also and I wanted to confirm it with the Senator. I thank him very much.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. PELL. Mr. President, I ask unanimous consent that the name of Representative ESCH be added as one of the signers of the conference report on the part of the managers for the House of Representatives.

The PRESIDING OFFICER (Mr. HUGHES). Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECAPITULATION OF ORDERS FOR TOMORROW

Mr. BYRD of West Virginia. Mr. President, to recapitulate, for the information of Senators, the orders that have previously been secured by the able majority leader for tomorrow, the Senate will convene tomorrow morning at 9:30. Following the disposition of the reading of the Journal, the able Senator from Oregon (Mr. PACKWOOD) will be recognized for not to exceed 30 minutes, after which the able Senator from Texas (Mr. TOWER) will be recognized for not to exceed 15 minutes. There will then ensue a period for the transaction of routine morning business, with statements therein limited to 3 minutes, following which the Senate will proceed to the further consideration of the conference report on H.R. 514.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

ADJOURNMENT TO 9:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 58 minutes p.m.) the Senate

adjourned until tomorrow, Wednesday, March 25, 1970, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 24, 1970:

Federal Aviation Administration

Kenneth M. Smith of Texas, to be Deputy Administrator of the Federal Aviation Administration, vice David D. Thomas, resigned.

U.S. Air Force

The following officers to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

In the grade of lieutenant general

Lt. Gen. Thomas S. Moorman, 213–38–3436FR (major general, Regular Air Force) U.S. Air Force.

Lt Gen. Kenneth E. Pletcher, 452–64–5656FR (major general, Regular Air Force, Medical) U.S. Air Force.

Maj. Gen. Alonzo A. Towner, 518–05–1741FR, Regular Air Force, Medical, for appointment as Surgeon General of the Air Force in the grade of lieutenant general for the period beginning from May 1, 1970, and ending on September 30, 1972. This nomination is made under the provisions of section 8036, title 10 of the United States Code.

In the Air Force

William F. Nugent, [redacted], for reappointment to the active list of the Regular Air Force, in the grade of lieutenant colonel, from the temporary disability retired list, under the provisions of sections 1210 and 1211, title 10, United States Code.

The following Air Force officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be captains

