the past chairman of the Junior Bar Section and past secretary and chairman of the Administrative Law Section of the Hennepin County Bar Association. He now serves as Chairman of the Advisory Committee on Research to the Federal Judicial Center; a member of the Advisory Committee on the Judge's Function to the American Bar Association Special Committee on Standards for the Administration of Criminal Justice; and a member of the interim Advisory Committee on Judicial Activities. Judge Blackmun has written a number of articles and has participated in a number of legal seminars. One area of special interest to him is the medicolegal field.

Judge Blackmun was a member of the Minnesota National Guard from 1927–1930, a director of the Rochester Airport Company from 1952 to 1960, and a director of the Kahler Corporation from 1958 to 1964. He has been a trustee of the William Mitchell College of Law since 1959 and a member of the Board of Trustees of Hamline University since 1964. He is also a member of the Minneapolis Club and the University Club of Rochester, Minnesota. He is a member and former President of both the Harvard Club of Minnesota and the Rotary Club of Rochester, Minnesota.

Judge Blackmun is a member of the First Methodist Church of Rochester, Minnesota and he was chairman of its Board of Trustees from 1961–64. He is director of the Rochester Methodist Hospital and a member of its Executive Committee. On the national level, he has been a member of the Board of Publication of the Methodist Church since 1960 and of its Executive Committee since 1964.

Judge Blackmun married the former Dorothy E. Clark on June 21, 1941. They have three daughters, Nancy Clark, 26; Sally Ann, 22; and Susan Manning, 20. The three girls celebrate their birthdays on July 8, July 7 and July 1, respectively. Judge Blackmun's father died on February 5, 1947. His mother still lives in Minneapolis.

PARAGRAPH 3 OF RULE VIII TO TAKE EFECT AT CONCLUSION OF SPECIAL ORDERS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time under paragraph 3 of rule VIII, the so-called Pastore rule, not begin running on tomorrow until the conclusion of the special orders previously entered.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is S. 1814, to provide for public ownership of the mass transit bus system operated by D.C. Transit System.

ADJOURNMENT TO 10 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 10 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 39 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, April 15, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 14, 1970:

NATIONAL SCIENCE BOARD

The following-named persons to be members of the National Science Board, National Science Foundation, for the terms indicated:

For the remainder of the term expiring May 10, 1972: Horton Guyford Stever, of Pennsylvania, vice Clifford M. Hardin, resigned.

For a term expiring May 10, 1976:

Herbert E. Carter, of Illinois; reappointment.

Robert Alan Charpie, of Massachusetts, vice Julian R. Goldsmith, term expiring.

Lloyd Miller Cooke, of Illinois, vice William W. Hagerty, term expiring.

Robert Henry Dicke, of New Jersey, vice Mina S. Rees, term expiring.

David Murray Gates, of Missouri, vice Mary I. Bunting, term expiring.

Roger W. Heyns, of California; reappointment.

Frank Press, of Massachusetts, vice Harvey Picker, term expiring.

Frederick P. Thieme, of Colorado; reappointment.

HOUSE OF REPRESENTATIVES—*Tuesday, April 14, 1970*

The House met at 12 o'clock noon.

The Reverend Father Joseph F. Thorning, Ph. D., D.D., pastor emeritus, of St. Joseph's-on-Carrollton Manor, Md., and an honorary professor of the Catholic University of Chile, a pontifical institution, offered the following prayer:

Heavenly Father, author of light and of love, let the light of Thy countenance shine brightly upon the Speaker of this House and upon all the distinguished members of legislative bodies throughout the Western Hemisphere, including Canada.

Grant a special blessing, we beseech Thee, upon the President of the United States of America and upon the chief executives of the American Republics that their programs of partnership may be fruitful.

Almighty God, with extraordinary fervor, we implore Thy grace and favor for the safe return of our brave astronauts, whose welfare is dear to their families, their Nation, and to all the peoples of this planet.

We pray that, as a result of brotherly love and cooperation, this inter-American partnership program may bring better education, improved housing, stronger health, and nutritious food to the peoples of the Western Hemisphere.

Vouchsafe, dear Saviour, that a fair distribution of rewards to hard-working producers may help to provide justice, order, security, and peace.

At the same time, may all citizens, who cherish freedom and the blessings of representative government, show respect for the rights of their neighbors and a deep sense of responsibility to authority, essential to virtue in the home and genuine progress in national and international life.

These are among the graces and favors, for which we implore God's help, throughout this new decade of the 1970's. Amen.

THE JOURNAL

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

PAN AMERICAN DAY

The SPEAKER. Pursuant to House Resolution 889, this day has been designated as Pan American Day.

The Chair recognizes the gentleman from Florida, Mr. FASCELL.

Mr. FASCELL. Mr. Speaker, on the occasion of the 80th anniversary of the creation of the Pan American Union, an event which provided the foundation for the great inter-American system in existence today, I wish to offer a resolution and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 911

Whereas April 14, 1970, marks the eightieth anniversary of the Union of American Republics, now known as the Organization of American States;

Whereas the continued hemispheric solidarity is essential to the cause of progress and freedom for all citizens of this hemisphere; and

Whereas in unity there is real promise of accelerated progress in social and political reform and economic growth in the countries of our home hemisphere: Now, therefore, be it.

Resolved, That in honor of the founding of the Pan American Union, the House of Representatives of the United States of America extends greetings to the other Republics of the Western Hemisphere and to all citizens of those Republics, with the fervent hope that new thresholds of good will, stability, and prosperity are being crossed.

The SPEAKER. The gentleman from Florida (Mr. FASCELL) is recognized.

Mr. FASCELL. Mr. Speaker, first let me say that I am very happy to avail myself of this opportunity to note, for the benefit of my distinguished colleagues, that Father Joseph F. Thorning, who gave the invocation on Pan American Day for the 26th consecutive year, is the onetime dean of the Graduate School of Georgetown University and the first North American to have been awarded the degree, doctor of divinity, honoris causa, by the Catholic University of Chile, a pontifical institution.

Dr. Thorning, who serves today as one of the associate editors of World Affairs, was an influential leader in the ecumenical movement long before it became as popular as it is now; an active apostle in interracial harmony before the cause was widely recognized; and a worker in the cause of Western Hemisphere understanding and friendship at a time when relatively few were dedicated to the ideal.

So today, Mr. Speaker, we are indeed

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very happy to have with us this distinguished gentleman who has dedicated his life to inter-American affairs and understanding; and who is affectionately and properly known as "The Padre of the Americas." I hope he will join us for many more years.

Mr. Speaker, Pan American Day is traditionally set aside as an occasion for the governments and peoples of the United States and Latin America to pay tribute to the political, cultural, economic, and juridical ties which unite our nations in the inter-American system.

It is a day when we in the United States pay tribute to the warm and continuing friendship which we share with our Latin neighbors.

It is also a day when all of us in the Congress and in Government service should pause to reflect upon our past, present, and future relationships with Latin America.

Above all, Pan American Day is for us a day of recommitment to the principles and ideals upon which the inter-American system is founded—principles embodied in the Charter of the Organization of American States and in the Charter of Punta del Este, through which the Alliance for Progress partnership came into being.

The Organization of American States was created in 1948 to provide a juridical and structural framework through which our Nation and the sovereign nations of Latin America could collaborate on all matters affecting our peoples, for the betterment of all who share this hemisphere. The OAS is dedicated to the achievement of peace, security, and prosperity for all. Its guiding principles include nonintervention, self-determination, and the exercise of representative democracy. Its structure includes organs committed to those goals as well as to the advancement of the economic, social, and cultural interests of our hemisphere.

Now 22 years old, the OAS is a continually evolving organization, striving to meet the challenging needs of its people in a fast moving world. As proof of this fact, we have to consider the new Charter of the Organization, which went into effect this past February and carries out a major overhaul of the structure of the inter-American system. The revised charter, and the management reforms effected in the OAS during the past 2 years, have breathed a new dynamism into the inter-American organization, providing it with necessary tools with which is can deal more effectively with the critical problems besetting the hemisphere, especially in the areas of economic development and social amelioration.

The Alliance for Progress is a cooperative endeavor of 22 hemisphere nations committed to assisting the Latin peoples to share more fully in the prosperity and opportunities offered by 20th century life.

In its first decade, the Alliance has provided a concrete beginning, the first solid step in the direction of progress and change, fostered by intelligent planning and a firm commitment on the part of the nations involved. Its principles and goals are inspiring dynamic and purposeful leadership throughout the region.

Yet, the problems of development in Latin America remain staggering, and time is short. Tensions and frustrations are rising to new and dangerous levels. The time is at hand for us, in concert with our Latin American partners, to embark upon a new strategy of hemisphere development. The Subcommittee on Inter-American Affairs, which I have the honor to chair, has suggested the outlines of such a strategy. Governor Rockefeller, in his sweeping report to President Nixon, has detailed many reforms and undertakings which could help to carry it out. And President Nixon, in his several speeches and communications to the members of the inter-American system, has provided further policy guidelines for the future of United States-Latin American relations. What remains now is for us and our Latin friends, to carry out these plans and programs in order to promote the ideals of Latin American development and the basic goals, aspirations, and principles which inspired the birth of the Alliance for Progress.

On this occasion, I wish to extend our best wishes to the Honorable Don Galo Plaza, who, as the distinguished Secretary General of the Organization of American States, occupies one of the most challenging and demanding positions in this hemisphere. I wish also to offer our salute to the men and women who direct, administer, and staff the instruments of hemispheric union, and to all those who, through their intense labors, have dedicated themselves to shaping a better hemisphere for all of us.

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

Mr. FASCELL. I am delighted to yield to the distinguished gentleman from Texas (Mr. KAZEN), a member of the Subcommittee on Inter-American Affairs.

Mr. KAZEN. Mr. Speaker, today we join our fellow Americans throughout this Western Hemisphere, to commemorate the 80th anniversary of the Union of American Republics.

Our hemisphere is a community of nations that were forged out of a new world. Each has its customs, traditions, culture, and language, varied degrees of economic development and prosperity, as well as a history of political turmoil. Yet, we are one family of nations, joined together by a mutual resolve that in unity there is strength. We acknowledge and defend the right of self-determination and respect each other's sovereignty. All of these elements form the basis for a common understanding and a hemispheric union welded by historic bonds of true friendship.

In celebrating Pan American Day, we join the millions of fellow Americans, from the Central and South American countries, our Canadian neighbors to the north, and our own countrymen, and reaffirm the brotherhood of nations and pledge our help to each other, being ever hopeful that the future will bring better understanding, greater stability, and continued progress for the common good of all the Americas.

Let us ever be mindful of the fact that peace in the world begins in our own backyard, by being at peace with our own neighbors.

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

Mr. FASCELL. I am happy to yield to the distinguished gentleman from New York.

Mr. McKNEALLY. Mr. Speaker, I rise in support of the resolution commemorating the 80th anniversary of the founding of our inter-American system, and I am especially pleased that Father Joseph Thorning invoked the blessing of God on these proceedings. Father Thorning is well known to me as a gentleman, a genuine intellectual, an outstanding and patriotic citizen of the United States and friend of our neighbors to the south. He has had a long career in promoting inter-American relationships and advising members of the Government of the United States on South American problems. He is held in the highest esteem in South America and has been given many decorations for his contributions to solidarity in the world of Pan America. He is known throughout our Nation's Capital for his integrity and gracious manners. I know, Mr. Speaker, that he is no stranger to this House and yet it is reassuring to hear him make the prayer for divine guidance in our work. I can say without idle flattery to him that he does us honor when he comes to this House each year on Pan American Day.

Since 1890, the United States and our Latin American neighbors have joined together in a cooperative effort toward hemispheric solidarity. This effort was conceived of and has been sustained by a spirit of true friendship. Consequently, we and our friends have continued to work at bringing about the development of a healthier and sounder relationship in which all members may grow and prosper.

The present age is a turbulent one as the masses of mankind demand a larger share in the world's goods, and they are demanding nothing more than is their due in accordance with the concepts of justice—both economic and social. The policy of the United States must be based on helping our friends wherever we can—not on reforming their characters, altering their life's patterns, challenging their institutions. Our friendship must be open and as generous as possible toward the Americas for their stability is in our own interest.

Today, we celebrate what may be termed Pan Americanism, and in so doing we celebrate with our Latin American friends our bonds of common interests, common beliefs, and a common determination to solve whatever problems threaten the existence of our inter-American system. In essence, we celebrate our agreements which by far outnumber our disagreements.

In extending my warmest felicitations to our Latin compatriots, I am certain that I express the sentiments of the people of the 27th District of New York whom I am honored to represent. Surely, we all realize that hemispheric relations are much better for every year that we celebrate Pan American Day.

THE PADRE OF THE AMERICAS

It may be as useful as it is interesting to place on record a concise survey of the work of our friend, the Reverend Father Joseph F. Thorning, D.D., Ph. D., the U.S. honorary fellow of the Historical and Geographic Institute of Brazil. This synopsis was featured in a recent Department of History Newsletter of the Catholic University of America, a pontifical institution. The report of December 1969, Washington, D.C., reads as follows:

ALUMNI AND STUDENT NEWS

Joseph F. Thorning, Ph.D. '31, is pastor emeritus of St. Joseph's-on-Carrollton Manor, Maryland. During his long and active career, Dr. Thorning has served or is serving as associate editor of *World Affairs* (D.C.); acting chaplain of the U.S. House of Representatives on Pan American Day (for 25 consecutive years); vice president and director of the American Peace Society; founder and director of Inter-American Seminars, University of San Marcos (Peru); acting dean, Graduate School, Georgetown University; professor of social ethics and social history, Mount St. Mary's Major Seminary, Emmitsburg, Md.; official member of U.S. special diplomatic missions to the other American republics, 1951–56; special adviser to the U.S. Senatorial Delegation to the 10th Inter-American Conference, Caracas, 1954; honorary chaplain, Inter-American Defense Board. He has been awarded honorary doctorates by the Catholic University of Chile, the University of Santo Domingo, and the National University of Costa Rica. He has also been awarded the following decorations: Order of Alfonso the Wise, Spain (Grand Cross); Order of Isabella the Catholic, Spain (Grand Cross); Order of the Southern Cross, Brazil; Order of Francisco de Miranda, Venezuela; Order of the Quetzal, Guatemala; Order of Christopher Columbus, Dominican Republic; Legion of Honor and Merit, Haiti; Vasco Nunez de Balboa, Panama; Cross of Boyaca, Columbia; and Carlos Manuel de Cespedes, Cuba. His doctoral dissertation, *Religious Liberty in Transition: A Study of the Removal of Constitutional Limitations on Religious Liberty as Part of the Social Progress in the Transition Period in New England*, appeared as a book in 1931. His *Miranda, World Citizen* was published by the University of Florida Press, 1952. Other books, articles, and reviews have come from his pen.

Mr. FASCELL. Mr. Speaker, I thank the distinguished gentleman from New York for his pertinent observations.

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

Mr. FASCELL. Mr. Speaker, I yield to the distinguished gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I am very anxious to join with the distinguished gentleman from Florida in support of his resolution in commemoration of this Pan American Day.

When I first came to this body 25 years ago I had the honor and privilege of serving upon the Committee on Foreign Affairs of the House, then chaired by the distinguished gentleman from New York, the beloved Sol Bloom, and I served on the subcommittee, during my service on that great committee, on Inter-American Affairs.

As the gentleman from Florida knows, I was raised in northeastern Pennsylvania, and I know that I am just a plain Yankee—I am not a damn Yankee, I know down there in the South it is one word—but I had traveled extensively, before I came to the House of Representatives, in Central and South American countries, and hence I am concerned about those affairs there, and, therefore, the tenor of his resolution I embrace, indeed.

Of course, my beloved and old friend, Father Thorning, said the prayer for us here today, and I have met and known him down through these many years. I know him as an associate of the renowned magazine, World Affairs. He has been invited to give the prayer here ever since we have seen fit to commemorate the anniversary of this Pan American Day for 26 years—an extraordinary record, indeed.

Inasmuch as countries of Spanish America have a special relationship not only with the United States of America, but also to their mother countries of Spain and Portugal, it is important to note that Father Thorning on numerous occasions has emphasized the value of this aspect of understanding and friendship among the people of the old and new worlds. During the Spanish civil war, for example, Dr. Thorning served as discussion correspondent for several publications, and his reports have been confirmed by many, many of the events then and since.

I am glad, indeed, to have him be with us this morning.

Mr. FASCELL. Mr. Speaker, I thank the distinguished gentleman from Pennsylvania, who has had long experience in and a very deep knowledge of the matters concerning Latin America, and who has exhibited tremendous leadership in this House throughout the years on vital matters which affect relationships between the United States and Latin America, and I am delighted to have his contributions today.

Mr. FLOOD. The gentleman is very kind.

Mr. FASCELL. Mr. Speaker, I yield to the distinguished ranking minority member of the Committee on Foreign Affairs, the gentleman from Indiana (Mr. ADAIR).

Mr. ADAIR. Mr. Speaker, today, April 14, is Pan American Day. It is important to us because it commemorates the unity of the Americas based on the doctrine of absolute juridical equality and respect for the sovereignty of each nation.

This April 14 is the 80th anniversary of the founding of the inter-American system now called the Organization of American States. Today, the Organization of American States embraces 24 nations and 500 million Americans. Strengthened by a new charter which has just been ratified and which awaits implementation, our system today stands as proof of the soundness of our fathers' vision.

Truly we of the Western Hemisphere have much to be proud of on this anniversary. We are proud of our joint efforts and accomplishments. There are no wars between us. There is no fear of aggression from any active member of the Organization of American States. There are no arms races within the hemisphere to raise the fear of war or to subtract resources from development.

Achievements in development reflect this security. If we look at the decade since the Act of Bogotá, and if for a moment we look at accomplishments outside the shadow of remaining problems, then I think we should recognize that real progress has been made. I am confident that under President Nixon's leadership, the United States will continue to work together with our fellow members of the Organization of American States in behalf of progress throughout the Americas.

Mr. FASCELL. Mr. Speaker, I yield to the distinguished gentleman from Puerto Rico (Mr. CÓRDOVA).

Mr. CÓRDOVA. Mr. Speaker, I rise in support of the resolution. Pan American Day is an occasion which annually commemorates the unity of the American Nations in one continental community. Eighty years ago today the First International Conference of American States established the International Union of American Republics, subsequently known successively as the Pan American Union and the Organization of American States.

I believe it is proper that we join the special observance of this day, which has become, through the years, a symbol of friendship, a symbol of the understanding that should unite the peoples of the 22 American republics.

Much effort has been expended to strengthen the ties that bind us together, and we know that our Nation has sincerely tried to do its share of this never-ending task, as best it has known how. Yet it has been sometimes mistaken, and perhaps more often misunderstood.

Hence it may not be amiss on this occasion for me to reiterate, in all humility, that we in Puerto Rico stand ready to serve the Nation in its efforts to foster true panamericanism, and believe that our people are specially qualified so to serve, by reason of our cultural and historical ties to Latin America.

Puerto Ricans have been able to distinguish themselves in the defense of our Nation abroad. Just a few days ago I was privileged to join a few Members of this House and of the Senate in a White House ceremony where a Puerto Rican soldier was one of 20 Americans posthumously awarded the Congressional Medal of Honor—the third such award made to a Puerto Rican soldier during the Vietnam conflict. We feel we can be even more valuable to our Nation in more peaceful methods of advancing the brotherhood of man, particularly in Latin America. We have a reservoir of good will and talent in Puerto Rico. Let us not forget it when we address ourselves to the promotion of panamericanism.

Mr. FASCELL. Mr. Speaker, I thank the distinguished gentleman from Puerto Rico and would say that his remarks are entirely pertinent to the subject we are discussing and that certainly the present administration under the able leadership of Gov. Luis A. Ferre is demonstrating what the people of Puerto Rico can make in the way of contributions not

only in the Caribbean area but all of the Western Hemisphere.

Mr. CÓRDOVA. I thank the gentleman from Florida.

Mr. MONAGAN. Mr. Speaker, I express my support of the resolution relating to the 80th anniversary of the Union of American Republics, which is now, of course, known as the Organization of American States.

In these days of stress when the problems in the hemisphere are more acute and more complex than they ever have been before, certainly we need a healthy and viable and constructive organization of unity and economic and political cooperation.

That is what we have in the Organization of American States. It has proved its worth.

It is appropriate that we pause today to express our hopes for its continued service and growth.

Mr. Speaker, I should like also to pay my tribute to Rev. Joseph Thorning, who is with us today, who offered the invocation, and who for the 26th time since the initiation of this observance on the floor of the House has demonstrated his devotion, his support, his willingness to sacrifice personal interests to be here and express his support of this observance, his support of the unification in thought, and cooperation of the countries of the hemisphere and to ask divine blessing upon this work. It is a pleasure to have him with us.

Mr. BURKE of Massachusetts. Mr. Speaker, it is good to welcome to our midst Father Joseph F. Thorning, who, for 26 consecutive years, has given the invocation on Pan American Day in the Congress.

It may please my distinguished colleagues to know that one of Dr. Thorning's books, "Miranda: World Citizen," published by the University of Florida Press, continues to be a best seller. It is the scientific biography of Don Francisco de Miranda of Venezuela, the forerunner of Latin American freedom and independence. This volume has gone through several editions and retains its popularity among all who are concerned about inter-American understanding, amity and cooperation. One hopes that Father Thorning will continue his work for many years to come.

Mr. PEPPER. Mr. Speaker, on this Pan American Day in 1970 we pay tribute to the strong bonds of interest and affection, of common concerns and shared hopes which unite the peoples of the United States and Latin America in our special inter-American relationship.

On this occasion, we look back over eight decades of inter-American relations to the day in April 1890, when representatives of 18 hemisphere nations created the International Union of American Republics, an organization for the collection and dissemination of commercial information to enable the American nations to cooperate in commercial fields for the mutual benefit of all.

Eighty years have passed, and we have seen that tiny organization blossom into the Organization of American States, a great regional agency for inter-American cooperation in all aspects of hemisphere affairs—political, economic and social—and the Alliance for Progress, a cooperative endeavor of all American nations committed to achieving a better quality of life for the hemisphere peoples.

Founded in 1948, the Organization of American States was dedicated to strengthening the peace and security of the hemisphere, to insuring pacific settlement of inter-American dispute, to seeking practical solutions to political, juridical, and economic problems which arise, and to promoting, through cooperative action, the economic, social, and cultural development of the hemisphere. Now in its 22d year, the OAS has proved itself worthy of the faith, the hopes, and the expectations which its founders placed in it. Over the years, it has been a flexible, dynamic, and constantly evolving tool of cooperation striving always to meet hemisphere needs in a rapidly changing world.

In 1961, the American Republics forged another great tool in the inter-American system—the Alliance for Progress—"a vast cooperative effort, unparalleled in magnitude and nobility of purpose, to satisfy the basic needs of the American people for homes, work and land, health and schools." The Alliance was the first regional effort by any group of nations to promote economic and social development and to foster basic reform in prevailing institutions within a framework of democratic government and respect for social justice.

In the past 9 years many difficulties have beset us which have tried the strength of our commitments to the Alliance. But the Alliance for Progress has provided the American nations with the practical experience, the framework upon which to build, and the spirit of regional cooperation toward common goals which will enable us to more effectively challenge the evermore complex problems of the hemisphere.

On this Pan American Day, we in the Congress, the Government, and the people throughout our great Nation must pledge our firm and unending support for the inter-American system—its principles, its compacts and its institutions. We must reaffirm our sincere commitment to continue U.S. support for hemisphere development, and we must, in concert with our Latin partners, stand ready to apply all of the human, financial, and political resources necessary to fulfill our shared hopes for reform, progress, and modernization.

It is my earnest hope that the bonds of friendship, understanding, and mutual cooperation which unite our peoples today will be wisely nurtured and become ever more meaningful and vigorous—in order that every person in this hemisphere may enjoy a land of liberty and a favorable environment for the development of his personality and the realization of his just aspirations, with dignity, in peace, and in prosperity.

Mr. ANDERSON of California. Mr. Speaker, today we celebrate the 80th anniversary of the creation of the oldest international organization in existence. On April 14, 1890, the First International Conference of American States established the International Union of American Republics.