Alfieri, Guiseppe M. C., [redacted].
Andrews, Elbert D., Jr., [redacted].
Anglin, Frank L., [redacted].
Anthony, George T., [redacted].
Appelhans, Richard D., [redacted].
Apple, Burton J., [redacted].
Armstrong, Raymond H., [redacted].
Ashman, Charles T., [redacted].
Auclair, Richard A., [redacted].
Ballentine, John W., [redacted].
Barr, Richard P., Jr., [redacted].
Battreall, Raymond J., [redacted].
Baxter, Jerome R., [redacted].
Bean, Wesley W., Jr., [redacted].
Begansky, Paul R., [redacted].
Bell, Molly G., [redacted].
Bellia, Paul G., [redacted].
Bolding, Robert N., [redacted].
Boyd, Thomas L., [redacted].
Brown, Lloyd A., [redacted].
Bryant, Milton R., [redacted].
Bunderson, Leo M., [redacted].
Burden, Dan B., Jr., [redacted].
Burket, Donald H., [redacted].
Burridge, Charles W., [redacted].
Businger, Harold J., [redacted].
Byers, Waldon B., [redacted].
Caponecchi, August J., [redacted].
Carrouth, Johnny R., [redacted].
Cartwright, Donald C., Jr., [redacted].
Christenson, Frank D., [redacted].
Coleman, James J., [redacted].
Connelly, Francis E., [redacted].
Coote, Donald R., [redacted].
Copeland, Strother S., Jr., [redacted].
Craig, Harold D., [redacted].
Crawford, Todd W., [redacted].
Cucullu, Alan C., [redacted].
Cunningham, Miles R., [redacted].
Dahlemelsaether, Ole I., [redacted].
Danicourt, Richard Q., [redacted].
Davis, George M., [redacted].
Davis, James C., [redacted].
Dawson, William H., [redacted].
Dean, Charles E., [redacted].
Delaney, Donald R., [redacted].
Dingley, Arnold E., Jr., [redacted].
Dockall, Gerald W., [redacted].
Dokken, Ronald D., [redacted].
Donovan, Patrick J., [redacted].
Dreher, Richard F., [redacted].
Dreksler, Eugene, [redacted].
Duggan, Wilfred F., Jr., [redacted].
Eminger, Paul E., [redacted].
Epperson, Norman D., [redacted].
Erskine, Jeffrey F., [redacted].
Fanta, John, [redacted].
Fekete, Frederick, [redacted].
Fishburn, Sterling F., [redacted].
Ford, William L., [redacted].
Frazier, William J., [redacted].
Freeland, John F., [redacted].
Freeman, Donald H., [redacted].
Fuller, Charles H., [redacted].
Gallagher, John E., [redacted].
Gantt, Jack C., [redacted].
Garman, Raymond P., Jr., [redacted].
Gillespie, Bruce E., [redacted].
Goldsmith, Nathan K., [redacted].
Gordon, Leon D., [redacted].
Gosnell, William T., [redacted].
Granger, John A., [redacted].
Greene, Clarence C., [redacted].
Greene, Thomas U., Jr., [redacted].
Griffith, Leon C., [redacted].
Gross, John W., [redacted].
Guertin, Richard J., [redacted].
Guffee, Ray W., [redacted].
Hafermann, Douglas L., [redacted].
Hammond, Thomas L., [redacted].
Hardin, Robert G., [redacted].
Hart, Richard W., [redacted].
Hartin, David R., [redacted].
Hartness, Gregg, [redacted].
Harwood, Kenneth L., [redacted].
Hawkins, Robert C., [redacted].
Haynie, Richard C., [redacted].
Hazelwood, Michael, [redacted].
Heal, Dean M., [redacted].
Hewitt, Vernon W., [redacted].
Hill, Thomas, Jr., [redacted].
Hime, James L., [redacted].
Hogan, James D., [redacted].
Holt, Dale C., [redacted].
Howes, Rodney H., [redacted].
Hughbanks, James R., [redacted].
Januchowski, Donald W., [redacted].
Jeanetta, Carl F., [redacted].
Jones, James A., [redacted].
Jones, Otis W., [redacted].
Kaiser, Albert R., [redacted].
Kelbly, John W., Jr., [redacted].
Kelly, Donald I., [redacted].
Klinger, Arthur R., [redacted].
Krahulec, Marlyn J., [redacted].
Kranz, Duane D., [redacted].
Langwell, Donald E., [redacted].
Leach, Gary A., [redacted].
Levering, Richard L., [redacted].
Lewis, William G., [redacted].
Lighty, Larry G., [redacted].
Lindstrand, William A., [redacted].
Loar, Barbara J., [redacted].
Lowery, Gordon H., [redacted].
Lowry James H., [redacted].
Lucas, Roland G., [redacted].
Marshall, Ronald N., [redacted].
Mather, John W., [redacted].
Mau, Donald L., [redacted].
McClure, Paul C., [redacted].
McIntosh, Angus P., [redacted].
McShaw, Francis T., [redacted].
Mentesana, Philip M., [redacted].
Meny, Charles R., [redacted].
Millard, John A., [redacted].
Miller, James A., [redacted].
Miller, Thomas L., [redacted].
Moland, Elwin C., [redacted].
Moore, Lacey F., [redacted].
Moritz, Thomas E., [redacted].
Muir, William S., [redacted].
Mullins, Joe R., [redacted].
Neilands, Harry D., [redacted].
Nicholas, William W., [redacted].
Niehaus, Paul A., [redacted].
Niewold, Russell L., [redacted].
O'Brien, Robert W., [redacted].
O'Donnell, Roderic D. J., [redacted].
O'Hare, Bernard D., [redacted].
Owens, Stanley H., [redacted].
Package, Thomas L., [redacted].
Parker, Robert S., [redacted].
Pate, James E., [redacted].
Patton, Thomas R., [redacted].
Perdue, Richard A., [redacted].
Peters, Willie F., [redacted].
Petersen, Gaylord D., [redacted].
Peterson, Curtis A., [redacted].
Peterson, Stanley A., [redacted].
Philipp, Ernest F., [redacted].
Plassmann, John J., [redacted].
Primeaux, Paul R., [redacted].
Purdy, Milton H., Jr., [redacted].
Rafel, Harvey H., [redacted].
Renz, Robert B., [redacted].
Richardson, Samuel L., [redacted].
Ricksecker, Albert C., Jr., [redacted].
Riddell, Ralph A., [redacted].
Rodriquez, Robert L., [redacted].
Sanders, Raymond W., [redacted].
Sandlin, Donald R., [redacted].
Sebring, Stanley D., [redacted].
Sennett, Frederick K., [redacted].
Sherman, Ronald L., [redacted].
Shipley, Bruce C., [redacted].
Shobe, Lester E., [redacted].
Skoneki, Ronald J., [redacted].
Slawson, Tyler W., [redacted].
Slyter, Ronald M., [redacted].
Smith, Donald S., [redacted].
Smith, James L., [redacted].
Smith, Robert E., [redacted].
Smith, Zimri L., [redacted].
Snyder, Harwood E., [redacted].
Sorrick, William G., [redacted].
Stonebraker, Kenneth A., [redacted].
Sullivan, Kenneth R., [redacted].
Sullivan, Robert D., [redacted].
Thomason, Marvin R., [redacted].
Tyson, Norman P., [redacted].
Villines, Leroy C., [redacted].
Volpel, John W., [redacted].
Wade, Richard L., [redacted].
Walchshauser, Joseph A., [redacted].
Walter, Charles R., Jr., [redacted].
Watling, Harvey R., [redacted].
Weidman, Donald G., [redacted].
Whelchel, David F., [redacted].
Whitsitt, Elwyn D., [redacted].
Wiener, Robert D., [redacted].
Williams, Charles P., [redacted].
Wilson, Roger D., [redacted].
Winter, Lyle E., [redacted].
Yoder, Richard D., [redacted].