This was the first concrete step in the formation of an inter-American system of cooperation and solidarity now known as the Organization of American States. Since 1931, April 14 has been termed Pan American Day, and has been celebrated throughout the Western Hemisphere.

Through the Organization of American States, we are attempting to work out a common understanding of our common desires and goals. To accomplish this end, the Alliance for Progress was established in 1961 as a pledge of U.S. commitment to Latin American economic and social progress.

The Alliance for Progress ushered in a new era in inter-American relations—an era in which economic, political, and social development form the basis for a unique hemisphere unity. Although the Alliance has not been as successful as I had hoped, we can point to substantial gains in Latin American development which could never have been achieved without the Alliance.

This Pan American Day, 1970, is a time for us in the United States to recommit ourselves to the principles and goals of the Organization of American States and the Alliance for Progress. We must revitalize our policy and emphasize those constructive elements which foster close and healthy Latin American-United States relations.

Mr. MAILLIARD. Mr. Speaker, I rise today to join my colleagues in the commemoration of the oldest international political organization in the world, the Organization of American States, on its 80th anniversary.

Today's date, observed as Pan American Day since 1930, marks the signing of the agreement setting up a commercial information clearing house in Washington, D.C., on April 14, 1890.

By 1910, expansion of the bureau's activities led to a change of name. It then became the Pan American Union, and was installed in its majestic new headquarters near Constitution Hall and the White House.

For the next 38 years, the inter-American system grew and established many new norms of international cooperation. A search for the solutions to problems caused by two world wars resulted in a closer relationship, and in a strengthening of hemispheric solidarity and security. A reciprocal assistance treaty was signed in Rio de Janeiro in 1947 and in 1948 the OAS came into being, replacing the Pan American Union. The latter name was maintained, however, to identify the General Secretariat of the OAS.

Another 19 years elapsed. The OAS member countries, having begun to apply the inter-American mechanisms for peacekeeping and for dealing with political-juridical issues, decided that the time had come to enlarge the scope of the OAS and to widen its developmental functions. A series of amendments to the OAS Charter was ratified by 19 member countries and has been in force since February 27, 1970. These amendments to the OAS Charter reflect contemporary

concerns, as phrased in the papal dictum: "Development is the new name for peace."

Mr. Speaker, it is the question of development which confronts the inter-American partnership with its major challenge today.

For the past 8½ years the Alliance for Progress has been the developmental cornerstone of the inter-American system. Since its inception in 1961, this developmental pact has been a prime factor in the overall increase in gross product and trade in our sister republics to the south. Nevertheless, the ambitious goals set in Punta del Este have not been achieved within the time limits determined by the framers of the charter.

Among the many goals delineated in the charter, those concerning personal income and education were the most explicit. Specifically, in terms of economic expansion, a growth rate of 2.5 percent in per capita income for Latin Americans was projected in title I. In the field of education, the charter's objectives were universal primary education and the eradication of adult illiteracy by the end of the 1969's.

However, the annual growth in gross domestic product per capita in the region reached only 1.7 percent during the 1961–68 period. And, today, in Latin America, there are more school-age children out of school than in, while adult illiteracy remains rampant.

It is easy to rationalize the shortcomings of the developmental efforts of the inter-American partnership. It has been charged that the goals of the charter were too ambitious, and that charge is largely true. Less than 9 years is too short a time to change a region from a producer of agricultural commodities and raw materials into any exporter of manufactured goods. Perhaps it is also too short a time to eradicate illiteracy and undate farm structures in 22 countries. Nevertheless, the past 8½ years ought to have been more productive in terms of economic and social progress than they were.

Therefore, apart from correcting the basic misdirections of the developmental process of the 1960's, I believe there are two areas of cooperation which are essential to future economic and social progress in the hemisphere, that is, population control and private investment.

It is now clear that the blame for the failure to achieve Alliance goals for personal income and education can largely be charged to the population explosion in Latin America. At present, experts put the region's birth rate at 3.6 percent per year. This represents the highest birth rate in the world. The current rate suggests that, in the 1970's, the increase may well be more than 100 million as compared to 70 million in the 1960's.

I am not a Malthusian alarmist, for it is my hope that modern agricultural technology and the advent of the "green revolution" will prevent mass starvation in the less developed nations. On the other hand, feeding the populations of Latin America and elsewhere in the developing world will not alone bring their standard of living up to acceptable levels. Therefore, it is incumbent upon the members of the inter-American community to get at the job of dispelling the myths which mitigate against halting the disastrous population avalanche.

The second area in need of more cooperation within the inter-American system is that of foreign private investment. In order to progress, developing countries require large inputs of modern technology and investment capital. One of the prime sources for both of these requirements is foreign private investment. While the value of private U.S. direct investment in Latin America has increased somewhat in recent years, there has been the dampening effect of expropriations of U.S. firms by the Latin American governments.

In the past, Latin American rules for foreign private investment have varied sharply from country to country and from government to government. Since it is certainly the prerogative of the host country to set the rules for foreign participation, it would be to that country's advantage to be consistent in its rules and regulations for foreign private investment. In that vein, I suggest that Latin American countries could set equivalent standards for foreign investors through the mechanism of the Inter-American Economic and Social Council or the various economic groupings such as the Latin American Free Trade Association.

It is my firm conviction that the U.S. investor can abide by very severe sets of rules and conditions as long as they remain reasonably constant. It is the fear, based on experience, of changing the rules in the middle of the game that is a primary factor discouraging foreign private investment.

Mr. Speaker, I have spoken openly and frankly about the challenges facing the hemisphere on the anniversary of the Pan American Union. For an individual representing a member nation to do otherwise would be idle. Recognizing the nature of the interdependence of the American republics, it is the duty of their members to be mindful of the problems of the partnership so that they may be solved.

More than 150 years ago, Simon Bolivar said:

> Freedom in the New World is the hope of the universe.

As the new decade begins, it is the task of the inter-American community to provide the social and economic progress on which that freedom so much depends.

Mr. CRAMER. Mr. Speaker, today, Pan American Day, serves to remind us of the principles to which this celebration is dedicated. The need to build a strong and united hemisphere, based on law and the right of self-determination, has never been more evident than it is today.

The forces of godless communism have established a toehold in our hemisphere; from hapless Cuba they are working tirelessly to divide the Americas and pave the way for further conquests.

The threat to the sovereignty of the Latin American Republics has never been more serious. The full force of the Monroe Doctrine must be brought to bear on this threat.

We must fully support the Organization of American States and its programs for economic, cultural, and political development. And I am reminded that my home State of Florida, as the "gateway of the Americas," will be playing an ever more vital role in this great cooperative enterprise.

The Americas must stand vigilant and united. And Pan American Day is a good day to rededicate ourselves to this great cause.

Mr. ROONEY of New York. Mr. Speaker, I was very pleased today to hear my good and longtime friend Rev. Father Francis Thorning deliver the devout and moving opening prayer as this House of Representatives convened. Father Thorning is known throughout this country and Latin America as the Padre of Pan America so it was doubly fitting that he be here again today. On this day in 1890 delegates to the Washington Conference of American States established what we know today as the Pan American Union. The initial conference established a uniform system of trade practices and arbitration of disputes. But much more importantly it bound together the peoples of the Western Hemisphere in a common purpose, the betterment of life for us all. The United States and her Latin American friends, through the Pan American Union and the Office of American States, seek peace and prosperity for every nation. In this we are united and, in truth, one people.

Mr. ROYBAL. Mr. Speaker, I am delighted to have the opportunity today of joining with the other Members of the House of Representatives in celebrating Pan American Day on this 80th anniversary of the founding of the inter-American system.

Serving on the House Committee on Foreign Affairs, and its Subcommittee on Inter-American Affairs, I certainly agree with the resolution before the House that "continued hemispheric solidarity is essential to the cause of progress and freedom for all citizens" of the new world, and that "in unity there is real promise of accelerated progress in social and political reform and economic growth in the countries of our home hemisphere."

We in Congress pay tribute to the historic, political, legal, economic, and cultural ties which unite the sovereign nations of the Western Hemisphere, and we honor the warm spirit of friendship which continues to exist between the people of the United States and our sister republics to the south.

We all agree there are many areas in which we need to work closer together: To promote better education, health care, and economic opportunities; in planning more frequent cultural exchanges; in the fields of transportation and communications; in applying modern techniques of industrial, commercial, and agricultural management—and the latest in scientific technology—to solve the array of problems confronting us; and in harnessing and allocating the financial, manpower, and natural re-

sources necessary to assure a dynamic and prosperous future for our hemisphere.

With the cooperation of our citizens, and the citizens of each of the American nations, I firmly believe that in the coming years the Organization of American States will become an even more effective instrument for furthering these objectives.

And, on this occasion, we in the United States should join in reaffirming our pledge to continue to build and strengthen the OAS to enable it to accomplish that worthwhile task.

Mr. MATSUNAGA. Mr. Speaker, I am pleased to extend greetings from the citizens of this Nation's newest State to the peoples of the other Republics of the Western Hemisphere on Pan American Day. Today marks the 80th anniversary of the inter-American system, embodied in the Organization of American States, which has been the cornerstone of interaction, communication, and understanding among the peoples of the Americas.

In a resolution adopted by the House of Representatives of the Fifth Legislature of the State of Hawaii, note was taken of the special meaning and significance of Pan American Day to the citizens of Hawaii, who have enjoyed lasting contributions to the culture of Hawaii from the peoples of Latin American countries.

The resolution, offered by Representative Joseph R. Garcia, Jr., and every other member of Hawaii's House of Representatives, endorsed and encouraged the commemoration of Pan American Day and Pan American Week in Hawaii. The resolution further stated—

In today's troubled world it is particularly important that the nations of the Western Hemisphere continue to work together toward peace and progress for all mankind.

I share the hope of the people of my State and the Members of this House that those historic ties of friendship, stability, and prosperity between all the peoples of this hemisphere will continue to grow stronger in this new decade.

The resolution extending the warm Aloha of the citizens of Hawaii to the peoples of the American Republics, adopted by the House of Representatives of the Fifth Legislature of the State of Hawaii, at its regular session of 1970, follows for the CONGRESSIONAL RECORD:

HOUSE RESOLUTION

Whereas, the peoples of North America, South America and Central America have enjoyed a long history and tradition of friendship and cooperation; and

Whereas, in today's troubled world it is particularly important that the nations of the Western Hemisphere continue to work together toward peace and progress for all mankind; and

Whereas, the Pan American Union in Washington, D.C., out of which evolved the Organization of American States, has been the cornerstone of interaction, communication and understanding among the peoples of the Americas; and

Whereas, April 14, 1970, marks the 80th anniversary of the Pan American Union; and

Whereas, in recognition of the contributions of the Pan American Union and of the necessity for peace and cooperation among its members, Richard M. Nixon, President of the United States of America, has proclaimed April 14, 1970, as PAN AMERICAN DAY, and the week of April 12 through 18, 1970, as PAN AMERICAN WEEK; and

Whereas, by proclamation of Governor John A. Burns the people of the State of Hawaii will also celebrate and commemorate Pan American Day and Pan American Week; and

Whereas, this celebration will have special meaning and significance to the citizens of our community, who have enjoyed lasting contributions to our culture from the peoples of Latin American countries; now, therefore,

Be it resolved by the House of Representatives of the Fifth Legislature of the State of Hawaii, Regular Session of 1970, that it endorse the proclamations of the President of the United States and the Governor of Hawaii and that it encourage the citizens of Hawaii to participate in the observance of Pan American Day, April 14, 1970, and Pan American Week, April 12–18, 1970; and

Be it further resolved that the House of Representatives extend the warm alohas of the citizens of this State to the peoples of the American Republics; and

Be it further resolved that duly certified copies of this Resolution be transmitted to Richard M. Nixon, President of the United States of America; to John A. Burns, Governor of the State of Hawaii; to Galo Plaza, Secretary General of the Pan American Union; to Armenia Adames de White, Consul General of Panama; to William Kenda, Honorary Consul of Mexico; to Senators Hiram L. Fong and Daniel K. Inouye and Representatives Patsy T. Mink and Spark M. Matsunaga, members of Hawaii's Congressional delegation; and to the following members of Hispania, the American Association of Teachers of Spanish and Portuguese, Hawaii Chapter: Brother Carlos Gonzales, President; Enrique Renteria, Vice-President; Norma Carr, Secretary-Treasurer; Alicia Kurth, chairman for the National Spanish examination; and Mollie Spicer, chairman for Sociedad Honoraria Hispania.

GENERAL LEAVE TO EXTEND

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days within which to extend their remarks on the pending resolution.

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

There was no objection.

Mr. FASCELL. Mr. Speaker, I move the adoption of the resolution.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL CAN BOASTS OF 90-PERCENT INCREASE IN NONRETURNABLE GLASS BOTTLE "POLLUTION" IN NEXT 9 YEARS

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

Mr. VANIK. Mr. Speaker, on March 10, 1970, the National Can Corp. put out a publication entitled, "Look at National Can Look at the 1970's." In it, National Can's marketing department boasts that nonreturnable glass soft drink containers will increase 108 percent between 1970 and 1979—from 7.3 billion bottles to 15.2 billion bottles. Nonreturnable glass beer containers will increase 65 percent in the decade, from 7.2 billion bottles to 11.9 billion.

The question does not seem to occur to National Can as to how and where 27.1 billion nonreturnable glass bottles will be disposed of in a single year. This proud trumpeting of increased production of solid-waste pollutants is an arrogant demonstration of industry irresponsibility.

The awesome proposal to generate 117 billion nonreturnable soft-drink bottles and 99 billion nonreturnable beer bottles in the next 10 years threatens to bury the Nation in bottles.

Rather than planning for increased production of nonreturnable bottles, the industry and the country should be planning methods of reducing the number of such disposable containers produced today.

It is clear from National Can's March 10 report that we in Congress must give immediate consideration to a tax—a prohibitive tax—on the further production of nonreturnable bottles.

SUPREME COURT

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

Mr. MIKVA. Mr. Speaker, for the second time in less than a year there is talk of impeaching a Supreme Court Justice and each time by a coincidence which is not so coincidental, this talk has followed a rejection by the Senate of a nominee for a vacancy on the Supreme Court. I wish that the zeal for strict constructionism that the President espouses would apply to the works of the administration's leaders in Congress. I realize the distinguished minority leader is an expert in football, but as he uses the Supreme Court with which to play that game, I think he does both the country and the Constitution a great deal of harm.

THE BALANCE-OF-PAYMENTS DEFICIT

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

Mr. GIBBONS. Mr. Speaker, a couple of years ago in this Chamber the walls were reverberating with political talk about the problems of fiscal responsibility and fiscal integrity and, of course, it will not do to recite the galloping inflation that we still have. It will not do to recite the tremendously high interest rates that we still have. It will not do to recite the unemployment rate that continues to rise and now is at its highest level in many years. But let us talk about the balance of payments for awhile, because I remember so many speeches on the balance of payments here.

A year ago, in 1968, we had a balance-of-payments surplus of $0.2 billion. But now we finished the last year, 1969, with the biggest balance-of-payments deficit we have ever had in this country. The balance-of-payments deficit was $7.06

billion. Contrast that with 1964 of $2.8 billion; with 1965 of $1.3 billion; with 1966 of $1.4 billion; of 1967—and that was a bad year—of $3.5 billion. Contrast it, last of all, with the surplus of last year of $0.2 billion in 1968, and look at 1969 with $7.06 billion deficit.

The SPEAKER. The time of the gentleman from Florida has expired.

THE UNEMPLOYMENT RATE

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

Mr. GERALD R. FORD. Mr. Speaker, the gentleman from Florida just made a comment that the unemployment rate was the highest now that it has been in a good many years.

Mr. GIBBONS. About 4 years.

Mr. GERALD R. FORD. You used the phrase "a good many years." Let me set the record straight on the unemployment rates beginning in 1961. In 1961, under the Democratic administration, there was an unemployment rate of 6.7 percent. Unemployment for the whole year in 1962 was 5.5 percent; the unemployment rate for 1963 was 5.7 percent; the unemployment for 1964, 5.2 percent. Finally, in 1965, with the additional commitment the United States made in Vietnam, the unemployment rate went down to 4.5 percent, which is still higher than it is at the present time.

I only say to my friend from Florida that he should look back into the pages of history and note the unemployment rate under the two previous Democratic administrations, and if he does he will not complain about unemployment now. I do not think he made those speeches that he is making now in 1961 and through 1968.

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

Mr. GERALD R. FORD. I yield to the distinguished majority leader.

Mr. ALBERT. When President Eisenhower took office in 1953, unemployment stood at 3 percent. During the first Republican recession year, 1954, unemployment rose to 5.5 percent. During the second Republican recession in 1958 unemployment reached 7.6 percent in August of that year. A third Republican recession commencing in 1960 resulted in unemployment reaching 6.7 percent in January 1961. Unemployment during the next 4 years declined and by November 1964, long before the commitment of a large amount of American manpower to Vietnam, had reached 4.9 percent.

When President Nixon took office in January 1969, unemployment stood at 3.3 percent. The latest report available, that of March of this year, shows we now have 4.4 percent unemployed. There are a million more people unemployed now than when President Nixon took office.

These figures obviously speak for themselves. Unemployment increases under the Republicans. Unemployment decreases under the Democrats.

Mr. GERALD R. FORD. The important thing is that there was a high unemployment of over 5 percent every year in the first 4 years of the period after the Eisenhower administration. The only time it went down was when we increased our military commitment in Vietnam by the sending of some 540,000 young men to fight a war some 8,000 miles away.

We as Republicans do not agree that 4.4 percent unemployment is good, and we are going to do something about it, but I hate to see individuals like the gentleman from Florida point out how bad it is now, when it was far worse under his administration.

Mr. GIBBONS. And far worse during the Eisenhower years, if I can remind the distinguished minority leader.

Mr. GERALD R. FORD. Unemployment in the 8 years of the Eisenhower administration averaged less than during the two Democratic administrations from January 1961 to January 1969 and under the Eisenhower-Republican administration America was not at war.

TRIBUTE TO APOLLO XIII ASTRONAUTS

Mr. MILLER of California. Mr. Speaker, I offer a resolution (H. Res. 912) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 912

Resolved, That the House of Representatives pays tribute to the Apollo XIII astronauts, James Lovell, John L. Swigert, Jr., and Fred W. Haise, Jr., for their courage and valor; extends its support to their families, friends, and all those involved in their mission; and urges all businesses, commercial operations, communications media, and all the people of the nation to pause at 9 o'clock p.m. today, April 14, 1970, and join in asking the help of Almighty God to assure the safe return of these astronauts.

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

There was no objection.

Mr. MILLER of California. Mr. Speaker, all Americans and people everywhere across the world are deeply concerned over what has happened to three of our astronauts far out in space. Their concern is rooted in the fact that they, through their actual participation in the Apollo program or participating in spirit by watching the previous flights to the moon on television, believe they have a share in the courage and coolness under pressure which Captain Lovell, Mr. Haise, and Mr. Swigert are demonstrating tonight. As competent as we know those three gentlemen are, I believe it is time that we plead with the higher authority to intercede with His protection against events that would be beyond the control of the astronauts.

Therefore, I ask that each Member of the House join with me and pause not for just one moment, but for many moments over the next 3 days to pray to the Almighty according to his or her beliefs for the successful and safe return of our astronauts. In these days of monumental achievements in science and technology, it is well to be reminded that it has been the spirit instilled in man by his Creator that makes clear that His Divine Providence is really the sole source of man's sustenance.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the resolution just agreed to (H. Res. 912).

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

There was no objection.

SUPREME COURT NOMINEES

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

Mr. THOMPSON of Georgia. Mr. Speaker, last week the Senate for the second time refused to confirm a southern strict constructionist for a position on the Supreme Court.

The junior Senator from Indiana was one of the outstanding opponents to these eminently well-qualified jurists. In fact, Judge Carswell had three times as much judicial experience as all the Supreme Court nominees in the Kennedy and Johnson administrations combined. The junior Senator from Indiana may be proud of his actions in trying to destroy the reputation and credibility of these eminent southern jurists. But I, for one, believe that the junior Senator's motive had nothing to do with the qualifications of these individuals as he states, but dealt with a personal bias which he has against white southerners.

When I appeared before his Senate subcommittee to testify on voting rights legislation, I had a distinct feeling that he was biased because of the region of the country I come from. But, leaving that aside, the Senator has gone too far when, after trying to personally destroy these two eminent jurists, he is quoted in an interview published in the Atlanta Journal Sunday as calling both Carswell and Haynsworth "three-legged dogs." I do not know what he means by "three-legged," but it is obvious that "dog" is meant to be derogatory. And he says:

> If he [Nixon] sends another three-legged dog over here and expects us to confirm him just because he's from the North, then he's dead wrong.

I take violent exception to this vilification of these two southerners by the junior Senator, but it certainly gives a good insight into the character of the accuser. The quotation, in my judgment, reveals a strong personal bias of the junior Senator which cannot be covered up by his trying to assert grounds of mediocrity or lack of qualification on behalf of the jurists, because the cold hard facts show that they were very well qualified. The junior Senator should apologize to these two men he has tried to destroy.

SUPREME COURT NOMINEES

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

Mr. JACOBS. Mr. Speaker, with reference to the remarks made about the junior Senator from my State, I shall not make the point of order about a derogatory reference to a Member of the other body. But I must say I have the highest regard for the junior Senator from Indiana and have sufficient knowledge to tell this House that he entered upon the confirmation hearings on both of these Supreme Court nominees with an open mind. His decision in both cases was based on the evidence which I assume was the situation with the Senators of the President's party to which the gentleman from Georgia belongs. As to "three-legged dogs" that is a Hoosier idiom clearly not to be taken literally.

I would just like to point out that the President claimed a few days ago that it is impossible to get a southerner confirmed in the U.S. Senate. Yet today, as I understand it, the President has nominated for Chairman of the Joint Chiefs of Staff a man from the South. So it might just be possible that the President was not entirely serious when he suggested that he really believed that a qualified jurist from the South could not be confirmed by the other body, particularly in view of the fact that most of the Senators of the President's own party who voted against the nominee about whom he complained——

Mr. THOMPSON of Georgia. Will the gentleman yield?

Mr. JACOBS. If I might finish the sentence—have stated publicly that indeed they would vote to confirm a qualified jurist from the South. I rather think it is possible to find a jurist from any part of the country, including the South, who does not have financial difficulties so far as conflicts or apparent conflicts with his decisions are concerned. I think it is possible to find a jurist from the South who perhaps would be completely candid at his own confirmation hearing and refrain from saying that he had not looked at important legal papers for the last 12 years when, in fact, he had examined them just the night before.

Now I yield to the gentleman.

Mr. THOMPSON of Georgia. I would like to point out that the derogatory comment which I referred to was made by the gentleman, the junior Senator from Indiana, in a quote, a newspaper article.

A "three-legged dog" is in fact a derogatory remark and is uncalled for. So I appreciate the gentleman not making a point of order on that.

Second, I would like to tell the gentleman this, that the President did not say that any southerner could not be confirmed. Obviously an extreme liberal would be confirmed but not a strict constructionist from the South.

Mr. JACOBS. Is the gentleman saying that the Joint Chiefs of Staff nominee is an extreme liberal?

Mr. THOMPSON of Georgia. Therefore, the President feels it is hard to change the philosophy and the point of view of the Supreme Court without his going to another section of the country.

Mr. JACOBS. Is this admiral an extreme liberal? Will the gentleman answer that question? I did not think so.

The SPEAKER. The time of the gentleman has expired.

TAHLEQUAH BAND IN CHERRY BLOSSOM PARADE

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

Mr. EDMONDSON. Mr. Speaker, yesterday one of the finest high school bands in the Nation, from Tahlequah, Okla., gave a concert on the steps of the Capitol which was a credit to the youth of America. This fine Tahlequah High School band, which has won many awards in competition in the Southwest, was an official representative of the State of Oklahoma as a marching band in the Cherry Blossom Festival. Its fine performance in the parade and at the Capitol reflected, in my view, tremendous credit upon our State and upon the great people of Tahlequah. Ably directed by Kyle Dameron, the band was not only spirited and impressive in its musical performance, but also equally impressive in appearance and dignity. In short, these young people from the historic Cherokee national capital were ideal ambassadors of good will from Oklahoma, and they have brightened this week in Washington.