The following cadets, U.S. Air Force Academy, for appointment in the Regular Air Force, in the grade of second lieutenant, effective upon their graduation, under the provisions of sections 8284 and 9353, title 10, United States Code. Date of rank to be determined by the Secretary of the Air Force.

Abbey, Thomas G., [redacted].
Abellera, James W., [redacted].
Aberle, John R., [redacted].
Acurso, Jeffrey L., [redacted].
Adams, Dennis W., [redacted].
Adkisson, Gary D., [redacted].
Ainsworth, Loren C., [redacted].
Ake, Burton K., [redacted].
Albright, Kenneth R., Jr., [redacted].
Alexander, William R., [redacted].
Allain, Richard S., Jr., [redacted].
Allen, Jeffrey S., [redacted].
Allen, John B., [redacted].
Allen, Ronald R., [redacted].
Almeida, Roy J., [redacted].
Alves, Jeffrey R., [redacted].
Ammon, Thomas L., [redacted].
Andrews, James E., [redacted].
Angstadt, Terry L., [redacted].

Antoon, David F. xxx-xx-xxxx.
Aragon, Rudolph F. xxx-xx-xxxx.
Arbaugh, Dana C. xxx-xx-xxxx.
Arendt, Robert E. xxx-xx-xxxx.
Arnold, Harry xxx-xx-xxxx.
Aufderhaar, Grant C. xxx-xx-xxxx.
Bachmann, James L. xxx-xx-xxxx.
Bader, William G. xxx-xx-xxxx.
Bagliebter, Gary M. xxx-xx-xxxx.
Bahnson, Francis H., III, xxx-xx-xxxx.
Bailey, John L. xxx-xx-xxxx.
Baker, Raymond G. xxx-xx-xxxx.
Baker, Richard A. xxx-xx-xxxx.
Baker, Robert F. xxx-xx-xxxx.
Ballard, John A. xxx-xx-xxxx.
Ballinger, Michael B. xxx-xx-xxxx.
Bang, Carl J., Jr. xxx-xx-xxxx.
Bang, Stephen B. xxx-xx-xxxx.
Barker, Scott S. xxx-xx-xxxx.
Barleben, Raymond J. xxx-xx-xxxx.
Barnes, Bradley A. xxx-xx-xxxx.
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Baron, Douglas E. xxx-xx-xxxx.
Barrall, James F. xxx-xx-xxxx.
Barry, Marvin J. xxx-xx-xxxx.
Baskett, Robert E. xxx-xx-xxxx.
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Batuski, David J. xxx-xx-xxxx.
Bauer, Paul A. xxx-xx-xxxx.
Baxter, Gary L. xxx-xx-xxxx.
Bean, Richard M. xxx-xx-xxxx.
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Schepens, William E., xxx-xx-xxxx
Schlaefer, Kurt T., xxx-xx-xxxx
Schmidt, Gary B., xxx-xx-xxxx
Schmidt, Stephen R., xxx-xx-xxxx
Schmitt, Michael W., xxx-xx-xxxx
Schneider, Jack J., xxx-xx-xxxx
Schoen, Carl P., xxx-xx-xxxx
Schroeder, Marvin D., xxx-xx-xxxx
Schuler, Robert L., xxx-xx-xxxx
Schulke, Duane A., xxx-xx-xxxx
Schumacher, Jay K., xxx-xx-xxxx
Schumacher, Robert M., xxx-xx-xxxx
Schwartz, James G., xxx-xx-xxxx
Sconyers, Ronald T., xxx-xx-xxxx
Scullen, Robert W., xxx-xx-xxxx
Seeds, Walter A., xxx-xx-xxxx
Seese, Donald E., II, xxx-xx-xxxx
Sexton, David A., xxx-xx-xxxx
Shafer, Donald F., Jr., xxx-xx-xxxx
Sharkey, Steven J., xxx-xx-xxxx
Sharkey, Timothy J., xxx-xx-xxxx
Shaver, Jeffrey S., xxx-xx-xxxx
Shaw, Gerry W., xxx-xx-xxxx
Shaw, Jack W., xxx-xx-xxxx
Shelkofsky, Morris E., Jr., xxx-xx-xxxx
Shelton, David K., Jr., xxx-xx-xxxx
Shira, Michael J., xxx-xx-xxxx
Shirley, James R., xxx-xx-xxxx
Shultz, Delray F., xxx-xx-xxxx
Silvani, Richard L., xxx-xx-xxxx
Silvester, Terry R., xxx-xx-xxxx
Simoncic, Alan A., xxx-xx-xxxx
Simonds, Thomas H., xxx-xx-xxxx
Simpson, Stephen A., xxx-xx-xxxx
Sine, Frederick W., xxx-xx-xxxx
Sletten, Jeffrey O., xxx-xx-xxxx
Smalley, Dennis E., xxx-xx-xxxx
Smiley, Floyd M., Jr., xxx-xx-xxxx
Smisson, Charlie T., Jr., xxx-xx-xxxx
Smith, Charles L., xxx-xx-xxxx
Smith, Dale O., xxx-xx-xxxx
Smith, David L., xxx-xx-xxxx
Smith, Gregory L., xxx-xx-xxxx
Smith, James M., xxx-xx-xxxx
Smith, Richard B., xxx-xx-xxxx
Smith, Stanton T., III, xxx-xx-xxxx
Smith, William B., xxx-xx-xxxx
Smithwick, Richard N., xxx-xx-xxxx
Snead, Robert C., xxx-xx-xxxx
Snyder, Cecil O., III, xxx-xx-xxxx
Soltis, John J., xxx-xx-xxxx
Sonobe, Blake I., xxx-xx-xxxx
Sorenson, Marius G., xxx-xx-xxxx
Sparks, George W., Jr., xxx-xx-xxxx
Spear, Thomas H., xxx-xx-xxxx