PERMISSION FOR SUBCOMMITTEE ON PUBLIC HEALTH AND WELFARE, COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Health and Welfare of the Committee on Interstate and Foreign Commerce may sit during general debate today.

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

There was no objection.

PROVIDING FOR CONCURRING IN SENATE AMENDMENTS TO HOUSE AMENDMENT TO S. 3690, FEDERAL EMPLOYEES SALARY INCREASES

Mr. O'NEILL of Massachusetts. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 909 and ask for its immediate consideration.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 74]

Annunzio	Gallagher	Ottinger
Ashley	Giaimo	Patman
Baring	Goldwater	Pepper
Blackburn	Griffiths	Pettis
Boggs	Halpern	Pike
Bolling	Hanley	Pollock
Brown, Calif.	Hanna	Powell
Burton, Utah	Heckler, Mass.	Rhodes
Cabell	Johnson, Pa.	Rogers, Colo.
Clark	Jones, Tenn.	St Germain
Clay	Karth	Schadeberg
Crane	Kirwan	Scherle
Culver	Lennon	Scheuer
Dawson	Long, La.	Schneebeli
de la Garza	Lowenstein	Stuckey
Dellenback	Lukens	Symington
Diggs	McFall	Taft
Dowdy	Madden	Teague, Calif.
Feighan	Mailliard	Tunney
Flowers	Monagan	Watson
Frelinghuysen	Moorhead	White
Fulton, Pa.	Murphy, N.Y.	Wilson, Charles H.
Fulton, Tenn.	O'Hara	

The SPEAKER pro tempore (Mr. BOLAND). On this rollcall 362 Members have answered to their names, a quorum.

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

PROVIDING FOR CONCURRING IN SENATE AMENDMENTS TO HOUSE AMENDMENT TO S. 3690, FEDERAL EMPLOYEES SALARY INCREASES

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution as follows:

H. RES. 909

Resolved, That immediately upon the adoption of this resolution the bill (S. 3690) to increase the pay of Federal employees, with the Senate amendments to the House amendment thereto, be, and the same hereby is, taken from the Speaker's table, to the end that the Senate amendments to the House amendment be, and the same are hereby, agreed to.

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized for 1 hour.

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

Mr. Speaker, I am presenting the rule, House Resolution 909, on the bill S. 3690, which came back from the Senate with three technical amendments and a fourth amendment to correct an inadvertent omission from the bill with respect to the pay raise for the judges.

When I move the previous question on the resolution, if the previous question should be defeated then of course it would make it open to amendment and discussion, but it would delay the postal pay raise much longer than we had anticipated.

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

Mr. SMITH of California. Mr. Speaker, House Resolution 909 provides that S. 3690 be taken from the Speaker's table and "that the Senate amendments to the House amendment be, and the same are hereby, agreed to."

In other words, there is just 1 hour of debate, 30 minutes under the control of the gentleman from Massachusetts (Mr. O'NEILL) and 30 minutes on this side. There will not be any general debate after this period of 1 hour. We will then be voting it up or down.

So, if any Member wishes to be heard and to speak for or against the measure, I would suggest he ask me for some time out of the 30 minutes I have.

As stated by the distinguished gentleman from Massachusetts, there were four changes made in the Senate by amendment, and it was felt that in order to get this bill through and get it signed as quickly as possible, so that the second half of this so-called package can be presented—as I am informed, it cannot be presented until the first half is disposed of—this is the most feasible way in which to dispose of the matter.

The Committee on Rules time and time again has been asked to bail various situations out of difficulty, and this is one of them.

So, on the vote on House Resolution 909, if it is adopted, the Senate bill as amended by the House—and it is amended in four different places by the Senate—will be agreed to and will go to the President for immediate signature. I understand he has his pen in his hand and is ready to sign it as soon as it gets to him today. As a matter of fact, he wanted to sign it this morning.

Mr. Speaker, I urge the adoption of House Resolution 909, and reserve the balance of my time.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Speaker, I am grateful to the gentleman from Massachusetts for yielding me this time.

Yesterday I objected to the unanimous-consent request for one reason and one reason only. That request was for the House to adopt an amendment to include congressional staff people, who do not need a pay raise in a general pay raise bill for postal and other employees who very badly do need a raise.

In extreme cases, which are quite numerous as a matter of fact, it would mean that the average pay raise for a postal worker would be about $400 a year and the pay raise for certain congressional staff employees would be $2,000 a year. In the one case the need is quite clear; in the other case the lack of need is equally clear. As a matter of fact, you might even say that in the case of a $30,000 congressional employee, he is becoming an easy rider, a very easy rider, because for $2,000 you can buy an automobile. Whether you call yourself a conservative or call yourself an idealist, you speak in terms of the taxpayers' money and you speak in terms of priorities and you speak in terms of sacrifices for your country. Here is an opportunity to get specific on the subject.

Once a Socialist, trying to sell his program, told his neighbor that socialism was Utopia and he would be willing to make whatever sacrifices were necessary to bring about socialism and a Utopian society. His neighbor said, "You mean to tell me that if you had two saddle horses, you would give me one?" He said, "Certainly." The neighbor said, "Do you mean to tell me if you had two goats, you would give me one of them?" He said, "I certainly would." The neighbor said, "Do you mean to tell me if you had two milk cows, you would give me one of them?" The Socialist said, "Now, you know I have two milk cows."

Mr. Speaker, this comes right down to where we live. I think for well-paid people to catch a ride on the very legitimate needs of certain Federal workers around the country is not right. Only last June $8,000 was added to every House Member's clerk hire, which he could use for pay raises. Under these circumstances, I believe that in order to keep faith with our rhetoric and our speeches that we should vote down the previous question and excise the Capitol Hill easy riding stowaway provision in this bill, which is intended for mailmen, and get the people, who for the most part are already doing well, off the backs of these postmen.

The gentleman from Arizona has said, I believe, that he plans legislation affecting the entire pay situation of Capitol Hill employees.

I say let us await that reform, and then if there is any case of hardship on Capitol Hill, take care of it under those circumstances.

Mr. Speaker, I express my gratitude again to the gentleman from Massachusetts for yielding to me this time.

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

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

Mr. ANDERSON of California. Mr. Speaker, I would like to commend the gentleman from Indiana (Mr. JACOBS) and associate myself with his remarks.

A "no" vote on the previous question would open this resolution to amendment and further debate. As it currently stands, the resolution simply states that the House shall consider only agreeing to the Senate amendments to this innocuous bill.

I shall vote no on the previous question so that we may first, amend the resolution, and second, discuss the bill and attempt to remove its more inequitable provisions.

Mr. Speaker, I have never seen a more irresponsible proposal than the package deal which was rammed down our throats last week.

Under the guise of giving the postal employees a pay raise, we find ourselves increasing salaries of practically everyone by 6 percent.

The postal employees, who were almost forced to strike in order to bring attention to their plight, desperately need a pay raise and the House recognized this last year when we passed the Federal Pay Comparability Act. This was the bill which was labeled "inflationary" by the administration, and it would have cost approximately $600 million a year.

Now the administration does a complete about face and advocates a package that will cost $2½ billion. If $600 million is labeled "inflationary," what is $2½ billion going to do to our economy?

We were led to believe over the Easter recess that the administration was working out a compromise package with representatives of the postal employees.

I wonder if the protesting post office employee knew that the package he was advocating was really a pay raise for the upper brackets—that where the $6,176 postal employee will now receive a raise of $372, the $30,000-a-year employee will receive an additional $1,800 a year?

We were told last Thursday that we must have a closed rule—that we could not debate or amend the bill—because of a feared renewal of the strike.

And yet, here we are today—voting on the same issue. This time to concur with Senate amendments.

And, the sad part of it is—we probably will have to vote for this package whether we like it or not, if we are to get the deserving postal employees a raise.

Mr. SMITH of California. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I take this time, first of all, to ask the gentleman from Arizona (Mr. UDALL) if the amendments are as he stated them yesterday, first, at line 21 on page 2 of the bill, a technical amendment. Is that the first amendment?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, the gentleman is correct. That is the first amendment.

Mr. GROSS. Then, on line 10, page 3, that is one of the key amendments?

Mr. UDALL. This is the one to which the gentleman from Indiana (Mr. JACOBS) has made some reference, and toward which he has been directing his efforts.

Mr. GROSS. Without this amendment, the legislative employees would not receive an increase?

Mr. UDALL. This is arguable, but that argument can be made.

Mr. GROSS. Then, on page 5, line 19, is the third amendment?

Mr. UDALL. The gentleman is correct.

Mr. GROSS. Are there any other amendments?

Mr. UDALL. Yes. There is a technical amendment on page 3, line 16. The Senate asked to designate the officer to make adjustment for Senate employees changed from Comptroller of the Senate, which is the present language, to President pro tempore of the Senate, which is their preference.

Mr. GROSS. There is no amendment to line 18 of the bill?

Mr. UDALL. No.

Mr. GROSS. I would like to ask the gentleman why there is no amendment. Who is the finance clerk of the House of Representatives?

Mr. UDALL. If the gentleman will yield further, some question was raised about this yesterday in the colloquy that occurred, and I then inserted into the RECORD some legislative history with reference to this debate. To be very precise, there is no position called finance clerk of the House, as the gentleman points out. The functions to be carried out under this bill are to be handled by the Clerk of the House, who is the financial clerk of this body. I attempted to make that clear in the colloquy yesterday.

However, this terminology has been used in legislation previously, but is not very precise and probably should not have been used.

Mr. GROSS. As the gentleman knows, this bill was passed through the House Post Office and Civil Service Committee in 35 minutes, with no one having had the opportunity, other than the gentleman from Arizona and, perhaps, one or two others, of even seeing the bill before it came before the committee.

Let me ask the gentleman why this responsibility should not devolve upon the Speaker of the House rather than an unknown finance clerk. I have looked up the record, and there is no such thing as a finance clerk in the House of Representatives.

Mr. UDALL. I am to blame as the author of the bill, if there is any blame. It seems to me this is a ministerial duty. It simply requires going to the pay tables of the general schedule pay system and adjusting the base pay schedule of the House. In my opinion this is not something which the Speaker should be burdened with. This is simply an automatic equivalent pay raise.

Mr. GROSS. Here, again, is the proof of what the ramrodding of legislation will do. This bill, in my opinion, is still an unsound bill if it is proposed to live up to the letter of the law. This is the penalty for calling up a bill in the committee at 10:05 in the morning, ramming it out of committee at 10:40, bringing it before the Rules Committee at 11 o'clock, or thereabouts, and out to the floor of the House, and passing it that afternoon.

The defects that are sought to be remedied today are the products of this almost hysterical haste. The legislation ought not to have been passed last week on any such basis.

Moreover, I would like to have had the opportunity to offer an amendment to this bill. Since the administration and union leaders, in their so-called negotiations at the other end of Pennsylvania Avenue agreed that another 8-percent increase should be approved for postal employees, I see no reason why there should not have been in this bill the 6-percent increase, plus an 8-percent increase effective as of next July first instead of using the 8 percent as the club to try to drive through a corporation plan for reorganization of the Post Office Department. It was important that the pay increase bill be brought to the floor of the House under an open rule so that amendments could be offered to it. But as the Members well know, it came to the House floor under a closed rule under which we could not work our will. I protested then and I am still protesting.

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

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GROSS. Mr. Speaker, will the gentleman yield me 2 additional minutes?

Mr. SMITH of California. Mr. Speaker, I will yield 3 additional minutes to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman from California for yielding me the additional time.

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

Mr. GROSS. I yield to the gentleman from Missouri first, and then to the gentleman from Arizona.

Mr. HALL. Mr. Speaker, I appreciate the statement of the gentleman about the poor practice of writing legislation on the floor, which is exactly what we are doing. Indeed, we are probably correcting hastily written and erroneous legislation on the floor. But I am confused.

Now, the gentleman's committee did bring this out, and as I understand the Senate amendments as explained here in the colloquy today and, indeed, I read in detail, word for word, the explanation of the amendments as the result of the colloquy yesterday on the objections of the gentleman from Indiana; but, basically, what are we doing in addition to technical correction, if we accept the Senate amendments to our own H.R. 16844? Are we making the overall applicability of section 3 therein refer back to those included in section 2? Is that a fair statement of what we gain by accepting the Senate amendments?

Mr. GROSS. Yes; that is one of the Senate amendments, and that is one of the key amendments. It is referring language in section 3 back to section 2. It has to be that way, or legislative employees are written out as far as a pay increase is concerned.

Mr. HALL. I understand that is subject to interpretation, Mr. Speaker. I respect the gentleman's opinion. But my question then remains, for whom are we increasing the pay, if we accept the Senate amendments, and if section 3 is made to cover all those in section 2?

Mr. GROSS. For legislative employees.

Mr. HALL. All legislative employees?

Mr. GROSS. I beg your pardon?

Mr. HALL. All legislative employees? All of those under the Secretary of Agriculture, all of those under the Comptroller, all of those under the Architect, all of the other three categories that were originally vamped into this pay raise in addition to postal employees, plus those exempted at generally over $36,000 per year income?

Mr. GROSS. Those are included. There are a few others. This would not apply to class act employees, or to postal workers. Unless this amendment is adopted legislative employees are out.

Mr. HALL. Mr. Speaker, I thank the gentleman for yielding. I think we simply should know what we are voting for. And probably the suggestion that we should vote down the previous question is a good one in order to perfect the legislation. I for one, am for the postal basic pay raise of 6 percent to the deserving—excluding illegal strikes, but not across the board—especially the overpaid congressional legislative employees.

Mr. GROSS. Mr. Speaker, I now yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, did not the gentleman—and I regret the closed rule, and I regret we did not have more time for amendments in committee. I never like to run over my friend from Iowa without at least smiling and giving the gentleman time to offer amendments—but did not the gentleman offer an amendment in committee, and have it defeated, to take out the legislative employees?

Mr. GROSS. To take out the legislative employees?

Mr. UDALL. Yes; from the pay raise?

Mr. GROSS. Yes; the gentleman certainly did.

Mr. UDALL. Was it not the gentleman's understanding in the Committee on Rules and during the debate on the House floor that the legislative employees were included?

Mr. GROSS. I did not know this defective language was in the bill, of course, when the bill was before the committee.

Mr. UDALL. The gentleman will agree——

Mr. GROSS. There was no opportunity to look at the bill.

Mr. UDALL. The gentleman will have to agree that the clear intent of what we all thought in the committee, and what we approved on the floor, was to include legislative employees.

Mr. GROSS. There is no question but what that was the intent of the committee, and the intent of the House. There is no question about that, but what I am saying is that the bill, calling for an annual expenditure of more than $2.6 billion was jammed through the House in a most unusual and irresponsible procedure.

Under the circumstances I must oppose this resolution.

Mr. SMITH of California. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. AYRES).

Mr. AYRES. Mr. Speaker, I take this time to inquire of the gentleman from Arizona regarding the bill that I introduced which was termed the postal pay equalization bill which would provide a higher pay scale for postal workers living in high-cost-of-living areas. I would like to ask the gentleman from Arizona if in his judgment—and I realize how close he is to this overall problem—whether there is any possibility of ever bringing about an equality in pay for those postal workers who reside in these high-cost-of-living areas.

Now, we know that the strike was brought on not by the rural carriers, not by those who are going to be getting big increases under this bill, because, frankly, many of them have the best jobs in the communities. The strike was brought on by those people in the high-cost-of-living areas, including my own city of Akron, who under any bill that we pass will still be much lower on any pay scale than these rural carriers.

Do we stand any chance of ever getting this equalization in pay?

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

Mr. AYRES. I yield to the gentleman.

Mr. UDALL. I think we stand an excellent chance this year of finally doing something in this field.

Let me make clear why we are here today. This is the first slice. This is the 6-percent across-the-board pay for everyone. The additional 8 percent is tied in to the agreement made apparently downtown which is connected with the postal reform.

I envision the day in the next 6 weeks, and I hope sooner, when this House at long last is going to have a chance to debate major postal reforms. When that debate occurs I believe the House will have a chance to act on the question that the gentleman has raised.

My personal inclination is in favor of some such action, and I have talked to many Members who believe that this ought to be done. And I honestly believe that within the next month or 6 weeks we are going to have a chance in connection with postal reform to actually vote and make a judgment on this question.

Mr. AYRES. I thank the gentleman. In my judgment we are not going to have any real harmony in the post offices in the city areas until those workers are getting compensation high enough which will give them the means and the opportunity to maintain the same standard of living as those on the same scale and the same grade in the rural areas are getting.

I appreciate the gentleman's interest and know that he will do his best.

Mr. UDALL. Mr. Speaker, will the gentleman yield further?

Mr. AYRES. I yield to the gentleman.

Mr. UDALL. There is some indication from our committee's action on the administration postal reform bill reported out last month. That bill did include a provision which would let the postal organizations bargain with management and bargain on such things as wages and fringe benefits and other things. And one of the things they could bargain for would be an area wage. I would anticipate, if that bill were to pass, that is exactly what they would do.

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

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

Mr. COLLIER. As I recall, in the 85th Congress, back in 1957, and in the 86th Congress in 1959, there were cost-of-living escalator postal pay bills introduced. However, at no time, if my memory serves me correctly, had there even been hearings on this type of pay structure in the Post Office and Civil Service Committee.

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

Mr. AYRES. I yield to the gentleman.

Mr. UDALL. One of the problems has been, very frankly, the major postal unions have been completely opposed to anything of this kind. From the standpoint of their union organization, and and solidarity they have usually demanded that every letter carrier in the country get the same pay. This is the existing situation, but I think the employee organizations are beginning to see the need for going to an area wage system.

Mr. COLLIER. Who is running the committee—the postal unions—or do I misunderstand?

Mr. UDALL. No. The gentleman may have his opinion, but Congress has been making the final decisions.

Mr. COLLIER. Even that has not bothered me one way or the other.

Mr. UDALL. It has not bothered me. But the fact is that a majority of the Members of the House have not been willing to force this kind of system down the throats of the employee organization when they were strongly opposed. That is the point.

Mr. AYRES. Am I correct, may I ask the gentleman from Arizona, if my memory does not fail me, I believe President Rademacher made the suggestion that perhaps the equalization pay would be advisable.

Mr. UDALL. Recently, I believe, he has been talking about the need for an area wage. I believe he has shown real initiative and courage in a very difficult situation. He may have hurt himself among some of his union's membership, but I credit him with the vision and courage to look at this thing and to say that there may be a better way of setting postal salaries. To this point the unions have engaged in annual "collective begging" before the Congress. Mr. Rademacher wants to move and I want to move to a system where postal employees have true collective bargaining.

Mr. AYRES. I hope that these postal workers, I say to the gentleman from Arizona, who comprise a sizable number of the total work force will see the fallacy in going along with any suggestion that they not be compensated more than their fellow workers in other areas. Does the gentleman have any figures available to show what differential there is between the rural carrier in Southern Ohio and the carrier who has the same classification working in the City of Cleveland?

Mr. UDALL. Of course, now they receive identical pay. In terms of the cost-of-living, I am sure there are substantial differences in small communities in Southern Arizona and elsewhere. A man making $7,000 in a small community in Southern Arizona may be middle-class, but a man in New York with the same family and the same salary may be drawing welfare. That is the problem we have to reach.

Mr. AYRES. The difficulty in determining high cost-of-living areas is not so difficult that procedures could not be applied to postal workers the same as to other workers.

Mr. UDALL. I think we can resolve this question, and the best way to resolve it is through collective bargaining. Under the postal reform that I favor, management and the unions, instead of coming to Congress every year for "collective begging," could undertake collective bargaining. They could sit down and determine what would be fair in the high-cost-of-living areas, such as Cleveland and New York, and what would be fair in small communities.

Mr. AYRES. I suggest to the gentleman that when you do this, you will not forget Akron.

Mr. UDALL. We shan't. No red-blooded American could possibly forget Akron—or the Member who represents it.

Mr. SMITH of California. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Speaker, I wish to commend the gentleman from Indiana (Mr. JACOBS) and the gentleman from Iowa (Mr. GROSS) on their very fine statements, and to join them in their opposition to the adoption of this rule. I think it has been clearly established that the postal workers in this country are indeed entitled to the 6-percent increase. But in view of the longstanding commitments of many Members of this House trying to do something tangible and effective to combat inflation, it is entirely indefensible to add more than $2 billion annually to other Federal payrolls. It is really a case of great overkill. I, therefore, urge my colleagues to vote against the previous question.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I would like to try to clarify two things before we conclude the debate. The reason for the 6-percent across-the-board increase, which the administration has very strongly supported, is that no one wanted to be put in the position of rewarding those who struck and not rewarding the hundreds of thousands of Federal workers who did not strike. So the administration was quite insistent that this first slice, this 6 percent, this no-strings-attached pay installment be Government-wide. It would go to the postal workers who did not strike, to the classified workers, and to the people in the other branches of Government. That is the reason why we have the 6-percent increase.

I hope we understand what we shall be doing if we vote down the previous question, and I hope you understand very clearly the stake that the employee organizations and all of us have in this vote. We are not out of the woods yet. We have a tense situation. Some of the New York Members who have been home will tell you that this thing can erupt again. Congress has been making promises to act on pay for the last 18 months. All the postal workers have had is promises. This bill can be on the President's desk tonight if we vote down the previous question and adopt the resolution. However, if the previous question is beaten down and we get into offering amendments and modification, the only thing that will result is a conference. We shall have to go to conference with the Senate. The majority of the Senate and the majority of the House clearly want to put the legislative employees into this bill. You may get some votes against it, but clearly this is the intent of the committee, it is the intent of the House, and it is the intent of the Senate.

All you are going to do is to delay retroactive pay which the postal employees are counting on. You are going to cause dismay and confusion. You are going to upset a very delicate situation for nothing by going to conference and having a vote some day on whether legislative employees shall be included, when we all know now that they are going to be included. So you will have your postal employees and the major postal organizations in an extremely difficult position if you vote down the previous question. Let us understand exactly what is involved.

The SPEAKER pro tempore. The time of the gentleman from Arizona has expired.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I yield 2 additional minutes to the gentleman from Arizona (Mr. UDALL).

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

Mr. UDALL. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, would the gentleman not agree that it would take only a very short period of time to delete the employees of the legislative branch?

Mr. UDALL. Why, of course, we could adopt an amendment this afternoon to delete them, but the Senate will not accept it, and we will have delay day after day, and we will have to go to conference, and then the Senate is not going to accept it anyway.

I share in many of the things the gentleman has said about the legislative employees. I would advise the gentleman there will probably be a general salary bill out of our Compensation Subcommittee later this year. I intend to see if this year, in that bill, we can adopt some major structural changes in pay of House employees. I am going to try to make sure that never again, when we have a general pay raise, will we have such a situation, as in this bill. I hope to provide that granting of such increases will be up to each Member in each case. I intend simply to have it so we can give each Member an amount which he can then spread to his employees just as he wishes. But we can do this later this year. I urge that you do not attempt to saddle this delicate, dangerous situation with such an arrangement.

The vote should be aye on ordering the previous question, or we will cause a very disastrous situation to occur.

Mr. JACOBS. Mr. Speaker, if the gentleman will yield further, any legislation the gentleman brings up later will not do anything about any unjust enrichment for already highly paid people that occurs from this action if we take it today.

Mr. UDALL. The gentleman is correct.

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

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

Mr. GROSS. Mr. Speaker, I must say to my friend, the gentleman from Arizona, that I am indeed surprised to hear him say this 6-percent increase is going to some employees who did not strike, apparently as a reward for not striking. Is Congress approving legislation based on merit, or is it to reward people for not striking?

Mr. UDALL. No, but a majority of the people of this country think the postal workers are underpaid, and I think the majority of the people of this country and of this Congress think we ought not to give a raise only to those who struck, but that any cost-of-living pay raise such as this should go across the board to every Federal employee and not just to those who left their jobs.

Mr. Speaker, I urge a vote of aye.

Mr. BURTON of Utah. Mr. Speaker, I support House Resolution 909. I hope today it will speedily be adopted by the House so that the much-needed salary raises for postal and Federal employees can be enacted without further delay and the President may have the opportunity, this very afternoon, to enact into law this legislation.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

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

The SPEAKER pro tempore. The Chair will count.

One hundred fifty-three Members are present, not a quorum.

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

The question was taken; and there were—yeas 309, nays 65, not voting 56, as follows:

[Roll No. 75]

YEAS—309

Abbitt
Abernethy
Adams
Addabbo
Albert
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Arends
Aspinall
Ayres
Baring
Barrett
Beall, Md.
Bell, Calif.
Bevill
Biaggi
Bingham
Blanton
Blatnik
Boland
Bow
Brademas
Brasco
Brock
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, Calif.
Bush
Button
Byrne, Pa.
Byrnes, Wis.
Caffery
Carey
Carter
Casey
Cederberg
Celler
Chamberlain
Chappell
Chisholm
Clausen, Don H.
Clark
Clawson, Del
Clay
Cleveland
Cohelan
Colmer
Conyers
Corbett
Corman
Coughlin
Cowger
Cramer
Culver
Cunningham
Daddario
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
Delaney
Dellenback
Denney
Dent
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Edwards, La.
Eilberg
Eshleman
Evins, Tenn.
Fallon
Farbstein
Fascell
Flood
Foley
Ford, Gerald R.
Ford, William D.
Fraser
Frey
Friedel
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Garmatz
Gaydos
Gibbons
Gilbert
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Griffin
Grover
Gubser
Haley
Hamilton
Hanley
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hébert
Hechler, W. Va.
Helstoski
Henderson
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
King
Kleppe
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Leggett
Lloyd
Long, Md.
McCarthy
McCloskey
McClure
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKneally
McMillan
Macdonald, Mass.
Mahon
Mailliard
Mann
Marsh
Mathias
Matsunaga
May
Meeds
Melcher
Meskill
Mikva
Miller, Calif.
Mills
Minish
Mink
Minshall
Mize
Mizell
Mollohan
Monagan
Montgomery
Morgan
Morse
Morton
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
O'Hara
Olsen
O'Neill, Mass.
Passman
Patten
Perkins
Pettis
Philbin
Pickle
Pirnie
Podell
Poff
Preyer, N.C.
Price, Ill.
Pucinski
Purcell
Quillen
Randall
Reid, Ill.
Reid, N.Y.
Reifel
Riegle
Rivers
Roberts
Robison
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
St Germain
St. Onge
Sandman
Satterfield
Saylor
Scherle
Scott
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stubblefield
Sullivan
Taft
Talcott
Taylor
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Watkins
Watts
Weicker
Whalen
Whalley
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wold
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young
Zablocki
Zwach

NAYS—65

Anderson, Calif.
Ashbrook
Belcher
Bennett
Berry
Betts
Biester
Bray
Brinkley
Camp
Clancy
Collier
Collins
Conable
Conte
Dennis
Derwinski
Devine
Dickinson
Erlenborn
Esch
Evans, Colo.
Findley
Fish
Fisher
Flynt
Foreman
Fountain
Gross
Gude
Hagan
Hall
Hammer-schmidt
Hutchinson
Jacobs
Kyl
Landgrebe
Langen
Latta
Lujan
McClory
MacGregor
Martin
Mayne
Michel
Miller, Ohio
Nelsen
Obey
O'Konski
Pelly
Pike
Poage
Price, Tex.
Pryor, Ark.
Quie
Railsback
Rarick
Reuss
Roth
Roudebush
Ruth
Schwengel
Sebelius
Yates
Zion

NOT VOTING—56

Adair
Annunzio
Ashley
Blackburn
Boggs
Bolling
Brown, Calif.
Burlison, Mo.
Burton, Utah
Cabell
Crane
Dawson
de la Garza
Diggs
Dowdy
Feighan
Flowers
Frelinghuysen
Fulton, Pa.
Gettys
Giaimo
Goldwater
Griffiths
Halpern
Hanna
Hansen, Wash.
Hays
Heckler, Mass.
Johnson, Pa.
Keith
Kirwan
Lennon
Long, La.
Lowenstein
Lukens
Madden
Moorhead
O'Neal, Ga.
Ottinger
Patman
Pepper
Pollock
Powell
Rees
Rhodes
Schadeberg
Scheuer
Schneebeli
Stephens
Stuckey
Symington
Teague, Calif.
Tunney
Watson
White
Wilson, Charles H.

So the previous question was ordered.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Frelinghuysen.
Mr. Boggs with Mr. Rhodes of Arizona.
Mr. White with Mr. Schadeberg.
Mr. Lennon with Mr. Crane.
Mr. Burlison of Missouri with Mr. Pollock.
Mr. Feighan with Mr. Keith.
Mr. Giaimo with Mr. Fulton of Pennsylvania.
Mr. Hays with Mr. Adair.
Mr. Pepper with Mr. Burton of Utah.
Mr. Patman with Mr. Schneebeli.
Mr. O'Neal of Georgia with Mr. Goldwater.
Mr. Ottinger with Mr. Halpern.
Mr. Madden with Mr. Long of Louisiana.

Mr. Charles H. Wilson with Mr. Teague of California.
Mr. Gettys with Mr. Johnson of Pennsylvania.
Mr. Hanna with Mr. Symington.
Mr. Dowdy with Mr. Kirwan.
Mr. Ashley with Mr. Lukens.
Mr. Stephens with Mr. Watson.
Mrs. Hansen of Washington with Mrs. Heckler of Massachusetts.
Mr. Cabell with Mrs. Griffiths of Michigan.
Mr. Stuckey with Mr. Blackburn.
Mr. Tunney with Mr. de la Garza.
Mr. Lowenstein with Mr. Diggs.
Mr. Brown of California with Mr. Powell.
Mr. Moorhead with Mr. Flowers.
Mr. Rees with Mr. Dawson.

Mr. BEVILL and Mr. HUNT changed their votes from "nay" to "yea."

Mr. FOREMAN and Mr. ROTH changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. SMITH of California. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend their remarks in the RECORD on the resolution just passed (H. Res. 909), due to the fact that time was so limited.

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

There was no objection.

OFFICE OF EDUCATION APPROPRIATIONS, 1971

Mr. FLOOD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate continue not to exceed 1½ hours, the time to be equally divided and controlled by the gentleman from Illinois (Mr. MICHEL) and myself.

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

There was no objection.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 16916, with Mr. HOLIFIELD in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Pennsylvania (Mr. FLOOD) will be recognized for 45 minutes, and the gentleman from Illinois (Mr. MICHEL) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Chairman, my name is FLOOD. I am a Member of this House from the State of Pennsylvania. I happen to be chairman of the Appropriations Subcommittee for the Departments of Labor and Health, Education, and Welfare.

I recite these historic facts in case Members do not recall that I have been down here two, three, four, five, six times in the past year on just about this same subject.

Mr. Chairman, what we are doing today is an innovation. It is a departure from previous practice. Today, we are considering for the first time a separate appropriation bill for federally supported education programs.

Almost all of the $4.1 billion in this bill is for grants which go to schools and colleges all over the United States to support educational programs of one sort or another.

The people back home who are running these programs need to know very soon how much Federal money is going to be available, so that they can make intelligent plans for the next school year.

Let me remind the Members of what happened during the past year, or perhaps the last 14 months. It certainly was not fair to the school directors back home, to the school principals, to the school superintendents, to the school administrators, or to anyone connected with educational planning. Certainly they were not treated very well last year by the Congress or by the President, because we all became involved in a controversy about the appropriations for education—veto; shall we override the veto; what kind of compromise will we make? This went on like Tennyson's brook.

It was not fair to our people back home who are responsible for preparing the budgets and the planning of the school districts and as well was not fair to the universities and the colleges involved with the same problems.

Hence we felt, Mr. Chairman—and we think we speak for you—that under all of the circumstances it was vital and necessary that this year we bring to you a separate education bill. We can help all of these people by enacting this kind of an appropriation bill as soon as it is reasonable and possible. We feel in the committee, and insofar as the House is concerned, that that time is today. We hope and pray that in the other body they hear these shining words of wisdom I am uttering now, because you will recall that the House passed the Labor-HEW bill last year on July 31, but in the other body they passed it on December 17. We hope through these marble halls to my left that they can hear this message.

You remember the title of the great show "Something Funny Happened on the Way to the Forum." Well, last year something very funny happened, when the House passed this bill, on the way to the Senate. You know as well as I do what those things were.

To sum it all up, the bill before you today is about $300 million over the President's budget for 1971 and about the same amount over the available appropriations for the fiscal year 1970. Now, I hasten to add this, and I want you to hear this. Technically, we are about $744 million—$744 million—over the President's budget; but—and I want to be fair with you and I want to level with you, as the saying goes, about this—of that $744 million that I say we are technically over the President's budget, $425 million is for impacted area aid. For practical purposes the $425 million should not be fairly considered as an addition to the budget, because the President's budget says that he will submit that amount later as a supplemental request if legislative reforming the impacted area and program is enacted. So you leave out the $425 million for the impacted area aid, and you have something like $319 million over the President's budget.

There are quite a few places in this bill where the committee's judgment as to how to cut up this pie and as to the distribution of funds differed from the President's budget. Of course, the chief item of increase over the budget—and we think it should be, and I think you think it should be—is $160,950,000 for title I of the Elementary and Secondary Education Act.

Now, title I is the program which distributes funds to school districts where there are large numbers of children from families who have low incomes. The title I formula channels funds into those districts to improve the educational achievement of those children. This is also called "compensatory education." Hence your committee made that increase. That is for title I of the Elementary and Secondary Education Act.

Now, by the way, I wish each Member would get a copy of this committee's report because in my opinion it would help you to understand just what we are undertaking to do. We made a point, Mr. Chairman, of holding this committee report down to a irreducible minimum in wording. There are no long-winded statements by Members in here. There are no paragraphs after paragraphs about someone's pet project. There is nothing like that in here. This is as clean as a hound's tooth. You could not even strike out any of the punctuation. It is that type of a report.

If you will turn to the table on page 12 of this report, I do not believe there is a question in your mind about any line item about which you might be concerned because of your heart or because of some pressure group to which you cannot find the answer there. Now even I can understand this report and these tables. That is going pretty far. If I can understand this, there is no reason in the world why you cannot.

If you want to know how much was appropriated last year, there it is. How much do we propose this year? That figure is listed right smack alongside of the other figures. What about the President's budget? It is right there, as well. What about the cutback of 2 percent in the Senate bill upon which you gave us binding instructions? It is all there, column by column, plain as the nose on your face. It will help you if you will just look at it.

Now, Mr. Chairman, in addition to title I we have in here increases over the President's budget of $20 million for instructional equipment which we added $17 million for supplementary services and guidance, counseling, and testing. You remember well the debate last year and how hot it got on those items. The gentleman from New Jersey (Mr. JOELSON) is probably sitting up there on the State bench in New Jersey with Wigmorl on evidence in one hand and wearing his black robe and laughing to himself about what he did here last year. However, we took the hint. That is part of the reason we added these things.

There is plus $10 million for education of the handicapped. Well, now, is anyone going to be against that? No; we think you are for it and that is why we put it in there.

We have added $10,250,000 over the budget for public libraries. Now, that should warm the cockles of your heart. This is what we did. This is what you wanted last year. I think this is what you want this year.

We felt—the committee was unanimous, on both sides, that the rule of reason demanded increases of some kind—no Treasury raid—but the facts as presented to us, and our judgment as to the sentiment in Congress, and how the people back home feel, gave us the clear message that increases over the budget are in order. So we did this; we added $50.4 million for vocational education. The Committee on Appropriations added that.

Now, you surely do not want more. This is our heart's blood.

And this next item, this was done by this hard-hearted, steely-eyed, cold-blooded, Committee on Appropriations, $52.75 million for national defense student loans. We added that to the budget request. Somebody may want $100 million, somebody may want $75 million, we know that. There will be people you cannot satisfy. There is a full-funding group who want the ceiling on everything .

Supposing we in this House fully funded the authorizations for public works—ai—yi—yi. Do you know how many billions of dollars have been authorized for public works? The gross national product could not come anywhere near it.

So we think under all these circumstances that we did what you wanted done, $229 million for student loans. There are other increases, and some decreases, but all of these changes are identified in that very clear and concise report, which I want you to take hold of and take a moment to read later, if you do not read it now. I would rather you read that report than listen to me because you will get more out of reading that 10 pages, not really 10 pages, 9½ pages, and the tables. It is all there. It is there for the people back home, for your weekly newsletters, your radio broadcasts, and your TV broadcasts to your people back home. Keep that in your pocket.

Now, I suppose, the most sensitive item in this bill of course is the impacted area aid. I know what this means to 320 or 330 some Members, and I want their help this year. I want their help this year to defeat any amendments that go beyond what the committee did in putting $440 million in the bill for this program.

Now, please, this year give me a chance, give the committee a chance. We have certainly made an effort this year to recognize your views and understand your problems. The President requested no funds for impacted area aid in his budget, but the President did say that he would send up a supplemental request of $425 million if Congress passed legislation which would reform that impacted aid program. Certainly there is not a man in this House who in his heart—and I am not quoting any campaign slogans here—that just slipped out—who does not believe that this impacted aid program needs revision.

The President said that he would send this request up if this legislation was reformed to make it more rational and more equitable. And I certainly think it should be—and so does the committee. We have put $425 million in this bill plus $15 million for construction in the impacted areas, $15 million for construction has been in the bill for several years and that is separate and distinct from the $425 million.

I am authorized by the committee to say that we hope reform legislation is enacted. We know hearings have been held. But, if the legislation is not enacted, or if the $425 million is not enough to fully fund it, we are prepared to consider a supplemental appropriation bill immediately—immediately—and I promise that for the committee. What could be fairer than that?

We do that so that your school districts which depend on these funds and which really deserve them will not be hurt. We are going to see to that with you.

Now there is an additional safeguard for the schools which are educating the children who live on military bases with their parents. We have included in the bill the same language that was in the House bill for 1970, to provide that the category A children are to be funded at 90 percent of entitlement. You put that in the House bill last year in 1970 and we put it back in out of an abundance of caution.

Now there is another sacred cow if there ever was one in this bill. This is the annual appropriation for the land-grant colleges under the Bankhead-Jones Act. The President proposed to eliminate it altogether. We have put in this bill $8,080,000, two-thirds of the 1970 appropriation, with the idea that we were going to phase out this anachronism in 3 years. Now you have to go along with that.

Mr. Chairman, the Federal Government is now committed to putting substantial amounts of money into our educational system. We are committed to that. Here are two or three figures that you ought to keep in your head for use back home—we, the Federal Government, we are now providing 8 percent of the total expenditures for elementary and secondary education in this Nation. And we are putting up 25 percent—imagine that—of the total expenditures for higher education. We all know that our school system is our greatest asset. It is our best insurance for the future.

Today nearly 60 million people are full-time students. That is 30 percent of the total population of the country. We certainly cannot turn back the clock. We are in education up to our ears, and we should be, and we are going to stay that way.

Mr. Chairman, this bill gives recognition to the Federal Government's stake in our educational system without making irresponsible raids on the Treasury. We do not want to do that, and neither do you. Some people will. They just do not give a darn. They want their names in the newspapers. We think this bill is a reasonable and a responsible one.

I hope—oh, Mr. Chairman, how I hope after what we went through in the last 14 months—that the committee's recommendations will be accepted without change. There will be heroes hanging on the barricades for God, country, Yale, Princeton—I know that—to increase certain items. But we wish they would exercise just an itty-bitty restraint this year. We had a tough time last year. And "we" includes the school people—the whole educational system. Let us not invite this all over again.

You read the President's statement when he signed the elementary and secondary amendments late yesterday afternoon. He is not fooling. Of course, neither are we. What is fair is fair.

Last year's appropriation, you will remember, was not acted upon until March of this year. Terrible.

The final figure—and this should impress you if nothing else does about what your committee did in handling this bill—the bill before you today is within $150 million of the amount for the Office of Education in the bill which the President vetoed in January. It is within $150 million of the bill that the President vetoed, and his veto was sustained by the House.

So I hope we have learned something from this last year's experience and will not allow this bill to become an object of that kind of controversy between the President and the Congress again. Let us not do that this year. This is a fair bill for everybody, both the White House and Congress. If we adopt this bill, we will be all right. If we do otherwise, it will be the children and the college students who will be hurt.

Mr. MICHEL. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, it was scarcely a few weeks ago that we were haggling over the figures for the 1970 appropriations bill for the entire Department of Health, Education, and Welfare.

As our chairman has indicated, this is the first time we have broken out the education part of the bill as a separate entity hopefully to get the measure through both Houses, a conference, and signed by the President at a much earlier date, so that all our school officials

around the country will know for sure what kind of a Federal input there will be in their budgets for the school year beginning in the fall.

The total amount appropriated in the 1970 bill for education came to $4,127,-114,000, but you will recall, section 410 of that bill, provided for a 2-percent reduction from that total figure, giving us a net appropriations available figure of $3,814,154,650.

It is this latter figure that we should be using as a basis for comparing this year's bill. The budget estimates for 1971 were about half a billion dollars under this figure with no impacted aid funds included, for legislation is pending to reform that program. The President's budget does, however, single out $425 million for impacted aid, and rather than wait for a supplemental request for that amount, we have included it in our bill as being a very rock-bottom figure for this program in any event. Now, if we take this amount and add it to the President's original budget estimates, we find our bill here today $319,590,000 over the budget, and a net increase in appropriations available over 1970 of $312,959,350.

We have tried our best in this bill to set funding levels for 1971 that will make for an orderly transition or flow from those levels actually appropriated and made available in the 1970 bill just so recently enacted.

During our deliberations in the subcommittee, we gave careful attention to the President's message on education reform that was transmitted to the Congress just about the time our hearings began. The message was strong for additional research and experimentation and also in evaluating where we are; planning and setting some goals as to where we ought to be headed. We have in this bill provided considerable sums for research.

Taking the items in chronological order as they appear in the bill, the $440 million for impacted aid includes $15 million for construction, which has been the level for the last several years. The proviso in this section provides for 90 percent entitlement for category A schools and at this funding level 45 percent for category B. Were this proviso not in the legislation, both A and B would be receiving approximately 57 percent of their entitlement. As we have said in our report: If the requirements of the new law turn out to be higher than the $425 million funding level, or if the reform legislation is not enacted, our committee will give consideration to supplemental appropriation.

For elementary and secondary education, we have a very significant increase over 1970 of $194,570,100. The title I increase alone here is $160,950,000.

Mr. BOW. Mr. Chairman, I make the point of order that a quorum is not present. I believe the Members should be present to hear the explanation of this bill.

The CHAIRMAN. The Chair will count.

Fifty-three Members are present, not a quorum. The Clerk will call the roll.

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

[Roll No. 76]

Annunzio	Gibbons	O'Neal, Ga.
Ashley	Goldwater	Ottinger
Baring	Griffiths	Patman
Blackburn	Halpern	Pepper
Boggs	Hanna	Podell
Brown, Calif.	Hansen, Wash.	Pollock
Burlison, Mo.	Harsha	Powell
Burton, Utah	Hébert	Rees
Cabell	Heckler, Mass.	Reuss
Celler	Johnson, Pa.	Rhodes
Clark	Kastenmeier	Rosenthal
Clay	Kirwan	Schadeberg
Corbett	Kluczynski	Schneebeli
Dawson	Landrum	Stephens
de la Garza	Lennon	Stuckey
Devine	Long, La.	Taylor
Diggs	Lowenstein	Teague, Calif.
Dowdy	Lukens	Teague, Tex.
Edwards, Calif.	McMillan	Tunney
Feighan	Madden	Vander Jagt
Flowers	Mikva	Watson
Frelinghuysen	Moorhead	White
Fulton, Pa.	Murphy, Ill.	Wilson,
Gettys	Murphy, N.Y.	Charles H.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOLAND) having resumed the Chair, Mr. HOLIFIELD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 16916, and finding itself without a quorum, he had directed the roll to be called, when 359 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of order of no quorum was made, the gentleman from Illinois (Mr. MICHEL) had consumed 5 minutes of the 15 minutes he had yielded himself.

The Chair recognizes the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, for title II—ESEA—which is school libraries, we have $80 million in this bill, practically doubling the $42,500,000 figure in the 1970 appropriation.

In title III—ESEA—for supplementary centers and guidance and counselling, we have added $17 million over the budget to give us an increase in appropriations over last year of $6,550,000.

In title III—NDEA—for equipment and minor remodeling, there was nothing requested in the budget estimates, but we have $20 million in this bill for that purpose, and feel that the balance between that figure and the $37,-179,000 for this item in the 1970 bill can be made up from the substantial amounts that are available for this purpose in both titles I and III.

We do have a reduction in the budget figure for title VIII—ESEA—the dropout prevention program, of $7 million from the budget request of $15 million, but this will still leave us with a 60-percent increase over the 1970 funding level.

In title VII, ESEA, bilingual education, we have increased the budget and last year's spending level by $3,750,000 to a total of $25,000,000, and in the item for strengthening State departments of education, title V, ESEA, we have funded it at last year's level of $29,750,000.

Now in the item of education for the handicapped, we have a total in this bill of $105 million, $10 million over the request for this year and $20 million over last year's spending level. We make special reference in our report that none of the $10 million increase voted by our committee is to be used for fellowships, for $34 million of this total amount is already going for that purpose.

Now in the item of vocational and adult education, your committee has again increased the basic grants to the States by a big, fat, round figure of $50 million. We have increased the consumer and homemaking item by $2.5 million. The cooperative work education item is at the budget level, which is $5,750,000 more than the funding level for 1970. The research and innovation item is $5 million below the budget, but a shade better than $5 million over last year's funding level. The adult basic education item is $5 million over last year's funding level and the students with special needs is up $3 million over the budget, giving us a total of $490,446,000.

I think at this point it might be well to point out that in 1968 this appropriation totaled $280,011,455, and there have been steady increases in 1969, 1970 and this year. I think it should also be borne in mind that in the manpower development and training activity, we were spending less than $400 million in 1968 but that item in the budget for 1971 is at a level of $747,494,000.

In higher education the bill carries a total of $899,880,000, which is $51 million over the budget and approximately $49 million over the spending level for 1970, broken down as follows:

Activity	1970 amount available [1]	1971 budget estimate	1971 recommended in bill
Student assistance:			
Educational opportunity grants	$164,600,000	$185,600,000	$167,700,000
Work-study and cooperative education	154,000,000	160,000,000	160,000,000
National defense student loans	195,685,000	176,925,000	229,000,000
Insured student loans	63,900,000	145,400,000	145,400,000
Talent Search	5,000,000	5,000,000	5,000,000
Upward Bound	29,637,000	30,000,000	30,000,000
Special services in college	10,000,000	15,000,000	15,000,000
Institutional assistance:			
Aid to land-grant colleges	19,361,000		8,080,000
Strengthening developing institutions	30,000,000	33,850,000	33,850,000
University community services	$9,500,000		$9,500,000
Foreign language training and area studies	15,300,000	$6,000,000	6,000,000
Construction:			
Grants	71,050,000		
Interest subsidy grants	11,750,000	21,000,000	21,000,000
State administration and planning	6,000,000	6,000,000	6,000,000
Technical services	5,417,000	5,100,000	5,100,000
College personnel development	58,813,000	57,350,000	57,350,000
Planning and evaluation	900,000	1,000,000	900,000
Total, higher education	850,913,000	848,225,000	899,880,000

[1] Reflects reductions made pursuant to sec. 410 of the 1970 Labor-HEW Appropriation Act.

It should be pointed out that the educational opportunity grants will finance an estimated 101,800 first-year students, the same as last year, with the average grant increase from $530 to $580. The work-study and cooperative education item will support 375,000 students, the same number as last year. The NDEA student loan item has been increased substantially over the budget and over last year's funding level. The better than $52 million increase over the budget will provide loans for more than 520,000 students at an average of $650 each, as compared to some 455,000 loans last year at an average of $630.