Spinner, Richard L., xxx-xx-xxxx
Spitzer, Brian J., xxx-xx-xxxx
Sprinkel, David M., xxx-xx-xxxx
Spurgeon, James D., III, xxx-xx-xxxx
Stamm, William F., xxx-xx-xxxx
Stanland, William E., xxx-xx-xxxx
Stealey, John W., xxx-xx-xxxx
Stebner, Walter R., xxx-xx-xxxx
Steck, Harold D., Jr., xxx-xx-xxxx
Stein, Thomas A., xxx-xx-xxxx
Stephens, Dwain E., xxx-xx-xxxx
Stepputat, Alfred, B. W., xxx-xx-xxxx
Sterling, David E., xxx-xx-xxxx
Stewart, Robert E., Jr., xxx-xx-xxxx
Stice, Eric R., xxx-xx-xxxx
Stoll, Carl P., xxx-xx-xxxx
Stolle, Erik M., xxx-xx-xxxx
Stone, Bari W., xxx-xx-xxxx
Stover, Robert S., xxx-xx-xxxx
Stratton, Robert F., Jr., xxx-xx-xxxx
Strickland, William J., xxx-xx-xxxx
Stringfellow, John H., xxx-xx-xxxx
Strittmatter, Harold T., xxx-xx-xxxx
Stuart, Thomas R., III, xxx-xx-xxxx
Stumb, Charles E., xxx-xx-xxxx
Sullivan, Patrick C., xxx-xx-xxxx
Sunderland, William A., xxx-xx-xxxx
Sutton, John E., xxx-xx-xxxx
Swaim, Allan L., Jr., xxx-xx-xxxx
Swanson, Dustin H., Jr., xxx-xx-xxxx
Swanson, Richard E., xxx-xx-xxxx
Sydla, Michael J., xxx-xx-xxxx
Szczepanik, Russell L., xxx-xx-xxxx
Tabor, Terrence R., xxx-xx-xxxx
Taylor, John A., Jr., xxx-xx-xxxx
Taylor, Richmond L., xxx-xx-xxxx
Teeter, Herman M., Jr., xxx-xx-xxxx
Tench, William A., xxx-xx-xxxx
Terrill, Delbert R., xxx-xx-xxxx
Thomas, Dennis K., xxx-xx-xxxx
Thomas, John M., xxx-xx-xxxx
Thompson, Barry R., xxx-xx-xxxx
Thompson, John M., xxx-xx-xxxx
Thompson, Thomas W., xxx-xx-xxxx
Thrasher, Dennis I., xxx-xx-xxxx
Tieman, Larry R., xxx-xx-xxxx
Tobin, Jay G., xxx-xx-xxxx
Torreano, Michael J., xxx-xx-xxxx
Tosti, John A., xxx-xx-xxxx
Townsend, Francis W., xxx-xx-xxxx
Trimble, Jack R., xxx-xx-xxxx
Turose, Michael S., xxx-xx-xxxx
Tuseth, Richard C., xxx-xx-xxxx
Ufier, Randall J., xxx-xx-xxxx
Umbarger, George M., xxx-xx-xxxx
Upson, Carl M., xxx-xx-xxxx
Usry, Willis H., Jr., xxx-xx-xxxx
Vanalstine, Terry E., xxx-xx-xxxx
Vanderpoel, John E., xxx-xx-xxxx
Vandervelde, Philip C., xxx-xx-xxxx
Vanhorn, Kirby A., xxx-xx-xxxx
Vaughn, Robert L., xxx-xx-xxxx
Verardo, John E., xxx-xx-xxxx
Vesel, Fred H., xxx-xx-xxxx
Vickery, Glenn L., xxx-xx-xxxx
Vilbert, Michael J., xxx-xx-xxxx
Villarreal, Xavier G., xxx-xx-xxxx
Vogelgesang, David A., xxx-xx-xxxx
Volkmar, Ronald L., xxx-xx-xxxx
Wade, Joseph E., xxx-xx-xxxx
Wagner, Robert D., xxx-xx-xxxx
Walters, Tome H., Jr., xxx-xx-xxxx
Walton, Richard E., xxx-xx-xxxx
Ward, Charles A., xxx-xx-xxxx
Warner, Paul A., xxx-xx-xxxx
Warner, Randolph W., xxx-xx-xxxx
Waskon, Thomas C., xxx-xx-xxxx
Watson, John D., xxx-xx-xxxx
Watson, Stephen G., xxx-xx-xxxx
Watters, Chalton J., Jr., xxx-xx-xxxx
Watts, David A., xxx-xx-xxxx
Webb, Dayton B., xxx-xx-xxxx
Webb, Robert L., xxx-xx-xxxx
Weber, Frederick W., Jr., xxx-xx-xxxx
Weiland, Frederick L., xxx-xx-xxxx
Weiland, Lewis S., xxx-xx-xxxx
Weir, William C., xxx-xx-xxxx
Welbaum, Robert G., xxx-xx-xxxx
Wenska, Stefan G., xxx-xx-xxxx
Westbrook, Donald R., xxx-xx-xxxx
Westmoreland, Thomas M., xxx-xx-xxxx
Weyand, Gerald L., xxx-xx-xxxx
White, Kenneth W., xxx-xx-xxxx
White, Michael G., xxx-xx-xxxx
White, Paul R., xxx-xx-xxxx
Whitechurch, Charles J., xxx-xx-xxxx
Whitehead, Phillip M., xxx-xx-xxxx
Whitney, Frederick C., II, xxx-xx-xxxx
Wiisanen, Russell L., xxx-xx-xxxx
Wiley, Richard C., xxx-xx-xxxx
Witt, Thomas P., xxx-xx-xxxx
Witt, William P., xxx-xx-xxxx
Wittnebert, David A., xxx-xx-xxxx
Wonneberg, Gary R., xxx-xx-xxxx
Wood, Samuel H., IV, xxx-xx-xxxx
Woodard, Richard A., xxx-xx-xxxx
Woodhead, Gregory, xxx-xx-xxxx
Wozny, John E., xxx-xx-xxxx
Wurglitz, Alfred M., xxx-xx-xxxx
Yakabowskas, Carl J., xxx-xx-xxxx
Yamokoski, William, xxx-xx-xxxx
York, Edward J., Jr., xxx-xx-xxxx
Young, Dennis R., xxx-xx-xxxx
Young, Robert F., xxx-xx-xxxx
Zeigler, Michael C., xxx-xx-xxxx

The following cadets, U.S. Military Academy, for appointment in the Regular Air Force, in the grade of second lieutenant, effective upon their graduation, under the provisions of sections 541 and 8284, title 10, United States Code. Date of rank to be determined by the Secretary of the Air Force.

Anthony, Thomas W., xxx-xx-xxxx
Arcuri, William Y., xxx-xx-xxxx
Avery, Jimmie S., xxx-xx-xxxx
Britton, Barry J., xxx-xx-xxxx
Campbell, William L., xxxx
Colson, William B., xxx-xx-xxxx
Cumiskey, William T., xxx-xx-xxxx
Gates, Larry L., xxx-xx-xxxx
Glawe, Michael H., xxx-xx-xxxx
Heaton, Robert L., xxx-xx-xxxx
Hurff, Walter F., xxx-xx-xxxx
Lampley, Thomas S., xxx-xx-xxxx
Madley, Stephen D., xxx-xx-xxxx
Mearsheimer, John J., xxx-xx-xxxx
Minor, Gerald C., xxx-xx-xxxx
Minor, John M., xxx-xx-xxxx
Nyhous, Terrence L., xxx-xx-xxxx
Opatovsky, Robert E., xxx-xx-xxxx
Paulson, Myhre E., xxx-xx-xxxx
Raisor, Bruce C., xxx-xx-xxxx
Seaman, Frank E., xxx-xx-xxxx
Shiely, Albert R., xxx-xx-xxxx
Short, Michael N., xxx-xx-xxxx
Standelnikas, Joseph R., xxx-xx-xxxx
Stainback, David A., xxx-xx-xxxx
Thomas, Kenneth L., xxx-xx-xxxx
Verrochi, Lawrence R., xxx-xx-xxxx
Webb, Gregory R., xxx-xx-xxxx
Wehrle, Joseph H., xxx-xx-xxxx
Williams, Dennis E., xxx-xx-xxxx
Williams, Richard L., xxx-xx-xxxx
Wimberly, Gary V., xxx-xx-xxxx
Young, John R., xxx-xx-xxxx

Subject to medical qualification and subject to designation as distinguished graduates, the following students of the Air Force Reserve Officer Training Corps for appointment in the regular Air Force, in the grade of second lieutenant, under the provisions of chapter 103, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force.

Aldrich, Roger L., xxx-xx-xxxx
Alston, James A., xxx-xx-xxxx
Baker, Donald L., xxx-xx-xxxx
Baker, John R., Jr., xxx-xx-xxxx
Bartley, Harry M., xxx-xx-xxxx
Bauman, Donald W., xxx-xx-xxxx
Beaubien, James W., III, xxx-xx-xxxx
Beaulieu, Donald J., xxx-xx-xxxx
Becker, Bruce C., II, xxx-xx-xxxx
Bilotta, Joseph P., Jr., xxx-xx-xxxx
Bluemer, Gary D., xxx-xx-xxxx
Blume, William H., xxx-xx-xxxx
Boyd, Robert W., xxx-xx-xxxx
Burks, Donald E., xxx-xx-xxxx
Campbell, William H., xxx-xx-xxxx
Carson, Russell E., xxx-xx-xxxx
Childress, John S., xxx-xx-xxxx
Clingerman, Thomas B., xxx-xx-xxxx
Cloninger, Kriss, III, xxx-xx-xxxx
Coatsworth, David R., xxx-xx-xxxx
Codlin, James R., xxx-xx-xxxx
Cole, Alden B., xxx-xx-xxxx
Copeland, Melvin L., Jr., xxx-xx-xxxx
Cotter, Steven D., xxx-xx-xxxx
Coward, Ira E., II, xxx-xx-xxxx
Crow, Ronald M., xxx-xx-xxxx
Dann, James R., xxx-xx-xxxx
DeWolf, Howard G., xxx-xx-xxxx
Domingue, James M., xxx-xx-xxxx
Eastman, William R., xxx-xx-xxxx
Eagan, Paul D., xxx-xx-xxxx
Ellis, Donald J., xxx-xx-xxxx
Gabbert, John H., Jr., xxx-xx-xxxx
Garrett, Robert M., xxx-xx-xxxx
Gilbert, Joseph M., xxx-xx-xxxx
Grumbles, John L., xxx-xx-xxxx
Gulick, Clyde E., xxx-xx-xxxx
Hale, James O., xxx-xx-xxxx
Hamblin, Leland T., Jr., xxx-xx-xxxx
Hardesty, Charles R., xxx-xx-xxxx
Harper, David C., xxx-xx-xxxx
Harris, Walter J., Jr., xxx-xx-xxxx
Hayes, Harry M., xxx-xx-xxxx