The guaranteed loan program in this 1971 bill will make guarantees on about 1,087,000 loans, an increase of 164,000 over last year. All told, we are going to be providing financial aid to 1,937,000 students, compared with 1,707,000 in fiscal year 1970, or an increase of 230,000.

Now, in the education professions development item, we have increased over the 1970 level of $18,500,500, or a total figure of $135,800,000. The Teacher Corps comes in for an increase over last year of some $9 million, and we say in our report that we expect the increase to be used for retraining of teachers with degrees, who are really not adequately qualified. The Department tells us that they have a plan designed to retrain 66,000 such teachers.

We are told that the Teacher Corps now has 4,500 in the program, with 1,500 graduates, 80 percent of whom are continuing working in the field of education and of those, 75 percent are supposed to be working in the ghettoes.

Now, in the item of community education, we have a total of $77,636,000, which is an increase over last year's spending level of nearly $4.5 million. This provides for an increase of $5,250,000 for grants for public library services and brings this item to a total of $40,709,000. Our committee also added $5 million for construction of Public Libraries, for which there was no request, and we increased the equipment for noncommercial radio and TV stations by $2 million, for a total of $6 million. In the area of research and training, we have made some reductions from the budget request of $13 million, but we are $25 million over last year's level of spending, and while we do not earmark the amount for experimental schools, the committee expects this amount will be spent for that purpose.

In arriving at these decisions, the committee took into account the President's entire budget request related to library and reading programs and not just those items under the community education appropriation. The President's amendments to the 1971 budget added $96.5 million for books and reading projects. Together with special earmarking of funds already in the budget, this provided $100 million for the right-to-read program and $12.5 million for public library services, which the bill increases by another $5 million.

Since enactment of the public library construction authority in 1965—a total of $500 million—nearly $150 million in Federal funds and $350 million in State and local matching funds has been spent for construction and renovation in over 1,500 projects.

The 1971 budget, by contrast, has turned its attention from construction to other reading priorities—namely supplementary reading instruction under title III of the Elementary and Secondary Education Act and the purchase of school library books under title II of that same act. The President has chosen to defer the construction of additional facilities in favor of these service programs. Far from abandoning library programs, the President and the Commissioner of Education have made the right to read their educational goal for the 1970's.

The priorities have also shifted in the college library resources and librarian training programs. Instead of parceling out a small basic grant of $5,000 to nearly every college and university in the country, the President's 1971 budget would limit this assistance to institutions with special needs such as outdated collections, growing student enrollments, or financial need. Librarian training would limit expensive fellowships to the doctoral level where the need is greatest and increase institute training for librarians and paraprofessionals working in school and public libraries in poverty areas.

Let me say one further thing with respect to the student loan insurance fund. We have $18 million in the bill, an increase of more than $7 million over last year. I think it is interesting to note that 3,700,000 loans, totaling $3.2 billion will have been made through fiscal year 1971, and it will be necessary to pay nearly 25,000 claims totaling a shade better than $18 million. This represents an increase over 1970 of $1,794,000 in default payments for an additional 2,321 loans. The default rate, based on total loans made, is expected to be seven-tenths of 1 percent in 1971 as compared to nine-tenths of 1 percent in 1970.

HIGHER EDUCATION FACILITIES LOAN FUND

Our committee has approved language proposed to permit up to $10 million in loans to be made from funds appropriated in prior years. Loans would be made to small colleges which are unable to obtain private loans through the interest subsidy grant program.

The new subsidized loan program in the higher education appropriation, will be the main Federal contribution to higher education facilities construction, but the money here is to take care of liquidating old business. The Department requested authority to make new loans to the extent that funds may be made available by cancellation of old loan commitments. They expect some institutions, to which they are committed to make direct loans will convert to subsidized loans.

Finally, Mr. Chairman, I do feel section 211 should be stricken from the bill for several reasons. First, it would prevent the Federal Government and local school officials from carrying out the requirements of the Constitution—requirements which this section does not and cannot remove. What this provision does is to impose a penalty on a school district for carrying out its legal obligation to desegregate. The Department would be put in the position of having to prohibit many school districts from using Federal funds to draw up and implement desegregation plans pursuant to court order. It would thus tie the hands of the Federal Government and of local school officials in dealing with the nondiscrimination requirement of law.

In addition to preventing enforcement officials from carrying out their legal obligations, section 211 would jeopardize the substantial progress made to date in school desegregation, and make more difficult the application of uniform standards in accordance with the Constitution. Furthermore, the amendment directly contravenes the President's March 24 statement on school desegregation in which he pledges to support the recent Supreme Court decisions mandating immediate desegregation. Freedom-of-choice plans, as has been demonstrated time and again, would not be an effective method of doing this. Court decisions are unequivocal on this point.

It may well be that section 211 was added to the bill because of a misunderstanding on the part of the committee concerning HEW's Office for Civil Rights. This office does not interpret the Constitution or the law. This is the responsibility of the courts. However, once the courts have acted, it is the responsibility of HEW to help school districts comply with court decisions. Because section 211 is not consistent with court rulings on freedom-of-choice plans, it could only produce an administrative nightmare for the Department. It should be deleted.

I am also concerned about sections 209 and 210—the so-called Whitten amendments—which pertain to busing of students, although I am convinced that these amendments do not change basic law nor would they require a change in HEW's regulations. A school district which has not completed its constitutional obligation to achieve a unitary system would not be "desegregated" within the meaning of the proposed sections 209 and 210. Such a district, therefore, would be unaffected by these sections. My concern, rather, is that the enactment of these two provisions would encourage some people to believe that, in fact, there would be a change in basic law and thus give rise to much confusion. Further, it is my belief that language which pertains to the enforcement of school desegregation belongs in substantive legislation rather than in an appropriation bill. However, since these two provisions do not change basic law, I am not asking that they be deleted.

I have discussed my views on both section 211 and sections 209 and 210 with HEW Secretary Finch, and he agrees with me that section 211 should be stricken from the bill and shares my misgivings about sections 209 and 210 but agrees that they make no change in basic law.

Mr. FLOOD. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. COHELAN).

Mr. COHELAN. Mr. Chairman, I thank the distinguished chairman for allowing me this time.

Mr. Chairman, before urging acceptance of the amendments to be proposed this afternoon increasing the funding of educational programs administered by the Office of Education, I want to express to the inimitable gentleman from Pennsylvania, the delightful and gracious chairman of the Labor-HEW Subcommittee and to our leader on the full Appropriations Committee, the distintinguished and forceful gentleman from Texas, my sincere appreciation for the great improvements wrought by their labors on the budget estimates submitted by the executive council for education.

I commend them for having brought title I of the Elementary and Secondary Education Act programs up to the $1.5 billion level. I applaud the recommendation that the direct repayable loans of title II of the National Defense Education Act be increased to $229 million. The increase to $105 million for special education programs for handicapped can be usefully and economically expended as can the increase in vocational education of more than $50 million. All of these actions deserve, and in my judgment will be given, the strong and wholehearted support of the House and of the people of the Nation.

Both also deserve plaudits for having given the House an early opportunity this year to work on the pending bill. The dedicated and hardworking men and women who finance and administer the schools of every level, public and private, in classroom and library, in laboratory and shop, has stressed the importance of early and accurate funding information so that they can do a better job in the public interest of carrying on their labors. In a very real sense, early consideration of this bill is a benefit which will repay dividends of accomplishment and economy and which will increase the efficiencies of our educational operations. It is only fitting that this recognition be given to the chairmen, and their colleagues on the subcommittee whose industry, diligence and perseverance has brought H.R. 16916 to the floor at this early date in the year.

There are, however, areas in the overall bill which yet need additional strengthening. It is for this reason that I have joined with others in offering amendments increasing the funding of programs in higher education, library programs, and impacted areas.

HIGHER EDUCATION AMENDMENTS

In higher education, for example, we should not be misled about the proposal in this bill to reduce the "land-grant teaching funds" under the Bankhead-Jones bill by $4 million.

What is actually proposed is the elimination of these funds—by gradual, presumably painless steps, rather than in one fell swoop, as is proposed in the administration's budget.

The budget message states, in effect, that these funds are but a "minute" amount that supposedly would hardly be missed by the colleges and universities receiving them. Nothing could be further from the truth. The colleges and universities receiving them consistently testify that, dollar-for-dollar, they are the most valuable funds they receive—from any agency or source—from the Federal Government.

President Fred Harvey Harrington of the University of Wisconsin, for instance, has said that this program is "an essential source of funds for undergraduate teaching where even more funds are badly needed. It also serves as a model for institutional support, which is the most valuable type of government aid."

President A. P. Torrence of Tennessee State University points out that—

> Our students, for the most part, are first generation college students who enter the university with seriously deficient educational backgrounds and from families with incomes within the poverty level. While the education of this type of student is expensive, the return to society on the investment made is perhaps greater than could be realized from almost any other investment. Our need at the moment is for increased federal assistance—not less.

From Washington State University, President Glenn Terrell states that the "loss of these funds—plus the existing shortage of funds from State sources—is more than we can cope with in the face of increasing enrollments without serious and immediate erosion of the quality of our university."

President T. Marshall Hahn, Jr., of the Virginia Polytechnic Institute, states that "failure to restore these funds could signal the demise of a historic relationship with the Federal Government that has helped countless thousands of young people secure higher education and increase their contribution to our Nation and society." At VPI, loss of the funds would mean the loss of the equivalent of 13 faculty members and, through them, of more than 260 students.

Purdue University Vice President L. J. Freehafer states that the "land-grant teaching funds are—or have been in the past—continuing, flexible, predictable institutional support funds and no amount of temporary grant funds can compensate for them in promoting sound, orderly development of our institutions."

And so it goes all across the country. Many other such statements could be cited.

The proposed phaseout of the Bankhead-Jones land-grant teaching funds, in a word, endangers the soundest, most productive, and least expensive way for the Federal Government to support higher education. This should not be allowed to happen.

Mr. Chairman, I include a table setting forth the effect on the land-grant institutions if the amendment to the bill is not adopted at this point in my remarks:

RESIDENT TEACHING FUNDS FOR LAND-GRANT INSTITUTIONS

[The following is a table by States and institutions for distribution of resident teaching funds. If the proposed budgetary cut stands there would remain of these funds only $50,000 per State, and where more than 1 institution is involved, this $50,000 would be allocated in the same ratio as the total now going to the State allocated]

Land-grant institutions	Funds for instruction and facilities (Morrill-Nelson, and Bankhead-Jones funds)	House bill
All land-grant institutions	$14,500,000	
Alabama:		
Alabama Agricultural and Mechanical College	94,561	
Auburn University	183,086	−$75,883
Alaska: University of Alaska	205,376	−51,792
Arizona: University of Arizona	230,951	−60,314
Arkansas:		
Agricultural, Mechanical, and Normal College	66,125	
University of Arkansas	176,333	−64,153
California: University of California	573,580	−174,527
Colorado: Colorado State University	241,689	−63,897
Connecticut: University of Connecticut	260,260	−70,087
Delaware:		
Delaware State College	42,122	
University of Delaware	168,486	−53,536
Florida:		
Florida Agricultural and Mechanical University	102,133	
University of Florida	215,560	−89,231
Georgia:		
Fort Valley State College	83,507	
University of Georgia	210,216	−81,241
Hawaii: University of Hawaii	215,040	−55,014
Idaho: University of Idaho	215,858	−55,286
Illinois: University of Illinois	439,618	−129,873
Indiana: Purdue University	310,822	−86,941
Iowa: Iowa State University of Science and Technology	265,544	−71,848
Kansas: Kansas State University of Agriculture and Applied Science	251,783	−67,261
Kentucky:		
Kentucky State College	39,471	−74,072
University of Kentucky	232,743	
Louisiana:		
Louisiana State University and Agricultural and Mechanical College	188,920	
Southern University and Agricultural and Mechanical College	88,496	−75,805
Maine: University of Maine	223,038	−57,680
Maryland:		
Maryland State College, Division of the University of Maryland	32,844	
University of Maryland	240,856	−74,534
Massachusetts:		
Massachusetts Institute of Technology	16,666	
University of Massachusetts	305,709	−90,792
Michigan: Michigan State University	385,949	−111,983
Minnesota: University of Minnesota	281,144	−77,048
Mississippi:		
Alcorn Agricultural and Mechanical College	127,393	
Mississippi State University	124,379	−67,258
Missouri:		
Lincoln University	18,917	
University of Missouri	283,760	−84,226
Montana: Montana State College	216,038	−55,346
Nebraska: University of Nebraska	233,546	−61,182
Nevada: University of Nevada	206,781	−52,261
New Hampshire: University of New Hampshire	214,426	−54,809
New Jersey: Rutgers, The State University	344,201	−114,734
New Mexico: New Mexico State University	222,605	−57,535
New York: Cornell University	598,897	−182,966
North Carolina:		
Agricultural and Technical College of North Carolina	101,737	
State College of Agriculture and Engineering, University of North Carolina	206,557	−86,098
North Dakota: North Dakota State University	215,033	−55,011
Ohio: Ohio State University	430,710	−126,904
Oklahoma:		
Langston University	25,534	
Oklahoma State University of Agriculture and Applied Science	229,807	−68,447
Oregon: Oregon State University	242,039	−64,013
Pennsylvania: Pennsylvania State University	469,049	−139,683
Puerto Rico: University of Puerto Rico	255,846	−68,616

RESIDENT TEACHING FUNDS FOR LAND-GRANT INSTITUTIONS—Continued

[The following is a table by States and institutions for distribution of resident teaching funds. If the proposed budgetary cut stands there would remain of these funds only $50,000 per State, and where more than 1 institution is involved, this $50,000 would be allocated in the same ratio as the total now going to the State allocated]

Land-grant institutions	Funds for instruction and facilities (Morrill-Nelson, and Bankhead-Jones funds)	House bill
Rhode Island: University of Rhode Island	$220,429	−$56,810
South Carolina:		
Clemson Agricultural College	128,316	
South Carolina State University	128,316	−68,878
South Dakota: South Dakota State College of Agriculture and Mechanic Arts	216,175	−55,392
Tennessee:		
Tennessee Agricultural and Industrial State University	51,599	
University of Tennessee	233,187	−78,262
Texas:		
Prairie View Agricultural and Mechanical College	106,925	
Texas Agricultural and Mechanical University	320,774	−125,929
Utah: Utah State University of Agriculture and Applied Science	221,169	−57,057
Vermont: University of Vermont and State Agricultural College	209,267	−53,089
Virginia:		
Virginia Polytechnic Institute	196,193	
Virginia State College	98,097	−81,430
Washington: Washington State University	267,818	−72,606
West Virginia: West Virginia University	244,220	−64,740
Wisconsin: University of Wisconsin	293,929	−81,310
Wyoming: University of Wyoming	207,845	−52,615

Mr. Chairman, I also support the amendment to add $71,050,000 to the committee bill for grants for the construction of college classrooms and libraries. Actually, this amount is just peanuts, when you consider that we have more than 2,000 colleges across the Nation. We ought to be appropriating 10 times that amount. However, the amendment is realistic in view of our stringent budget situation today, and it represents a vast improvement over the zero amount recommended by the administration and our Appropriations Committee.

Mr. Chairman, all the rhetoric about opening opportunities for higher education will amount to nothing unless we provide classrooms for the students to attend. Let me cite just a few statistics to show the need for enlarging our higher education facilities. Last fall, about 7.6 million students enrolled in our colleges and universities. Next fall, according to Office of Education projections, the number will rise to 8 million. That is an increase of nearly 400,000 persons—a population larger than most State capitol cities in our Nation. And by 1971, if the projections hold true, the college population will rise to 8.4 million. This represents an increase of some 735,000 students over last fall—a figure equal to the entire population of a major city.

The administration's budget assumes that subsidized loans obtained in the private market will meet all the college's needs for enlarged facilities. But loans—regardless of the subsidy—must be repaid. A college can meet the repayments only by raising its fees for students—and thus making its education even more expensive—or by making some special appeal to its friends and alumni.

As I mentioned earlier, we should be seeking appropriations for facilities grants in an amount at least 10 times the modest $71 million we are proposing. A study by an expert task force, which was published by the Office of Education last fall, found that colleges and universities will need to make commitments for $14 billion worth of academic facilities in the next 4 years if they are to keep pace with the growing number of students and provide for rehabilitation of their obsolete plant.

But the $71 million will provide needed assistance in the most starkly urgent cases and will give some aid to colleges that simply cannot borrow at all in the private market under current conditions. For these reasons, I urge the adoption of this increase.

Mr. Chairman, I fully support the amendments to H.R. 16916 calling for funding of NDEA title VI—Language Training and Area Centers—programs at the level of $15,300,000.

I am certainly not persuaded that the need for graduates highly trained in foreign area and language studies is diminishing. The administration's proposed cutback from $15,300,000 in fiscal year 1970 to $6,000,000 in fiscal year 1971 to no funding at all thereafter, therefore, seems to me extremely shortsighted. I find this retreat particularly puzzling in light of the fact that the administration's own stock-taking study of these programs, funded through the Social Science Research Council, is as yet incomplete. The premise seems to me unassailable that these modest programs are essential in a world increasingly dependent upon international communication and intercultural sophistication.

American universities and colleges cannot sustain them on their own, despite the fact that most of their present support comes from the institutions. The small Federal investment is the critical margin necessary to sustain them. These are "leadtime" programs; they cannot be turned on and off without loss not only to the institutions but also to the national interest. As President Hitch of the University of California recently pointed out:

> Reduction in federal support would seriously undermine American institutions generally in the international area. Federal support has played a major role in strengthening the international dimension of higher education and this significant academic involvement will undoubtedly atrophy if federal support is withdrawn.

Now, and in the future, we need all the American competence we can develop in foreign areas and languages. The investment of $15,300,000 for fiscal year 1971 is little enough to forward this purpose, but it will go far toward consolidating the investment the Federal Government and our universities have already made. In my judgment, it would be folly not to capitalize on that investment.

Mr. Chairman, with respect to title VI–A of the Higher Education Act, let me present the facts:

Title VI–A was passed by Congress in 1965 to provide funds, matched by institutions of higher education, to purchase instructional equipment and materials, including instructional television. Title VI–A is the only federally assisted program for improving the quality of undergraduate classroom and laboratory instruction in all the major subject areas of the college curriculum. The program is jointly administered by State commissions and the U.S. Office of Education.

Title VI was authorized at a level of $70 million for 1968 and 1969; and during these years, Congress appropriated only $14.5 million for this program. The 1970 authorization was also at $70 million, but in that year, zero was appropriated. Furthermore, the President has requested zero in his 1971 budget for title VI.

My point is simple: Title VI of the Higher Education Act should not again go unfunded; it is a worthy program and there is a definite need for it.

Title VI is designed to assist needy schools and small departments of colleges and universities. More and more small colleges, especially community colleges are cropping up every day. Many of the small institutions simply do not have the funds to purchase materials, equip laboratories, or provide teachers with the essential tools they need to keep up with expanded subject matter. Title VI could provide these funds. And note that matching of funds by the institution of higher education is required under title VI–A. This local effort not only helps to assure prudent spending, but doubles the impact of the program.

I urge the House to support funding title VI–A at a level of $8 million. This is hardly a generous amount.

In addition to the higher education amendments just discussed, there is another amendment to H.R. 16916 appropriations for fiscal year 1971 which I would like to support. That is the amendment to be introduced by my colleague from Arkansas (Mr. PRYOR) which would raise the funds for title II of the LSCA—construction—and title II of the Higher Education Act—college library assistance and library training—to the levels of last year's appropriations before the drastic cuts made by HEW under the discretionary authority given to the executive branch by this Congress.

The construction of new public library buildings and the remodeling of outdated ones is one of the most necessary tasks in providing efficient, complete service to all our communities. New technological processes being applied to library procedures and new directions of library service designed to provide more information and recreation to more people require modern physical facilities.

The three parts under title II of HEA provide important aid to American colleges and universities of all sizes. The largest institutions benefit most from part C, the Library of Congress shared cataloging program which helps large research universities acquire and catalog foreign publications. Smaller colleges receive a much-needed boost from part A, which awards grants for the improvement of library collections, and the promotion of joint-use facilities. All types

of libraries benefit from part B, which provides fellowships and stipends for training in librarianship, and grants for research in the information science field.

As more and more of our young people seek a higher education, and demand new courses, and greater depth in old ones, academic libraries find that limited financial resources make it harder for them to satisfy the needs and desires of their students and faculty. It has so often been said that the library is the heart of the university, that perhaps we are no longer as aware of the truth of that statement as we should be. The authorizations for fiscal 1971 for these HEA II programs are far in excess of what the committee has recommended, or even what my colleague's amendment proposes.

In his message to the Congress, President Nixon states that—

> No element of our national life is more worthy of our attention, our support and our concern than higher education.

I couldn't agree with him more, and I hope that my colleagues on the other side of the aisle will join me in supporting this amendment which will restore needed funds to these library programs which are such a vital ingredient of our system of education and to the well-being of our citizens.

If it were possible to appropriate the full amounts authorized for LSCA II and HEA II, it could all be used to good advantage. But because we cannot do that at this time, let us not forsake these library programs altogether—let us at least maintain the meager appropriations that were approved last year, so that our public libraries, our academic libraries and our graduate library schools do not fall even further behind in the attempt to provide the best possible service and train the best qualified library personnel.

Mr. MICHEL. Mr. Chairman, I yield 10 minutes to the gentleman from Kansas (Mr. SHRIVER).

Mr. SHRIVER. Mr. Chairman, today, less than 6 weeks after the enactment of the fiscal 1970 Labor-HEW appropriations bill, the House is considering the fiscal 1971 education appropriations measure. I am certain that this prompt action comes as a great relief to the thousands of school administrators, school board members, and other State and local officials who have labored for years under a cloud of financial uncertainty. The primary credit for the early reporting of this education bill belongs to the leadership of our subcommittee, Mr. FLOOD and Mr. MICHEL, and to the chairman and ranking minority member of the full Appropriations Committee, Mr. MAHON and Mr. BOW. The subcommittee also benefited from excellent cooperation on the part of Secretary Finch and the Administrators of the Office of Education in bringing these hearings to an early conclusion.

The committee recommends an appropriation of $4.1 billion for the programs administered by the Office of Education. This represents an increase of $313 million over the amount available for these purposes in fiscal 1970.

Four billion dollars is a lot of money, but it does not begin to tell the story of the total education expenditures in our country this year. As is pointed out in the committee report, the higher education items in this bill represent only 20 percent of the annual Federal contributions to institutions of higher education. The Federal total is now over $5 billion per year, and to that should be added the billions of dollars spent every year for higher education by our State and local governments, individuals, foundations, and corporations.

Turning to elementary and secondary schools, during the current school year, the Federal Government will issue grants totaling about $2.5 billion. This represents only 6.6 percent of the local school budget for this year. The local school districts will pay $20.3 billion, or 52.7 percent, and State governments will pay the remaining $15.6 billion, or 40.7 percent of local school costs.

Altogether, we are now spending over $38 billion per year for elementary and secondary education, and the costs are going up every year. For that kind of expenditures, we had better make sure we are getting our money's worth.

The committee recommends an appropriation of more than $105 million for what may be the most important part of this bill: research and training. It is a sad fact that after spending billions and billions of dollars for the education of our children, we still do not know what we are doing. Our educational system has never been called on to account for these expenditures in the only meaningful way, which is to determine if each child is being reached successfully through the teaching methods being used.

In order to make this important determination, President Nixon has requested funds within this research and training program for the establishment of several experimental schools. This is a 5-year program at a total cost of $140 million. At the current rate of spending in this country for elementary and secondary education, $38 billion annually, in 5 years we will spend $190 billion. Thus, the total cost of this promising research program amounts to only seven one-hundredths of 1 percent of these education expenditures. If the experimental-schools approach even begins to come up to the expectations of its protagonists, this will have been a very wise investment indeed.