Hester, Paul V., xxx-xx-xxxx.
Hodges, John D., xxx-xx-xxxx.
Honig, Emanuel M., xxx-xx-xxxx.
Hotard, Douglas P., xxx-xx-xxxx.
Hudgins, Lewis W., Jr., xxx-xx-xxxx.
Jacober, Robert P., Jr., xxx-xx-xxxx.
Jacobsen, James K., xxx-xx-xxxx.
Jamieson, Jamie H., xxx-xx-xxxx.
Kennedy, Michael D., xxx-xx-xxxx.
Kline, Gary F., xxx-xx-xxxx.
Kneidel, Joseph L., xxx-xx-xxxx.
Koering, James E., xxx-xx-xxxx.
Laine, James R., xxx-xx-xxxx.
Larson, Glen G., xxx-xx-xxxx.
Leishman, Lamar S., xxx-xx-xxxx.
Martin, William A., xxx-xx-xxxx.
Mason, George I., III, xxx-xx-xxxx.
Masson, Arthur L., xxx-xx-xxxx.
McCracken, Kenneth W., xxx-xx-xxxx.
McDonald, Steven P., xxx-xx-xxxx.
McGinnis, David G., Jr., xxx-xx-xxxx.
McGuire, Stephen A., xxx-xx-xxxx.
Mitchell, Ronald P., xxx-xx-xxxx.
Montman, James H., xxx-xx-xxxx.
Morgan, Barry E., xxx-xx-xxxx.
Morgan, Richard W., xxx-xx-xxxx.
Moss, Thomas C., Jr., xxx-xx-xxxx.
Murphy, John J., Jr., xxx-xx-xxxx.
Nagy, Richard, xxx-xx-xxxx.
Parnell, Gregory S., xxx-xx-xxxx.
Patterson, Steven R., xxx-xx-xxxx.
Peguese, Herman, xxx-xx-xxxx.
Pellerin, William E., xxx-xx-xxxx.
Perozzi, Bruce P., xxx-xx-xxxx.
Pickering, Thomas R., Jr., xxx-xx-xxxx.
Pittman, Lester G., xxx-xx-xxxx.
Powell, Jon S., xxx-xx-xxxx.
Rapley, John W., xxx-xx-xxxx.
Rasor, Robert P., xxx-xx-xxxx.
Raycraft, Gerald E., xxx-xx-xxxx.
Richard, William H., xxx-xx-xxxx.
Shadle, Douglas J., xxx-xx-xxxx.
Shaffer, Glen D., xxx-xx-xxxx.
Schaub, Daniel H., xxx-xx-xxxx.
Schmidt, Richard L., xxx-xx-xxxx.
Schultz, Robert J., xxx-xx-xxxx.
Schweizer, Rudolph J., xxx-xx-xxxx.
Sears, Bernard E., xxx-xx-xxxx.
Sheen, Michail C., xxx-xx-xxxx.
Shockey, Michael E., xxx-xx-xxxx.
Singleton, Robert L., Jr., xxx-xx-xxxx.
Smith, Timothy A., xxx-xx-xxxx.
Sobol, Anthony J., III, xxx-xx-xxxx.
Staley, Charles W., xxxx.
Staples, George M., xxx-xx-xxxx.
Stokka, Terrance L., xxx-xx-xxxx.
Taylor, Larry R., xxx-xx-xxxx.
Thykeson, Clinton A., xxx-xx-xxxx.
Tinder, Alan J., xxx-xx-xxxx.
Tipton, Robert L. Jr., xxx-xx-xxxx.
Valusek, John R., xxx-xx-xxxx.
Vanaken, Harry W., III, xxx-xx-xxxx.
Vanliere, Dennis A., xxx-xx-xxxx.
Walsh, James J., xxx-xx-xxxx.
Watkins, James C., xxx-xx-xxxx.
Watson, Wallace M., xxx-xx-xxxx.
Welch, David L., xxx-xx-xxxx.
Whittaker, Russell L., xxx-xx-xxxx.
Woody, Dwight R., xxx-xx-xxxx.

The following distinguished graduates of the Air Force Officer Training School for appointment in the Regular Air Force in the grade of second lieutenant, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force.

Bolz, Richard E., xxx-xx-xxxx.
Courtney, Gerald L., xxx-xx-xxxx.
Crump, James D., xxx-xx-xxxx.
Daries, Henry J., xxx-xx-xxxx.
Daub, Gene C., xxx-xx-xxxx.
Davis, Mark H., xxx-xx-xxxx.
Dwight, Nelson W., Jr., xxx-xx-xxxx.
Freehan, Robert J., xxx-xx-xxxx.
Galer, Lawrence A., xxx-xx-xxxx.
Gilchrist, Ronald C., xxx-xx-xxxx.
Harris, Clyde E., II, xxx-xx-xxxx.
Harris, John W., Jr., xxx-xx-xxxx.
Hunt, Aubrey F., xxx-xx-xxxx.
Inman, Jerry L., xxx-xx-xxxx.
Jones, Roy S., xxx-xx-xxxx.
King, Peter E., xxx-xx-xxxx.
Kithcart, Daniel J., xxx-xx-xxxx.
Kolarik, Francis L., Jr., xxx-xx-xxxx.
Leslie, Larry F., xxx-xx-xxxx.
Lyons, James F., Jr., xxx-xx-xxxx.
Negstad, Paul L., xxx-xx-xxxx.
Nelson, Michael K., xxx-xx-xxxx.
Rave, Morris R., xxx-xx-xxxx.
Sanders, John K., xxx-xx-xxxx.
Schenk, Horst A., xxx-xx-xxxx.
Schuler, George P., xxx-xx-xxxx.
Sedabres, Gilbert V., xxx-xx-xxxx.
Shimp, John W., xxx-xx-xxxx.
Smithson, Charles W., xxx-xx-xxxx.
Stevens, Ronnie M., xxx-xx-xxxx.
Thomas, Larry W., xxx-xx-xxxx.
Thompson, Michael W., xxx-xx-xxxx.
Wagenhofer, Joseph R., xxx-xx-xxxx.
Wallace, Calvin G., xxx-xx-xxxx.
Watson, Douglas M., xxx-xx-xxxx.
Yurkosky, Theodore P., xxx-xx-xxxx.

The following persons for appointment in the Regular Air Force. In the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force.

To be captain (dental)

Buzenas, John A., xxx-xx-xxxx.

To be first lieutenant (dental)

Scott, Herman D., xxx-xx-xxxx.

Lt. Col. Robert W. Lamb, xxx-xx-xxxx FR, for appointment as permanent professor, U.S. Air Forces Academy, under the provisions of section 9333B, title 10, United States Code.

HOUSE OF REPRESENTATIVES—*Tuesday, March 24, 1970*

The House met at 12 o'clock noon.

Rev. E. C. McDaniel, Main Street Baptist Church, Jacksonville, Fla., offered the following prayer:

Almighty God, creator of all mankind, we pray to Thee and Thee alone. It would be easy to try to impress men with our manner of speech and it would be easier for those here to listen to our words rather than speaking to Thee and asking for divine guidance. Therefore, help each one of us to be conscious of our helplessness and to adjure Thee for wisdom to make decisions which will affect not only ourselves but mankind the world over.

Gracious God, Thou hast permitted Your servant only a week ago to return from behind the Iron Curtain. And if anyone would know how to be thankful for America, it is I. Therefore, in these days of decisions, give to the Members of this Congress of the United States the wisdom of God to keep the message which You gave by the angels 2,000 years ago: "Peace on Earth, good will toward men."

For it is in Your dear name we pray. Amen.

THE JOURNAL

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

MESSAGE FROM THE SENATE

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

H. Con. Res. 554. Concurrent resolution authorizing certain corrections to be made in the enrollment of H.R. 11959.

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

S. 2593. An act to exclude executive officers and managerial personnel of Western Hemisphere businesses from the numerical limitation of Western Hemisphere immigration.

THE REVEREND E. C. McDANIEL

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

Mr. BENNETT. Mr. Speaker, it has been my honor to welcome to the floor of the House this day, Rev. E. C. McDaniel, who has just delivered an inspiring prayer for this body and for our country. The Speaker just mentioned to me that it was a beautiful prayer, a truly American prayer.

Reverend McDaniel is a longtime friend of mine and is pastor of the Main Street Baptist Church. He is an able pastor and minister to his flock, one of the largest in Florida. Reverend McDaniel has not contented himself with just being an outstanding preacher with a beautiful and large church edifice and a contented congregation. He and they are not content to let the rest of the world go by. He and his congregation have welcomed to their group, and have sought out, people who have particularly needed the love of Jesus Christ in their lives. This is the most inspiring thing that a man of God and a congregation can do; for the need is great everywhere.

Reverend McDaniel was born in Salem, Va., and was educated there and at Toccoa Falls Bible College in Georgia, and finally graduated from Luther Rice Seminary, where ultimately he was a professor being also in the active ministry as a permanent profession in life. He and Mrs. McDaniel have three children, Everett, Wanda, and Timothy. He is active in civic affairs, as is his wife, and I am proud to have them as constituents

He is a moderator for the 66,000 Baptists in the Jacksonville area. He is also a member of the executive committee of the Southern Baptist Convention.

ARMS TO ISRAEL NOW

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

Mr. CELLER. Mr. Speaker, I have studied carefully the statement of President Nixon on the shipment of arms to Israel. I cannot refrain from expressing my keen disappointment in the President's conclusion that arms not be sent to Israel at present. I point out that 256 Members of the House of Representatives