The President has also proposed a revenue-sharing plan and further studies on future means of financing our educational system. All of us have received countless letters from overburdened property taxpayers who bear most of the local-costs load for our schools, and it is a cold fact that 50 percent of the local bond issues for educational purposes were defeated last year. I hope Congress will answer the President's call to find more adequate methods to finance what we hope will be an improving system of education in the 1970's.

There are several other items in this bill which I will mention briefly. The committee recommends $135.8 million for education professions development. While it was revealed in the hearings that we are finally coming to an end of our chronic teacher shortage, there are still critical shortages in such areas as vocational education, education for handicapped children, preschool education, and counseling and guidance personnel. There are also geographical shortages in many individual urban and rural school districts. The recommended increase of $18.5 million should help to alleviate these problem areas.

This bill includes $105 million for education for the handicapped, an increase of $20 million over the 1970 figure. It was very disturbing to the committee to observe that out of 5.3 million handicapped children in our country, 3 million are still not receiving appropriate special educational services. We must do more for these children.

Finally, the bill contains $440 million for the impacted area assistance program. This item was not included in the regular budget requests sent to Congress by the President. It has been indicated that a supplemental request for this same figure would be forthcoming if Congress enacts legislation amending this program. The committee felt, however, that money for affected school districts should be included in this bill to guarantee at least partial support while the basic law is being changed.

Before I close, Mr. Chairman, I would like to call the House's attention to some information which was inserted into our hearings at my request concerning the existing Federal Government activities for environmental pollution control. While this does not relate closely to the bill we are considering today, it might be helpful to my colleagues in answering inquiries about this problem, especially as the April 22 "Earth Day" approaches.

The table which begins on page 200 of part 1 of our fiscal 1971 hearings shows that nearly $2 billion in Federal funds will be obligated in 1971 for "Programs and activities where the primary purpose is control and abatement of pollution." This represents an increase of more than $700 million over the 1970 obligations, and it is more than twice the 1969 program. We have not begun to win the fight against pollution, but we are beginning the fight.

Mrs. REID of Illinois. Mr. Chairman, as a member of the Subcommittee on Labor-HEW Appropriations, let me say first that I greatly appreciate the hard and excellent work of our chairman, the gentleman from Pennsylvania (Mr. FLOOD) and the diligence and cooperation of the ranking minority member, the gentleman from Illinois (Mr. MICHEL).

The bill before us today—H.R. 16916—carries funds totaling approximately $4.1 billion to cover all the activities directly connected with and administered by the U.S. Office of Education. It is an increase of $744.6 million over the President's budget—including the sum of $425 million for impacted aid which the administration said it would have requested later in a supplemental bill. I do feel our committee has done a commendable job in meeting its responsibility by

reporting the bill to the House early in this session, although I supported the efforts to keep the proposed expenditures more in line with the President's budget recommendations.

It has been pointed out that this year for the first time the committee is reporting out a separate appropriation bill for the Office of Education in the hope that the legislation will be enacted early so that school district, State departments of education, colleges, and others who are involved in the Nation's educational system will be able to make more orderly plans for the next school year. I certainly support these efforts and urge that we not have a repeat of the recent situation when we were 8 months into the new fiscal year before the appropriation was finally approved.

Even more than in health, the President's education budget for fiscal 1971, which we considered in our subcommittee, places first priority on making the system more accessible to everyone and particularly to the poor and disadvantaged. We have included funds in H.R. 16916 for such programs as title I of the Elementary and Secondary Education Act, Commissioner Allen's "right to read" program, special programs for dropout prevention, bilingual education, education for the handicapped, assistance to developing colleges, special training programs for teachers of the handicapped, financial assistance for poor students who want to go to college, school library resources, adult and vocational education, and various other programs.

In addition, funds are included to place greater emphasis on experimentation and evaluation to learn more about the relative merits of different types of educational activities. In his recent message on education, the President stressed the importance of obtaining new measurements of learning achievement through the establishment of a National Institute of Education. In my judgment, action to determine how to produce better results from whatever funds are invested is long overdue, and I support the President's program. Other targeted research and evaluation projects have been developed for programs for preschool children and school-age children in the early grades, vocational education, dropout prevention, and experimental schools.

I believe that most of us will agree that all of these programs have very worthy goals and objectives and that the Nation's elementary and secondary schools need more money. But, I would remind you that in deciding our priorities, significant and overriding points must be weighed. Education is the Nation's largest domestic business and, like all businesses, it has been hit hard by the effects of inflation. Thus, as we see the education dollar producing fewer results because of continually rising costs, it is essential that the Congress do its part to insure a budget that at the very least will not stimulate inflation through more deficit spending. In my opinion, we should keep this in mind as we consider H.R. 16916 and vote on amendments.

Mr. FLOOD. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, although I do not claim the present bill contains exactly the sums that I would have recommended in each instance, I do think this is a good bill and presents a much better balanced package for the application of our natural resources to the field of education than we had last year. It is common to only hear of a very few controversial items in a bill such as this, and often some very significant and important accomplishments or changes are overlooked. I want to speak about a few things that may not necessarily be mentioned in depth.

This bill contains the financing for a program to retrain teachers which have a degree, but are really not qualified to teach. Our subcommittee has pressed for such a program for the past 2 years. We discovered that almost none of the resources under the Professions Development Act and the Teacher Corps were being used for this purpose. Last year the administrators told us that in their judgment there were 66,000 such teachers, and that they could be retrained within a 3-year period. A large share of these teachers are in southern schools and graduated from colleges from which a degree does not really provide a presumption that they are fully qualified to teach. Some of them may also be from other colleges with higher standards, but for some reason they are not qualified to be teaching what they are teaching. These teachers are committed to teaching school and the retraining of them is almost certain to result in a better qualified person who will actually teach.

This is not the case with many of the fellowships for graduate students who have never taught and, in many cases, will not teach very much if any. Retraining the teachers that are committed to teaching who have a degree but really are not qualified to teach is, in my judgment, one of the fastest ways we can upgrade the quality of education. Especially in newly desegregated schools but also to some extent in other schools in this country.

The committee granted an additional $18 million requested for the teacher training programs and specifically stated in the report that we expect "the increase to be used to the fullest extent possible for the retraining of teachers with degrees who are really not adequately qualified to teach."

There is also money in this bill to finance meetings to be held throughout the country to help to educate elementary and secondary school students and their parents concerning the facts relative to drugs. We have been doing considerable research at the National Institutes of Health on the effects of drugs on individuals both psychologically and physically. This kind of research needs to be continued but meanwhile the information we now have should be distributed and especially for the benefit of children at the junior high level and their parents. A number of good films have been made with the National Institutes of Health cooperation and other materials are available.

Under the program, a concentrated and coordinated effort would be made to distribute this information and to secure at least one individual at each school which can handle the informational programs. Each school could tailor its own program but I would assume that many of them would have a series of lectures, films, and speeches for both the children and interested parents and stating the exact facts concerning the various drugs.

The younger generation will not buy a mere statement that something is bad nor will they buy exaggeration. There is enough bad about the use of various drugs including those that are prescribed for medical reasons without manufacturing some fiction which would result in these children disbelieving the whole story advanced by the adults. I thoroughly endorse and have encouraged this approach as a meaningful way to do something now to help meet the drug problem.

Too many people would substitute hearings, speeches, and statements by people who really do not know what they are talking about instead of this kind of a hard information distribution. I feel that children are all too aware that most of the people talking so loud really do not know what they are talking about and as a result children may be more skeptical than ever of the bad effects of drugs. This is another reason why we need to move now to get hard factual information to these children and their parents even though all the answers are not yet known and I believe the program financed in this bill is a meaningful program that should be called to the attention of all the Members at this time.

One of the exciting programs is the new uses for television. It is really incredible that we have had television sets in the homes for about 20 years and yet have not even begun to fully utilize this great resource for a sort of do-it-yourself education system. Programs are now being developed which little children—including preschool children—will find so interesting that they will want to watch them on a daily basis and which will be very educational. One such program is "Sesame Street." I am convinced that many children in low-income families, who may be deprived of many of the advantages of preschool children from higher income families, may be able to close much of this gap by watching this type of television program. Through this type of television program they will learn by seeing and watching—a great many of the things that other children learn in other ways. The administration requested $4 million for this program. The committee recommended $6 million or a 50-percent increase. Although I do not think this kind of a program can be fully implemented in 1 or 2 years, I do think the program could efficiently use an even greater increase in this fiscal year and more in future years.

The committee increased the money available for programs for the handicapped. The money available last year,

after the 2-percent reduction, totaled $85 million for the various programs. The administration this year requested $95 million and the committee is recommending $105 million. The subcommittee was convinced that the administration of this program has been good enough to warrant this kind of an increase and that it has been built over a number of years on a fairily solid foundation. Some programs can be starved to death while others have been choked to death because they have not been able to absorb as much money as has been thrown at them. The committee was convinced that this program can absorb around 25 percent more than it had last year and probably more than that in the future. However, we specifically direct that the money be used for those programs that actually result in greater benefits to the handicapped in fiscal year 1971 rather than being used for some long-term projects which may help some handicapped people indirectly at some time. There is a substantial training and fellowship program absorbing almost one-third of the funds under the heading of education for the handicapped. No doubt there is a need for training of some teachers, but we don't think the increases in this program should all be used for that purpose rather than for the deaf-blind centers, the early childhood projects, the State grant programs, the films and other services and material, and the other projects which render immediate benefits to the handicapped.

We also provided a considerable increase in the money available to student aid. Last year new money available for NDEA loans totaled about $196 million. Repayments into the fund added another $20 million to the amount available—making a total of $216 million. The budget request was for $177 million in new money. The committee added $52 million—making a total of $229 million in new money. There will also be $105 million in repayments available and this makes a total of $334 million for the program or an increase of about 54 percent above the money available last year for the NDEA student aid program.

I strongly support the big increase in direct loans for college students that is contained in this bill. The administration wanted to rely heavily upon loans from banks but the fact is that vast numbers of deserving young men and women cannot get a loan from a bank. Many banks will only loan to those who have parents that do business with the bank or who live in the local community. Some banks have all the money tied up in these kind of loans that they feel they can make. A method of banks rediscounting this kind of paper is needed but meanwhile these men and women need loans to go to college. I challenged the administration to produce the names of some banks who make loans to students whose parents do not have an account at the bank and who do not live in the same community. I am still waiting for the list. Last year a total of $216 million was available for the direct loan program. I strongly supported and secured approval of the increase to a total of $334 million. This will finance loans for an additional 190,000 students including about 2,600 Iowans. The direct loan program is working well and is illustrated by the fact that $105 million will be repaid this year by students who previously had borrowed the money and it will now be used a second time.

Another program that should be mentioned is Vocational Education. The committee increased the budget request by $50 million for the programs listed under "Vocational education." It costs far less to provide the training needed to upgrade the skills of men and women under this program than it cost under various manpower training and other such programs. Most of the money under this program comes from local sources and courses are taken in most cases while the students are still in high school. The 1968 amendments change the emphasis in the program but did not provide enough leadtime so that local districts can fully absorb those changes in just a few months. Last year we increased the amount $70 million over the previous year and this year we are recommending another $50 million increase. Generally speaking, it was the feeling of the committee that this will fairly well finance the ability to absorb this shift in emphasis during this transition period. However, substantially more funds may be needed in the future after the schools have geared up to a substantially increased program of vocational training.

Mr. Chairman, in general, I think this is a good bill and will make a contribution to the overall education progress in this country. I strongly urge its support.

Mr. MICHEL. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, I first want to rise to commend the chairman and the ranking member of this committee for the great strides they have made in bringing out a meaningful bill, and one which I think is most helpful in carrying forth the work in the area of education.

Mr. Speaker, the amendment I offer today totals $92.22 million. It would provide an additional $3.87 million for aid to land grant colleges, $71.05 million for higher education facilities, $9.3 million for language training and area centers, and $8.0 million for matching grants for college teaching equipment and materials.

Each of these programs is, in my judgment, essential to the future of higher education. It should be noted that the amendment does not request any new spending. It merely calls for maintaining the Federal commitments we have made to these important programs over the past 2 years.

I rise to make this amendment in full recognition of the outstanding work which the Appropriations Committee has done on this difficult legislation. Under the leadership of Mr. FLOOD, Mr. MICHEL and Mr. BOW the committee has reported a bill which generally reflects the needs of education on all levels. But I believe that it is still open to improvement, and I believe it is now time for the House as a whole to work its will in placing greater emphasis on higher educational needs.

We all recognize the budget restraints which the Congress and this administration are under. We have, therefore, kept this amendment to the minimum which we believe is essential to meeting the educational needs of the Nation.

There is an urgent need for additional funds in these areas. College enrollment will have increased by 32 percent over the past 4 years by next January. The States have already approved applications for more than $580 million in urgently needed college facilities to handle these increased enrollments.

While the need has been increasing, the Federal Government has been steadily backing away from its commitments. The Federal retreat has been dramatic—$216 million in 1969, $71 million in 1970, and nothing at all in 1971. This retreat from the Federal commitment has taken place without any alternative methods of financing coming to the fore. Although an interest subsidy program has been approved, not one single grant has been made. Federal officials admit that this program will be of little or no assistance to small and private institutions—forcing them into a critical situation.

The Appropriations Committee wisely increased our funding level for support for student loan and scholarship funds—but in doing so has left America's colleges without means of constructing facilities to house and teach the students they will enroll. I submit that we must fund the higher education facilities program at at least the level we approved in 1970—$71 million.

By the same token, I do not believe we can abandon our commitment to land-grant colleges. The proposed funding levels in the committee bill would result in a cutback of more than 10 percent in the entering freshmen classes in these institutions during the next year. Our land-grant college grants have traditionally supported instruction in the natural sciences, mathematics, engineering, agriculture, and related subjects. I believe we must continue those grants.

In an era of international tension, I feel it is particularly unwise to abandon the language training and area studies program which has provided the Nation with its expertise in international relations. As we begin to reexamine our defense posture, there is a need for increasing expertise in diplomacy and understanding of other nations and peoples. We cannot afford to abandon one of the few programs providing the Nation with the expertise necessary to meet our international obligations.

Are these amounts in excess of past appropriations? Definitely not. The recommended level of appropriations for facilities construction and language and area studies are precisely those which were approved by the Congress and signed by the President for fiscal 1970. For land-grant colleges they will be at a level equal to the appropriations for fiscal 1969 and the teaching equipment is at one-half the fiscal 1969 appropriations.

Has the President not proposed new programs to replace those for construction and land-grant colleges? Yes, but the new programs are not yet under-

way. Not one grant has been made under the interest subsidy program while the changes in the land-grant program have not yet even been considered by the authorizing committee.

I submit that these amendments are minimal in terms of the total budget but are vital to the future of higher education. No expenditure of Federal funds is more productive than the funds we devote to education. This is not money out the window. This is the best capital investment we can make—it cannot be eaten up or blown away, but will increase the total human abilities of our society.

I urge your support.

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

Mr. ESCH. I am happy to yield to the distinguished ranking member of the committee.

Mr. BOW. I wonder if the gentleman has any idea as to how many vacant rooms there are in college dormitories today.

Mr. ESCH. I yield to the gentleman.

Mr. BOW. I cannot give you the answer, but I know through a check that has been made there are some colleges where there are complete dormitories, with no one in them, that have been built by the Federal Government. Others are partially empty. I wonder how much farther we should go in building with brick and mortar if we do not know and have no information here as to how many dormitories are filled and what the need actually is, and whether there is some effort merely to build more buildings that will remain vacant.

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

Mr. ESCH. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Unless I am mistaken, I will say to my respected colleague from Ohio, the bill under consideration here is not addressed to the question of dormitory money but rather to the question of funds for academic facilities under title I of the Higher Education and Facilities Act, which provides for the construction of libraries, classrooms, and laboratories.

Mr. BOW. I agree with the gentleman that the item I have referred to is in the HUD bill, but I think it is one of the examples that should be considered so that we do not go merrily along our way making large appropriations without any knowledge of what the actual need is. It is a fact that that item is in the HUD bill for dormitories, but I used that simple example because the facts are that there are dormitories without a single person in them, and I think we ought to be careful in going ahead with more construction and building up this budget until we actually have before us the need.

Mr. ESCH. I appreciate the comments of the gentleman from Ohio. I would support an investigation of empty dormitories. However that is not the area we are debating here. The point to be made here is that we do have direct request through the States of over $500 million already on hand has been built up. Added to that, now we have an increased enrollment coming up within the next 5 years of an additional 2 million students, and this committee, rightly so, is giving more and more grants, and especially loans, so more students can go to colleges.

At the same time we are failing to support our colleges by not providing that needed facility money.

This is the point in question here. If we go into an interest subsidy program, are we going to have a year's lag or are we not? If the answer is we are not going to have it, then we need to provide this very minimum level of $71 million during this next fiscal year until we can get into a transition period. It just does not make sense to encourage more young people to go to college at the same time we are not providing—not the dormitories, as emphasized by the gentleman from Ohio, but the basic facilities, the classrooms that we need for those students to get their education.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

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

Mr. SMITH of Iowa. Mr. Chairman, I think I should point out, in connection with what the gentleman has said, that according to administration justifications, 58 million square feet is the deficit of college facilities at the present time. I also want to point out that what we are really talking about is how we are going to finance these facilities.

Mr. ESCH. Mr. Chairman, I appreciate the comments of the gentleman from Iowa.

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

Mr. ESCH. I yield to the gentleman from North Carolina.

Mr. JONAS. Mr. Chairman, I asked the gentleman to yield because I want to comment on a slightly different aspect of the problem of education. It does not involve a question posed to the gentleman so much as a statement which I will make at this time, because I see members of the Legislative Committee on the floor. I would like to relate these facts for the information of the members of that committee.

I recognize we have a serious situation in education. We have much to do to upgrade our educational system, and I am speaking now primarily of elementary and secondary education. We heard testimony before the Independent Offices Committee recently, when we were hearing HUD's budget request, in which it was brought out that the Model Cities Agency of the Department recently made a grant to a city for use in contracting with a private enterprise organization.

Mr. Chairman, this contract provided that the private enterprise agency would not receive any money under the contract if it failed to bring up the level of the reading ability and the knowledge of mathematics in a school in a city of the United States which I think I will not name. The report to our committee was that the results were fantastic. This private enterprise organization succeeded in so raising the level of comprehension of mathematics and the reading ability of the students in that particular school as to make it a fantastic result.

Mr. Chairman, I just wonder whether there are not some problems involved in our schools that money is not going to solve. I think that the legislative committee having jurisdiction over this subject and also the National Education Association might well interest themselves in this aspect of education.

I cite this as an example. If this can be accomplished by private enterprise, what is the matter with the public schools and why do they not improve the educational systems?

Mr. ESCH. Mr. Chairman, I appreciate the gentleman's comment. I concur that one of the responsibilities we have in this House and in the education community is to make more effective utilization of present facilities and talents. However, the point we are addressing ourselves to right now is the question as to whether we are going to provide classrooms for the youngsters in high schools today—who will be in college tomorrow.

Mr. GOLDWATER. Mr. Chairman, today the House takes up H.R. 16916, making appropriations for the Office of Education for fiscal 1971. I am in full agreement with the provisions and purposes of H.R. 16916, as reported out of the Committee on Appropriations, but wish to note that the provision of $440 million for aid to federally impacted areas constitutes only 76 percent of entitlement.

Most Members of the House have schools within their districts which receive these funds. My district will receive $3.09 million under last year's budget and this bill, would receive an additional $2.1 million if full funding were enacted. These moneys represent an important part of school budgets in the 27th Congressional District, and I would like to see some action taken to raise the entitlement from its presently low level. Such action should, of course, be accompanied by reforms in the Public Law 874 program to insure equitable distribution of these funds.

Mr. BOLAND. Mr. Chairman, this appropriations bill for the Office of Education falls far short of my expectations. Granted, the $4.1 billion sought in this legislation is a $319 million increase over the administration's budget request for fiscal 1971 and a $313 million increase over the education appropriations available the last fiscal year. But the bill is still inadequate—woefully inadequate. Let me cite just a few examples. The bill would provide only $1.5 billion of the $3.6 billion authorized for the ESEA title I program offering financial aid to school districts that must educate large numbers of poor children—a paltry 41 percent of entitlement. Funding for all ESEA programs would reach only 26 percent of entitlement, $1.9 billion out of an authorized $7.2 billion. I could cite many other examples here. Indeed, any Congressman genuinely concerned about the educational opportunities of this country's young people could enumerate scores of examples.

It is no exaggeration—in fact, it is

something of a cliché—to say that the future of the United States hinges on the education of its youth. Our educational institutions turn out the technicians, the businessmen, the doctors, the teachers, the craftsmen that have made this country's standard of life the envy of the world. To jeopardize these institutions would be to jeopardize the United States itself. The financial cutbacks sought in this legislation represent the most arrant brand of false economy.

How can we justify such piddling appropriations for the Nation's schools when we lavish scores of billions on military projects of highly dubious merit?

How can we plead "economy" to the country's youth, on the one hand and, on the other, spend billions for such profligate programs as the Safeguard ABM and agricultural subsidies?

Anything less than ample fiscal 1971 appropriations for the Office of Education threatens to breed mediocrity—or worse—in the Nation's school systems. The program offering aid to impacted school districts, for example, has been slashed by $80 million in the bill we are considering today. Thousands of school districts throughout the United States would founder in something akin to administrative and educational chaos if we countenance such an alarming cut. Faced with soaring enrollment rates and shrinking revenue sources, impacted school districts need Federal aid if they are to carry out their responsibility of educating the children of Federal employees and military personnel. We cannot cavalierly abandon our pledge to provide such aid.

I strongly support the amendments that will be offered today to increase appropriations for Office of Education programs—programs ranging all the way way from impact aid, to library construction, to aid for land-grant colleges.

We should—indeed, we must—pass these amendments.

The strength of our school system—a system celebrated worldwide—may hinge on their passage.

Mr. BROYHILL of Virginia. Mr. Chairman, I shall support H.R. 16916 when it is finally voted on in the House today, but in the meantime I shall support any amendments which will increase the funds for federally-impacted area schools by $80 million, bringing it up to the amount these school districts received in the appropriations measure we most belatedly voted for them for the current fiscal year.

As our colleagues know, I sustained the President's veto of last year's measure, because of concern over the serious economic crisis this Nation faces, and because I felt that if we are sincere about reducing inflation we must all tighten our belts with some sacrifice on everybody's part.

However, I disagreed then, as I disagree now, with the President's order of priorities in cutting expenditures. In many areas I believe he does not go nearly far enough, and in others, such as this impact aid program, he wants to completely eliminate aid for the bulk of the children now under the program.

Our committee colleagues in the bill they presented us today are, in effect, going along with the President's position, by eliminating $80 million from the program, all at the expense of class B children, those whose parents do not live on Federal property. Under provisions of this bill, the Office of Education informs me, class A children will receive 90 percent of their entitlement while class B children will be reduced to 45 percent. Far more equitable, in my opinion, would be the approach we finally adopted for the current fiscal year, 76.5 percent of entitlement for both categories. This would not represent an increase, Mr. Chairman, nor would it make up to the school districts for their increased costs due to inflation. But it would enable them to continue to operate with approximately the same amount of Federal funding they are now receiving and would lessen the impact on the communities as a result of complete elimination of this funding in 1 year.

If we are really going to reform this program as the President and the committee suggest, we must put the affected school districts on ample notice, and we probably should arrange for its reduction on a gradual basis. Year after year, with our on-again off-again approach we have left them uncertain for many months about how much Federal money they will receive. What we should do is provide them now with the money they have every reason to expect, and then set about making any changes we decide may be necessary with ample time for them to prepare for these changes.

Again may I say that I disagree with the critics of this program, both in the administration and in Congress. They cannot seem to understand what this program is all about. They say it is a bad program because it supposedly favors the wealthy; allegations they substantiate with charts comparing grants to certain schools in high-income communities to others in low-income communities. But they do not acknowledge that regardless of these comparisons, their allegations themselves show that they do not understand the intent of the impact aid program.

The Congress, when it enacted this program, intended to partially compensate communities suffering from the impact of Federal operations in their area by absorbing some of the extra local expenses resulting from such operations on property on which no real property taxes were paid. They used the school aid formula because it could be geared into the actual expenses of the communities providing services and based on the number of federally connected children being served.

However, in spite of the clearly-defined intent of the legislation, it has been confused with general aid to education and it is this confusion which has led inevitably to the comparisons of communities on the basis of need. As I have said often before on this floor, need has nothing whatsoever to do with the program. It is the acknowledgement by Congress that it owes a debt—a real property tax, a business tax—to any community in which it operates, Refusal to continue this program without providing a substitute for it amounts to refusal of the Federal Government to pay its just obligation, its debt, to these communities.

Because of the confusion among so many about this program, I have recently sponsored legislation which spells out the Government's obligation for exactly what it is, "a payment in lieu of taxes to the communities in which the Federal Government owns real property." I have been joined in this effort by several of our colleagues, and, while the bill needs perfecting to insure that it is equitable to all federally-impacted area communities, I am hopeful that our case may be heard, favorably considered, and presented to the President as our proposal for reform of the program. However, until the program has been reformed, I must again insist that we continue to pay this obligation we assumed many years ago to those communities in which we operate.

Mr. MINISH. Mr. Chairman, I am pleased to speak in support of the amendment to increase appropriations for higher education.

Higher education did not fare as well as elementary and secondary education in the budget for the next fiscal year and yet its needs are becoming increasingly acute in the face of rising enrollments and cost binds.

In actual fact, the college or university student today pays only about three-fourths of the cost of higher education in real economic terms, according to economist Howard Bowen, former president of the University of Iowa.

The Federal Government has provided support for higher education in the form of loans to students, research support and backing for special programs. But the Federal Government has done very little to solve the critical financial problems of institutions of higher education, aside from limited instructional funds for land grant institutions on a formula basis, and substantial support for operating costs of graduate schools of public health.

There also is need today for increased support, as represented in this amendment, to help curb the spiral of student charges.

The proposed cut in appropriations for instructional programs of the land-grant colleges and universities, for example, amounts to an equivalent of some 1,200 faculty positions and at least 18,000 students just at a time when enrollments already are at record highs and students consequently are being denied admission for lack of instructors and other staff.

Reduction of these funds also would mean that the entering freshman class of these institutions would have to be cut by 10 percent, failing help from State budgets already pressed to the limit.

The requirement for this amendment to increase appropriations, which would have a profound effect on these institutions, is even more apparent.

The basic question here is whether we are to act to relieve the critical and pressing threats posed to higher education by cuts in financial support at the very time when its needs are most serious.

Our institutions of higher education

were set up to provide maximum opportunity and they are continuing to carry out this mission against mounting difficulties.

It is evident that these institutions are committed to meeting the needs of American society. There is a deep awareness within every institution of higher education of the things that need to be done to carry out the education of young men and women and to do them well if given the resources.

Mr. Chairman, I should like to wholeheartedly commend the House Appropriations Committee, its chairman, and subcommittee chairman, for having reported out this bill early into the session. This action will have the effect of helping the schools facilitate planning for the following year.

I also support the increased amount for educationally deprived children under title I of the Elementary and Secondary Education Act. Most of it will go to pay for the cost of inflation. Moreover, this program has become vitally important in concentrating Federal assistance to school districts which have large numbers of children from low-income families. Unfortunately, most of the additional moneys will go to pay for the cost of inflation.

The worthwhile program of education for the handicapped was increased $20 million over the amount made available for 1970. We understand the need for this increase when it is considered that some 3 million handicapped children are not receiving appropriate remedial educational service.

Vocational and adult education, the program we look to in remedying the problems of high unemployment rates and lack of skilled employees, received an increase of $50,400,000 over the budget request.

I am gratified that the committee has not neglected to include instructional equipment in the appropriations bill, although it has been omitted by the Budget Bureau.

It is good, too, that the committee has appropriated $80 million for school library resources.

Mr. Chairman, I support the expenditures of tax moneys for these worthy programs, knowing as I do that they are investments that will pay off handsomely in the future.

Mr. MOLLOHAN. Mr. Chairman, the House Appropriations Committee is to be congratulated for its progressive and rapid consideration of the 1971 education budget.

After the extended debate about national priorities and our commitments to education last year, it is gratifying to see that the 1971 education budget reflects the needs of today. I am particularly gratified to see that the vocational education budget has been increased significantly.

Last year, the administration requested only $3.5 million for West Virginia's vocational education program, and while we raised that request by nearly $2½ million, we were able to get less than $5 million in the final appropriation. This year, the Appropriations Committee has approved nearly half a billion dollars for vocational education, and West Virginia will receive the full $6 million the State needs.

For, nearly two-thirds of the youngsters who graduate from high school in West Virginia will not go on to college, and nearly all those who drop out from high school do not receive advance education. As a result, West Virginia must provide opportunities for a solid vocational education to most of her youngsters. In addition to this commitment, West Virginia is also under a strong obligation to upgrade the skills of her labor force as a prime condition of a full economic recovery, and these two factors, in tandem, make it imperative for that State, that education on both vocational and college levels be provided to every youngster in the State.

West Virginia will also benefit from the increases the committee has given to the elementary and secondary education budget, for it is here where the most critical need for excellent education exists for my State. Last year, the final appropriation provided West Virginia with just over $22.5 million for her elementary and secondary education program. This year, we will appropriate enough to raise that commitment to over $25 million, an increase of 5 million over the 1969 funding level.

I think, however, the committee has been somewhat deficient in its allotment for higher education. In my judgment, we need a billion-dollar commitment, and I will, because of this, support the amendment to raise that commitment. This should allow West Virginia to add more than $7 million of Federal funds to her higher education program. Last year, the State received less than $5½ million for that purpose.

On balance, the committee has done its work very well, and I am very grateful for those efforts. In West Virginia, the most important investments that can be made are in education and transportation. This appropriation will add a very real dimension to our investment in education.

Mr. OTTINGER. Mr. Chairman, I rise in support of H.R. 16916, the Office of Education appropriation bill for fiscal 1971. I wish to commend the Appropriations Committee, and particularly the gentleman from Pennsylvania (Mr. FLOOD) for the expeditious action on this measure and also for reporting out an allocation of $4.127 billion, a $7.5 million increase over the President's niggling budget request of $3.4 billion for these important programs. I am proud that Congress has once again moved into the leadership vacuum left by an administration which places a higher priority on agricultural subsidies and on highway construction than it does on the future of America's children.

The increases put into the bill by the committee over the budget estimates deserve our unanimous support. I am particularly pleased to see the $105 million for education for the handicapped, $20 million over the 1970 appropriation and $10 million above the budget request. The increases to $490 million for vocational and adult education, and to $900 million for higher education are also moves in the right direction, although I am convinced we need still further funding of the latter to meet the financial needs of the accelerating numbers of high school graduates seeking admission to college. The committee is to be applauded particularly for substantially increasing what the President recommended for national defense and insured student loans, but it was forced to admit that the funds provided will not meet the need, in the words of the report that "there will still be many deserving students who cannot obtain private loans for one reason or another." We need more affirmative action in this area.

The ESEA funds are a disappointment once again also. I regret that our commitment to the disadvantaged could not be more forcefully demonstrated than the $1.5 billion for title I, only 41 percent of the authorization. Though the $1.8 billion for all ESEA programs is 12 percent more than the President wanted to spend in 1971, it still represents only 26 percent of the amount we are authorized to allocate. Once more we are treading cautiously in an area in which we should be engaging our total resources to prevent further deterioration of our embattled, underfunded schools across the Nation. Even the full funding of elementary and secondary education programs would be only a stopgap when compared with the $5 to $7 billion annual increase needed to keep our urban schools from sliding backward.

Once again the President has regrettably called for timidity and deliberate slowdown in these vital programs, to give us time to study the effectiveness of Federal expenditures for education. And once again, I must question why only educational obligations are subjected to such penetrating scrutiny. The American people are demanding that Government set its priorities in order, and I for one fear that time is running out on us if we are to remain relevant to these changing times.

But the funding levels are not the part of this legislation clamoring loudest for reworking. That privilege is reserved for sections 209, 210, and 211, the antibusing and freedom-of-choice amendments which have become a perennial excrescence on the legitimate legislative functions of this body. These pernicious sections must be stricken from the bill. They are clearly aimed at maintaining dual school systems in the South and preventing black children from exercising their constitutional right to an equal education. Like the Governor in the schoolhouse door, we seem every year, even twice a year now, to have to dispose of these subversions of opportunity in our continuing struggle to improve the quality of life for all Americans.

Mr. Chairman, there is nothing revolutionary about busing students to school. Every day throughout the Nation some 17 to 18 million pupils arrive at their schools by bus. It is the normal course of events. Yet the supporters of these amendments claim that forced busing is a violation of the rights of individuals and a disruption of family and neighborhood patterns. Why did they not protest the forced busing of 100 percent of the students in Neshoba County, Miss.,

to maintain a segregated system? Why did they not attack the unconstitutionality of the busing of Negro youngsters 46½ miles one way every day from Sturges, Miss., where there has always been a white school, to Maben, Miss., and back to maintain segregation? Constructionists indeed. The simple fact, Mr. Speaker, is that counties throughout the South have for decades been guilty of forced busing of 68, 80, 90, even 100 percent of their young people to block the rights of black children to attend their neighborhood schools. The pleas about the injustice of busing ring hollow now indeed. In fact, the court-ordered busing to achieve unitary school systems in the South will actually cut down the percentages of children who will need to be transported to school.

The Commission on Civil Rights has put this matter into clear focus. It has pointed out the deviousness of the "neighborhood school" concept in a land where zoning ordinances, public housing policies, and a variety of subtle official actions maintain de facto segregation that is little different in its divisive effects from de jure segregation. The Commission rightly criticized the President's stand—read "nonposition"—on equal rights, and pointed to the pressing need for moral leadership at a time when so many of our institutions are outmoded, irrelevant, or even threatened. The Commission pointed to the schools as the one vehicle with the potential for making the American dream a reality, when it said in a recent report:

> There simply is no other institution in the country so equipped to do the job. If the public schools fail, the social, economic, and racial divisions that now exist will grow even wider. It would be even worse, however, if the schools do not even try.

The opportunity is ours today to declare our faith in what we believe to be the highest ideals of the American vision. Let us once and for all time lay to rest the suspicions of our minorities and our disadvantaged that this is an elitist country with no concern for the development of the fullest potential of every individual. These segregationist amendments need to be buried with finality in the graveyard of discredited practices whose day is finished.

I urge my colleagues to speak with firmness and conviction for the leadership of this House in reaffirming the high road we need to travel if this Nation is ever to achieve its maximum potential.

Mr. LOWENSTEIN. Mr. Chairman, I just want to take a moment to say how much I appreciate the efforts of the distinguished gentleman from California (Mr. COHELAN) during this debate. He has, as usual, provided valuable leadership in the effort to cope intelligently and fairly with the critical problem of ending racial injustice in our educational system. We are in his debt for his leadership and persistence. However the voting goes today, men of good will will continue the fight against racial discrimination. The stakes are too high for further compromises or evasions. What a tragedy it is that it is still necessary to discuss this whole matter so very late in the history of the Republic.

Mr. GIBBONS. Mr. Chairman, I am pleased that funds are included in H.R. 16916 to further implement the cooperative education program. This program is one of the finest self-help programs involving education and jobs the Congress has authorized. Although the funds requested in H.R. 16916 are modest, there were no funds requested in the President's budget, so I am grateful for the action taken by the Appropriations Committee in recognizing the merits of cooperative education. The action taken by the committee would provide that 1 percent of the work-study funds—which total $160,000,000—can be placed on cooperative education.

The funds we are providing will not be used to pay students' salaries, for they are paid by their employer, with no Federal assistance, but the funds will be used to assist colleges, universities, and community colleges to hire the necessary professional staff to activate and expand cooperative education programs.

Of course, much more needs to be appropriated to enable the more than 700 colleges and universities who have already expressed an interest in this program, to participate in it.

I am the author of the authorizing legislation which is contained in Public Law 90–575, and I know personally of the merits of the program, having seen it in active operation ever since I have been a Member of Congress. For the past 7 years, I have had two University of South Florida political science students assisting me in my office during their cooperative education work periods. When these periods end, they are replaced by two more students with political science majors. I am benefited by their help and they have the advantage of experiencing some of the real problems of self-government.

There are now 85,000 students in cooperative education programs in 155 colleges, universities, and community colleges. They alternate study and work. They study 3 months on campus then they work 3 months in a job related to their studies. Many of these 85,000 students could not get an education today were it not for this self-help program. These students are earning in 1970 over $190,000,000 toward the cost of their higher education. In addition to providing funds for their education, they are contributing taxes to the U.S. Treasury.

The basic purpose, however, of Congress promoting cooperative education is to make higher education more relevant to the needs of today's youth and today's society. Congress rarely has the opportunity to move toward this goal.

Every thoughtful observer agrees that we need a reorganization of higher education that would mix job experience with education. Cooperative education does that. Our young people need the chance to get out of the lockstep of school and try out their career interests in meaningful jobs. And, it is job experience that can convert rebellious adolescents into mature adults.

Much of the student unrest arises from a demand by youth for educationally relevant experience—and the jobs in cooperative education programs can and do give 85,000 of our young people relevant education.

I do not know whether many Members realize that there is a great demand by business and industry for cooperative education students—a demand far greater than now supplied by educational institutions.

It is to all of our interests to see a closer union of education with business and industry. It is to the advantage of all our young people to have the means of getting into the world of work at the earliest opportunity.

It is particularly of value for disadvantaged young people to be able to mix job experience with their program of education. This increases motivation and tends to prevent their becoming "dropouts." Cooperative education can be the bridge for disadvantaged youth to pass successfully into many of the careers now denied to them.

In the past few years, educational leaders have begun to realize the great possibilities and usefulness of work-study programs.

The time has come for Congress to spend money expanding cooperative education in higher education because it is an educational program that does work. I am hopeful that the Senate will increase the funds for this program, and that in a short time, the Congress will fully implement with funds the program that has been authorized.

Mr. GILBERT. Mr. Chairman, though I am gratified about the increased funds in sections of H.R. 16916, the Education Appropriations Act passed by this House today, I remain hopeful that this body will yet get another chance to improve the bill when it returns from the Senate.

I specifically refer to the need to delete language in the bill designed to slow school desegregation, as well as the need to include additional funds for needed programs this body did not see fit to include in the bill we passed today.

I opposed the two amendments kept in the bill that are designed to legalize free-choice school plans and to prevent school busing to achieve racial balance.

I strongly supported amendments to provide an additional $9.3 million for language training centers and $4 million for library construction and services. I regret they were not approved.

Altogether, amendments costing $271 million were not allowed full consideration by the House. I am as aware as any man in this body of the need to save money wherever possible, but we are compromising this Nation's future when we pinch the educational needs of the Nation's schools.

I would remind the House that last year's education bill, passed only after great effort to improve the bill as brought to the floor, is not overflowing with money. Yet that bill contains $92 million more for college aid than the bill we passed today.

Those of us who supported the liberalizing amendments on the floor were

doomed to disappointment. We now turn our hopes to the Senate and can only pray changes there will bring the bill back to the House for conference.

This bill passed the House today by voice vote, allowing Members to escape from having to go on record as to where their sympathies lie. I suggest the House rectify that indiscretion on the conference bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, section 102(b) ($20,000,000), parts B ($350,336,000), D, F $17,500,000), G ($18,500,000), and H ($5,500,000) of the Vocational Education Act of 1963, as amended (20 U.S.C. 1241–1391), the Adult Education Act of 1966 (20 U.S.C. ch. 30) ($55,000,000), and section 402 of the Elementary and Secondary Education Amendments of 1967, $490,446,000, including $20,000,000 for exemplary programs under part D of said 1963 Act of which 50 per centum shall remain available until expended and 50 per centum shall remain available through June 30, 1972.

The CHAIRMAN. For what purpose does the gentleman from Michigan (Mr. WILLIAM D. FORD) rise?

POINT OF ORDER

Mr. WILLIAM D. FORD. Mr. Chairman, I make a point of order as to the language in the proviso in the paragraph entitled "School Assistance in Federally Affected Areas." The point I make goes to the language which appears on line 6, page 2, extending down through and including all of line 12. I make the point of order, it is in violation of rule XXI of the rules of the House.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. FLOOD), care to be heard on the point of order?

Mr. FLOOD. Yes, Mr. Chairman, I do.

I do not like to operate this way, but I am the chairman of the subcommittee and obviously I must object, and make a point of order because the point of order comes much, much too late. We have passed that point in the bill.

The CHAIRMAN. The Chair will state that the Clerk had read past that paragraph of the so-called title I, and stopped at line 14 on page 3. The gentleman was not on his feet seeking recognition at the time the first section, down through line 12 on page 2, was read.

Mr. WILLIAM D. FORD. Mr. Chairman, the paragraphs are not being read. The bill is being read by paragraph headings. I was on my feet at the beginning of the reading. As a matter of fact, I moved from there to here as soon as the Clerk began to read. I was never off my feet from the moment he started the reading. I was trying to get to the point in the bill.

The CHAIRMAN. The Chair cannot observe the movements of the Members from place to place. The gentleman was not seeking recognition at the time when he should have been, under the rules. He should have been seeking recognition vocally, not by standing.

The Chair sustains the point of order made by the gentleman from Pennsylvania (Mr. FLOOD).

The Clerk will read.

The Clerk read as follows:

COMMUNITY EDUCATION

For carrying out, to the extent not otherwise provided, titles I ($35,000,000), II, III ($2,281,000) and IV ($3,428,000) of the Library Services and Construction Act (20 U.S.C. ch. 16); title II (except section 224) of the Higher Education Act of 1965 (20 U.S.C. 1021–1033, 1041), section 402 of the Elementary and Secondary Education Amendments of 1967 and part IV of title III of the Communications Act of 1934 (47 U.S.C. 390–395), $71,636,000, of which $5,000,000, to remain available through June 30, 1972, shall be for grants for public library construction under title II of the Library Services and Construction Act, and $6,000,000 shall be for educational broadcasting facilities and shall remain available until expended.

AMENDMENT OFFERED BY MR. ESCH

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

The Clerk read as follows:

Amendment offered by Mr. ESCH: Strike out lines 17 and 18 on page 3 and insert in lieu thereof the following: "titles I, III, IV (except part F), part E of title V and title VI of the Higher Education Act of 1965, as amended, title I, including section".

And, on line 2 of page 4, strike out "$899,-880,000" and insert in lieu thereof "$992,-100,000"

POINT OF ORDER

Mr. FLOOD. Mr. Chairman, I make a point of order against the amendment on precisely the same grounds. The Clerk has now read past page 4, line 17, "Community Education."

The gentleman was not on his feet. He did not address the Chair. The amendment is clearly out of order.

Mr. ESCH. Mr. Chairman, I was on my feet, and as soon as the Clerk read "higher education" I said, "Mr. Chairman."

Mr. Chairman, I sincerely object to the fact that I am not given recognition. I was on my feet, having recognized the experience of the previous Member.

As soon as the Clerk read "higher education," I said "Mr. Chairman" twice.

The CHAIRMAN. The Chair would like to protect the gentleman in his rights. If the gentleman did address the Chair, the Chair did not hear the gentleman at that point. The gentleman may make a unanimous-consent request that his amendment be considered although the Clerk had passed it at the time he was recognized by the Chair, and, if there is no objection, the amendment can be considered under those circumstances. Does the gentleman make such a request?

Mr. ESCH. Mr. Chairman, I ask unanimous consent that my amendment be considered.

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

Mr. FLOOD. Mr. Chairman, I must protect the bill. I am pained, but I must object.

The CHAIRMAN. The Chair is constrained to uphold the point of order of the gentleman from Pennsylvania. The Chair wants to be fair, but the gentlemen in the Chamber that wish to offer their amendments must be on their feet.

Mr. ESCH. Mr. Chairman, I object to the consideration—may I have the floor for a moment to make a statement?

The CHAIRMAN. The gentleman can move to strike the last word if he wishes to give an explanation.

Mr. ESCH. I so move. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Chair recognizes the gentleman for 5 minutes.

Mr. ESCH. Mr. Chairman, with due consideration to the chairman of the appropriations subcommittee and with due respect to the Chair and to this House, I think it is very unfortunate that when a Member was seeking recognition and was standing at the time that the section was starting to be read that due apparently to an oversight on the part of the Chair a Member of this House will not have an opportunity to present an amendment and give this House and this body an opportunity to work its will. I am especially addressing myself not only to the Chair but especially to the chairman of the committee. This committee has been most responsible in bringing forth this bill to this point. Surely the chairman will now have this House work its will. Surely he is not afraid of any amendments which might be proposed by any Members on this floor. To do otherwise is to create an atmosphere on this whole bill that would cloud the very reputation not only of the subcommittee but of the House itself. I sincerely hope that the subcommittee chairman would concur and grant us unanimous consent to present our amendments. Let it rise or fall on the merits as to who determines those merits, but not on the possible oversight of a Member by the Chair at a given time.

At a time when the reputation of the House is being questioned by many citizens throughout our land, surely the Chairman will not allow this undemocratic act to stand, merely in his own words "to protect his bill."

Mr. BRADEMAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had planned to and will indeed say a word about the amendment that would have been offered by the gentleman from Michigan (Mr. ESCH).

I had not planned, however, to say what I am about to say, but I respectfully want to suggest, Mr. Chairman, that on matters of very great moment such as the bill before us, which affects our entire system of education, I think it is most unseemly and, I would say, indeed demeaning to the House of Representatives that Members of this body should, because of an oversight apparently of the Chair—and I say this with no disrespect for the Chair, because he knows I have great affection and indeed love and respect for him—that a Member of this body should not be afforded an opportunity to present to the Members of the House of Representatives an amendment with respect to which they were on their feet seeking recognition.

I know I do not find myself alone in hearing many criticisms voiced against the Congress of the United States and the House of Representatives as not be-

ing effective in meeting the needs of the people of our country.

We are now, I suggest most respectfully, Mr. Chairman, giving the people of the United States a good example of how the Congress of the United States ought not to operate. And I say this in strong defense of the right of my friend who is on the minority side (Mr. ESCH).

Now, it is true that I plan to support him in his amendment. But I want to say most respectfully, Mr. Chairman, that if a Member of this body with whose views I do not happen to find myself in accord on a particular amendment should find himself deprived of the right to offer his amendment by virtue of a similar oversight, I would speak out in support of his right as well.

Therefore, I would hope that the great eloquence of our friend, the gentleman from Pennsylvania (Mr. FLOOD) would be heard when I have finished talking to rise to ask unanimous consent to enable the gentleman from Michigan (Mr. ESCH) to offer his amendment and that we should not have this shameful blot, I say to my friend from Pennsylvania, on the House of Representatives.

It ought to be possible for Members of this body to have a chance to debate like rational men and women some of the important issues that affect the people of our country without this really—I reiterate—demeaning experience which has been visited upon my friend, the gentleman from Michigan (Mr. ESCH), not to speak of our other friend on the majority side, the gentleman from Michigan (Mr. WILLIAM D. FORD).

Now, Mr. Chairman, I should like to express the hope that we shall have the unanimous-consent request by the gentleman from Pennsylvania (Mr. FLOOD) and that the gentleman from Michigan (Mr. ESCH) will be able to offer his amendments and then let us vote them up or down on the merits and not handle them by this rather childish procedure to which we have been treated here in the last 5 minutes.

Now, Mr. Chairman, I want to say, if I have any time left, just a word about the substance of the amendments which the gentleman from Michigan (Mr. ESCH), proposes to offer, for it does seem to me that in two or three respects they are deserving of the support of the Members of this body. I speak first, of the increase of some $71 million in funds for construction of classrooms and libraries and laboratories for meeting the needs of our expanding post-secondary education in the United States.

Mr. Chairman, the administration has asked not one penny for these programs but, has rather told the university presidents of the country and the students of the country to go down to their friendly neighborhood banker and borrow the money. But, everyone in this body knows that is not an easy thing to do at this particular time of high interest rates.

So, Mr. Chairman, I hope the gentleman's amendment will be supported at that point just as I hope it will be supported for increased funds for title VI, the foreign language and area programs under the National Defense Education Act.

Mr. Chairman, the distinguished authority on China, probably the best known in the United States, Prof. John King Fairbanks of Harvard, said not long ago that the United States in respect of the field of Vietnamese studies is confronted with a scandalous situation.

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

(By unanimous consent (at the request of Mr. FLOOD) Mr. BRADEMAS was allowed to proceed for 5 additional minutes.)

Mr. BRADEMAS. I thank my friend from Pennsylvania.

Mr. Chairman, I was addressing myself to that part of the amendment to be offered by the gentleman from Michigan (Mr. ESCH) and on which I reiterate, I hope we have soon an opportunity to vote it up or down, in which he seeks increased funding for title VI, the language and area programs funded under the NDEA Act. I was citing but one instance to indicate the need for increased funding and I was citing the fact with respect to the major foreign policy problem that our country faces—Vietnam—with respect to which country, we have a grave shortage of competent scholarly knowledge in the United States. Indeed, the United States, Mr. Chairman, does not have a single Vietnamese scholar who meets the following qualifications: holds a full professorship; has substantial standing in his discipline; has a language background in Vietnamese, French, and Chinese; has a body of published work dealing with Vietnam; and has conducted in-country field research.

Is it not ironic, Mr. Chairman, that we should be spending our treasure and our national energies and resources and our men in that far-off country, and yet be unwilling to invest a modest amount of money in order better to be able to understand the culture, the customs, the politics, the economics, and geography of Vietnam? I could cite other instances.

So, Mr. Chairman, I hope very much this part of the amendment intended to be offered by the gentleman from Michigan (Mr. ESCH) providing for a modest amount of money for title VI, foreign language and area studies, will be supported.

In addition, Mr. Chairman, I hope that that part of the amendment intended to be offered by the gentleman from Michigan (Mr. ESCH) that would be addressed to equipment to help some of our colleges and universities do a better job of teaching, especially the smaller and poorer colleges and universities of the United States would be supported, for the title VI–a grants provide incentives for matching institutional funds in an area that is often neglected by those colleges and universities whose funds are very limited. And such grants as these, as I think anyone knows who has visited their campuses will appreciate, are greatly needed to enable them to elevate the quality of their instruction.

In fiscal year 1969 less than $15 million was available under this program, but no funds at all were appropriated for it during the current fiscal year. I hope, therefore, that the proposed level of $8 million contained in the proposed amendment of the gentleman from Michigan (Mr. ESCH) will also be agreed to by the House in the event that my friend, the gentleman from Pennsylvania, who so graciously asked unanimous consent to let me continue for 5 more minutes, will be good enough to follow it with another unanimous-consent request to enable Mr. ESCH to offer his amendment. I have had the great good fortune of speaking in the district of the able and distinguished chairman of the subcommittee. I, therefore, know something of the importance of the colleges and universities in the district represented by the gentleman from Pennsylvania. I know what a champion of higher education the gentleman is. Indeed, I envy the fact that there has been a building named after the gentleman at an institution of education in his own district. I hope that the gentleman will follow that great tribute to his leadership in education by at least enabling the Members of this body to have an opportunity to express their views on the amendments to be offered by the gentleman from Michigan (Mr. ESCH) which would I think redound to the benefit of higher education all over the length and breadth of this country.

I shall now yield to the gentleman from Michigan, and then to the gentleman from Iowa.

PARLIAMENTARY INQUIRY

Mr. O'HARA. Mr. Chairman, I thank the gentleman from Indiana for yielding. I would like to address a parliamentary inquiry to the Chair, if I might.

The CHAIRMAN. Will the gentleman from Indiana yield for that purpose?

Mr. BRADEMAS. Of course, I will yield for that purpose.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. O'HARA. Mr. Chairman, I would like to inquire of the chairman on behalf of the Members who had amendments which they sought to offer earlier, but were unable to do so, if it is not possible for a substitute for the entire bill to be offered at the completion of the reading of the bill so that they could combine their amendments in that substitute if they wished to do so?

The CHAIRMAN. The Chair will state that the Chair is inclined to believe that a substitute is always in order at the proper time unless there is a portion of the rule which prohibits the substitute. And the Chair would entertain a proper amendment if offered at the proper time.

The Chair wishes to say that the Chair is most desirous of occupying this chair with dignity and with fairness to all concerned. There were other amendments that the Chair had been told would be offered, and the gentleman who came and told the Chair were not on their feet seeking recognition, nor did they address the Chair at the time, and therefore the Chair was in the position of allowing the Clerk to continue to read.

If the Members do not protect their own rights and use the rules of the House to their advantage, the Chair is not here to protect them when they do not insist on their own rights at the proper time.

The Chair says this with no degree of

reprimand, but the Chair is the servant of the House, and the Chair will try to be fair.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman.

Mr. O'HARA. I have known the gentleman from California (Mr. HOLIFIELD) who is now presiding as Chairman for a good many years. I know that among all the Members of this body he is perhaps the one who tries the very hardest to be fair. I know there was certainly no intention on his part to be unfair. I did, however, want to clear up the point that it will be possible, that if those Members who had amendments that they are not now permitted to offer, were to combine their amendments that they will be able to offer them as a substitute upon the conclusion of the reading of the bill.

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

The Chair will say further that it is not up to the Chair to instruct Members as to how and when to offer amendments. But in an attempt to be helpful to the gentleman from Michigan (Mr. ESCH) the Chair did tell the gentleman that if he asked unanimous consent and if there was no objection that that was the way he could get consideration of his amendment. The gentleman did ask and there was objection and the Chair, therefore, had to rule that his amendment was not in order.

Mr. BOW. Mr. Chairman, I move to to strike the last word.

Mr. Chairman, the gentleman from Indiana (Mr. BRADEMAS) has chided the House for the manner in which it is legislating, the manner in which these bills are being presented to us, and for not giving the Members an opportunity to be heard. I disagree. The gentleman from Pennsylvania is absolutely correct in protecting this bill. The bill already is, however one may look at it, substantially over the budget. I consider it $700 million over the budget and I believe the gentleman from Pennsylvania would consider it at least $300 million over the budget.

It seems to me the committee has done a good job in bringing this bill to us.

But these proposed additional increases place this bill in danger. I call attention to the last paragraph of the President's message of yesterday when he signed H.R. 514, the Elementary and Secondary Education Amendments of 1969. He said:

> I am signing H.R. 514 only to assure continuation of appropriations in Fiscal 1971 for important programs whose authorizations expire on June 30, 1970. Later, when the education appropriations bill comes to my desk, I will evaluate it by the criteria which I have mentioned in this statement and in my message to Congress concerning education. Is the level of funding realistic and responsible? Does it concentrate funds where they can do the most good? Does it expand our efforts to discover what works and what does not work in education? Does it satisfactorily reform programs such as aid to impacted areas and the other outmoded programs?

Let us be careful. This committee has brought in a bill with sufficient funding to do a good job in education next year. We brought it here early so that school officials can plan ahead. If we pass this bill as the committee has recommended, the school authorities will certainly have the opportunity to plan ahead. But if we go too far, we may find ourselves in the same situation we were in last year. We might not have a bill to pass on to the school authorities.

Now I, too, am concerned about what the gentleman from Indiana (Mr. BRADEMAS) said about the Congress. I think there may be times when the Congress should be chided—but this is not one of those times.

It is appropriate to ask where these increased figures come from that are being proposed here today? What committee of the Congress has recommended these amounts. What committee of the Congress has made a study resulting in these proposed increases.

I hold in my hand the entire list of amendments to be offered today. Are they from the Committee on Education and Labor? No. Are they from the Committee on Appropriations? No. They are from the Emergency Committee for Full Funding of Education Programs, Stanley J. McFarland, chairman.

I do not recall that he is a Member of Congress. I do remember that after the last bill he said he was going to defeat 20 Members of Congress. August W. Steinhilber is also listed. I do not find him on the congressional rolls. Charles W. Lee is identified as executive secretary. He is no Member of the House of Representatives. The offices of these men are not listed as being in the Cannon, Longworth, or Rayburn Buildings. Their offices are shown as located at 300 New Jersey Avenue, in the Congressional Hotel.

This is their document I hold in my hand. This is their recommendation to the House of Representatives.

Now I do find these men listed in the CONGRESSIONAL RECORD. I find Mr. Stanley J. McFarland registered as a lobbyist for the National Education Association. Mr. Charles W. Lee is listed in the CONGRESSIONAL RECORD as a lobbyist for the Emergency Committee for Full Funding. And the Emergency Committee for Full Funding of Education Programs, which is presenting these amendments to you today, is also listed in the RECORD—registered the same way. I do not find Mr. Steinhilber listed anywhere.

Mr. Chairman, I include their entire letter at this point for the information of the Members:

EMERGENCY COMMITTEE FOR FULL FUNDING OF EDUCATION PROGRAMS,
Washington, D.C., April 13, 1970.

FLOOR AMENDMENTS TO H.R. 16916, OFFICE OF EDUCATION APPROPRIATIONS, FISCAL YEAR 1971

Program	Revised budget	Committee allowance	Add-On amendment	New total
Impact Aid—Public Law 874: Amendment would permit funding of Category "B" students at fiscal year 1970 level. Budget and committee funding would permit but 45 percent of entitlement for children whose parents live or work on Federal property. Fiscal year 1970 funding=$505,000,000	$425,000,000	$425,000,000	$80,000,000	$505,000,000
Subtotal impact			80,000,000	505,000,000
Higher education programs:				
Aid to land-grant colleges fiscal year 1970 funding=$12,120,000	0	8,080,000	3,870,000	[1] 11,950,000
2 and 4 year college construction HEFA title I (fiscal year 1970 funding=$71,050,000	0	0	71,050,000	71,050,000
Language training and area centers NDEA title VI (fiscal year 1970 funding=$15,300,000)	6,000,000	6,000,000	9,300,000	15,300,000
Matching grants for teaching equipment Higher Education Act, Title VI (fiscal year 1969 funding=$14,500,000)			8,000,000	8,000,000
Subtotal higher education			92,220,000	
Library programs:				
Library Services and Construction Act title II—construction (fiscal year 1970 funding before reduction=$9,185,000)		5,000,000	4,185,000	9,185,000
College library programs title II Higher Education Act:				
Pt. A. College library resources	9,900,000	9,900,000	10,934,000	20,834,000
Pt. B. Library training	3,900,000	3,900,000	2,933,000	6,833,000
Pt. C. Acquisition and cataloging Library of Congress	5,727,000	5,727,000	1,010,000	6,737,000
Subtotal Library			19,062,000	
Total add-on for 3 amendments			191,282,000	

[1] Fiscal year 1969 level.

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

Mr. BOW. Not at this time.

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

Mr. BOW. Mr. Chairman, I ask unanimous consent that I may proceed for 3 additional minutes.

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

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

Mr. BOW. Not at this time.

Mr. ESCH. Mr. Chairman, I object.

Mr. MAHON. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. MAHON. Mr. Chairman, I do not rise to discuss the merits of the pro-

posed amendments, but rather to undertake to put them into the context of the fiscal problem which is facing the House of Representatives and the American people generally.

President Nixon sent down his fiscal 1971 budget on February 2. In that budget, he proposed that we spend, in fiscal 1971, all of the general revenues estimated to be collected by the Treasury in fiscal 1971—the so-called Federal funds. Not only did he recommend that we spend all of the Federal revenues, but in addition, he proposed that the Government borrow about $8.6 billion from the excess revenues in the various trust funds from the highway trust fund, revenues which are dedicated to highways; from the social security trust funds, revenues which are dedicated to social security programs; and others.

That is the situation under the so-called unified budget plan, which was inaugurated with the fiscal 1969 budget. For fiscal 1971, the President's February budget projected a tenuous surplus of $1.3 billion—a deficit of $7.3 billion in the Federal funds portion, more than offset by a surplus of $8.6 billion in the trust funds portion.

The President probably did the best he could under all the circumstances to submit a tight budget. But even doing the best he could, he still proposed that we spend all the revenues estimated to be available in Federal funds, plus about $8.6 billion to be borrowed from funds dedicated to highway, social security, and other trust fund purposes.

Mr. Chairman, that is the overall budget picture which it seems to me must be continually kept in mind as the House considers increases for various programs.

It is a matter of our getting the revenue to pay for meritorious increases. When we have the additional revenue available, or when we can reduce our defense spending as a result of satisfactory agreements with the Soviet Union and otherwise, I think all of us would like to see many of these programs accelerated. But inflation is more or less constantly eroding the buying power of the dollar. We just must realize that if we authorize and appropriate more and more funds for expenditure, we will add to inflationary pressures and the dollar is going to buy less and less and less.

So, in considering amendments to increase the bill, I just believe we ought to keep uppermost in mind that the Federal funds portion of the budget is already in the red by more than $7 billion. In view of the retroactive pay increase for Federal civilian and military personnel just voted, and in view of various other factors adverse to the budget which I will not undertake to relate, even the so-called unified budget surplus that was projected is slipping away. It will, in my judgment, vanish altogether in the current fiscal year 1970, and go into the red. The same is true of the fiscal 1971 budget.

From the standpoint of both the rich and the poor alike, the current highly volatile inflationary situation underscores the necessity to follow a higher order of restraint in approaching the fiscal business of the session.

We ought to do everything reasonably possible to strengthen the dollar. Stopping the deterioration of the dollar would be in the interest of everybody. And it would be in the interest of all who sponsor and support successful Government programs. That is my plea.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to say to begin with that I am a strong supporter of that part of the Esch amendment which deals with college facilities. We are not talking here about whether to spend more money. What we are talking about is whether to pay for it on a cash basis or on a deficit basis. The administration has proposed $560 million of construction entirely on an interest subsidy basis, with a down payment this year and other payments for 39 additional years. The total cost being probably between $600 million and $800 million. What the amendment would do is make part of the construction program on a cash basis; $71 million would be on the cash basis, and that would reduce the amount we would go in hock for.

I do not think we should be financing higher education on this basis, especially when it cost more and grants are greatly needed. Besides, it is very misleading to pass a bill that includes a large obligation to be paid in future years which is not reflected in the figures on the bill.

But having said that, I want to say a word about the chairman of our subcommittee. I do not think it is really right for him to be attacked in this way. He is in charge of the bill. He has been eminently fair. I was one of those who wanted to vote for the Esch amendment, but I think the chairman is entirely within the rules.

Members work within the rules but attempt to win support of their respective positions. It works that way. I remember last year when the gentleman from Indiana made a point of order against language I had in a bill. He did not want that to be debated. He did not think it was shameful at that time to prevent debate of certain language in the bill. He was within the rules on that. When we work within the rules, we do just that. What it amounts to is that people who live in glass houses should not throw rocks. We have rules and if a Member uses the rules to get his way, that is all right.

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

Mr. SMITH of Iowa. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, first of all, with respect to the first point the gentleman made, on funds for higher education facilities, I believe that the gentleman is really saying that that part of the amendment of the gentleman from Michigan (Mr. ESCH) is more fiscally responsible than is the administration method of financing such facilities.

Mr. SMITH of Iowa. I think that is true.

Mr. BRADEMAS. Mr. Chairman, I agree with him on that; I believe the gentleman from Iowa is right.

Second, Mr. Chairman, with respect to the point the gentleman has just made, of course, I do not for a moment disagree with the gentleman that to make a point of order is a violation of the rules of the House. That was not my complaint at all, as I am sure the gentleman, on reflection, would agree. My complaint was rather that it seemed to me, sitting here as I have been for the last several hours and watching what happened, I observed what seemed to me to be an oversight that denied and deprived the gentleman from Michigan (Mr. ESCH) of an opportunity to offer his amendment.

I was certainly not voicing my objection to the right of my friend from Pennsylvania to make a point of order, which, of course, he has every right to do.

Mr. SMITH of Iowa. My point is, I do not believe, really, we should say the gentleman from Pennsylvania committed a shameful act or something like that. He was just doing what every other Member does around here. If one can make the rules work for him, he used them. The gentleman from Pennsylvania was alert. He was on his feet. He worked the rules to his advantage, and that is what he is supposed to do.

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

Mr. SMITH of Iowa. I yield to the gentleman from New York.

Mr. SCHEUER. I have the highest respect for my colleague from Pennsylvania. He has been eminently fair and considerate of his fellow colleagues, and I honor him for that.

He said he was objecting to the unanimous-consent request of the gentleman from Michigan (Mr. ESCH) because he had to protect the bill. I do not believe he is really protecting the bill. I do not believe he is protecting the legislative process. I do not believe he is protecting the principle of open and full debate. I do not believe he is protecting the integrity of this institution or the credibility of its Members, in an age and time when both are being subjected to searching scrutiny and questioning.

I hope deeply that we will all cease and desist further exercises in gamesmanship in throttling debate and cutting down Members, of both parties, who wish the House to hear their views in working its will.

I say this with all due honor and respect to my distinguished colleague from Pennsylvania.

AMENDMENT OFFERED BY MR. PRYOR OF ARKANSAS

Mr. PRYOR of Arkansas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRYOR of Arkansas:

On page 4 strike out line 21 and substitute in lieu thereof the following:
"U.S. ch. 16); title II A ($20,834,000), title II B (except section 224) ($6,833,000), title II C ($6,737,000) of the Higher"

And, on line 24 after "1967" insert "($400,000)"

And, on line 25 strike out "$71,636,000" and substitute in lieu thereof "$90,698,000"

And, on line 1, page 5, strike out "$5,000,000" and substitute in lieu thereof "$9,185,000"

Mr. PRYOR of Arkansas. Mr. Chairman, it is with some reservation that I offer an amendment contrary to that of the distinguished Subcommittee on

Appropriations, and especially its splendid chairman, the gentleman from Pennsylvania (Mr. FLOOD).

The amendment I offer the Members for consideration today, in simple terms, brings the appropriations for two library programs basically in keeping with the 1970 figures as passed by the House and Senate.

My amendment would increase title II of the Library Services and Construction Act over that recommended by the subcommittee by $4,185,000.

My amendment would also increase title II of the Higher Education Act, college library assistance and library training, by $14,877,000. Both are splendid, worthwhile, and necessary programs.

Mr. Chairman, under the Library Services and Construction Act the accomplishments from 1957 through 1969 are truly remarkable. These accomplishments demonstrate how Federal and State Governments can perform together in a spirit of cooperation in an effort to provide the right to read to every American citizen, rich or poor, black or white, rural or urban.

In the 12 years of the existence of LSCA, let us examine just a few of those accomplishments: 85 million people received new or improved library services; 15 million people received public library services for the first time; 45 million books and related materials were purchased; 650 bookmobiles were placed in operation; and 3,200 persons were employed in the States to carry out the LSCA program.

In fiscal year 1969 alone, approximately a half million people had access to public library services for the first time because of the Library Services and Construction Act: 1,500 public library buildings were approved to serve 50 million people; $135 million in Federal funds for public library construction were used by States and matched with $326 million in State and local funds.

But the job is not over. We still have in America almost 16 million people who are without public library services. Our obligation is clear—and providing the opportunity for these Americans to have public libraries must be our highest priority.

There are presently 271 construction projects waiting for LSCA funding and we should at least fund to last year's level to demonstrate our faith in this outstanding program of Federal-State cooperation.

Further, Mr. Chairman, my amendment would add to the committee's proposal $14,877,000 to title II of the Higher Education Act for college library assistance and library training.

Under part A, which is used for the purchase of books, audiovisual materials, periodicals, documents, and other related library materials, my amendment would call for a total expenditure of $20,834,000. The subcommittee has recommended $9,900,000.

For part B, library training, the committee has recommended $3,900,000. My amendment would call for $6,833,000.

Part C is the program which enables the Library of Congress to catalog and make available to college libraries in 50 States all library materials currently published throughout the world which are of invaluable assistance to scholarship, and of providing and distributing cataloging and bibliographic information promptly. My amendment would increase the committee's recommendation for part C by $1,010,000 bringing the total in this category to $6,737,000.

Again, the intent of this amendment is to fund at the 1970 fiscal year level, and I urge the adoption of this amendment.

Mr. Chairman, these are not trial or experimental programs. They are programs which have year after year brought results and deserves our greatest support today.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield to me?

Mr. PRYOR of Arkansas. I am glad to yield to my good friend from Iowa.

Mr. SMITH of Iowa. I want to clear up what the gentleman is doing. He spoke of library training. The administration proposed and the subcommittee agreed that the emphasis should be on paraprofessional personnel. They have in the past had a number of fellowships. We have many people with doctors degrees whose extended and expensive training is not needed to put books on the shelves when somebody else with less training could be doing that just as well.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. PRYOR of Arkansas, at the request of Mr. SMITH of Iowa, was allowed to proceed for 5 additional minutes.)

Mr. SMITH of Iowa. Will the gentleman yield further?

Mr. PRYOR of Arkansas. I yield to the gentleman.

Mr. SMITH of Iowa. So it was proposed by the subcommittee that they be given the money to more than double that program for paraprofessionals from 1,200 to 2,590 and it was financed largely by cutting only 131 fellowships from 355 to 224. You are not opposed to this change in direction, are you?

Mr. PRYOR of Arkansas. I say to the gentleman, my good friend from Iowa, that I feel we should basically fund this program at the same level as the 1970 funding as proposed by Congress. I think this is a program which pertains to library training, and I believe this is of paramount importance and has a very high priority.

Mr. SMITH of Iowa. But you do not intend in your amendment to prevent them from going ahead, if they receive additional money, and from using it in the same way, do you?

Mr. PRYOR of Arkansas. No; it is my understanding that our amendment would not do that.

Mr. SMITH of Iowa. Then, in the first part of your amendment you have $9.9 million. There are three parts under that program.

Mr. PRYOR of Arkansas. Does the gentleman refer to the HEA, title II college library assistance?

Mr. SMITH of Iowa. Yes; 2A.

Mr. PRYOR of Arkansas. Yes.

Mr. SMITH of Iowa. Under that program, there are basic grants and supplemental grants and special grants. Basic grants go largely to universities with better libraries, but now the emphasis needed is on the supplemental and the special categories. The community college libraries and others do need special attention. The administration proposed, and we agreed, that they should put the emphasis on the latter two categories. If there is additional money in here, you are not opposed to that going also to these special and supplemental categories; are you?

Mr. PRYOR of Arkansas. No; I am not opposed to that emphasis so long as basic grants are also funded.

Mr. SMITH of Iowa. Thank you very much. I wanted to get that clear.

Mr. FLOOD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arkansas.

Now, Mr. Chairman, I had intended to raise the points raised by the gentleman from Iowa and I see that the gentleman who introduced the amendment concurs and agrees. So, we have no quarrel about that at all.

Now, this subcommittee and the members thereof certainly are not against books. We are not against libraries. This is not the problem. As a matter of fact we have added money in this bill for them. Might I further say that the librarians have fought a very tenacious fight in the promotion of their cause. They do this very well.

Now, there is a great, great deal of money in this bill for books and for libraries, for librarians. No one loves them more than I. But there is such a thing as too much money even for librarians, under current circumstances.

We have $80 million in this bill for school libraries. We have $5 million contained in this bill for library construction. We have $9.9 million for college libraries and we have $3.5 million for librarian training. There is also $5,725,000 for aid to college libraries through the medium of the Library of Congress.

Mr. Chairman, all of us are for these things.

We have added $10,250,000 over the President's budget for public libraries. We love libraries. Is not that evident? However, enough is enough at this time under all the circumstances that prevail. Under different circumstances I am sure we would be for more. But the rule of reason must apply here.

There is $9.9 million in the budget request, and in the bill for aid to college libraries, Mr. Chairman, and this program provides for grants to higher education institutions for the purchase of books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials and all of these things.

Now in past years most of this money has been scattered with a shotgun. There were 4,000 individual grants—imagine it—which were made in 1969 and in 1970. This does not seem to have represented the best approach to the solution of the problem, so says the administration and so says the Appropriations Committee.

This year the budget proposes to make about 800 grants to colleges which have

special needs because of outdated collections, growing enrollments, or financial need. These should be met with a rifle pointed on the need and not with an obsolete shotgun approach.

There is a large amount of money here for libraries, and I shall not recite it again. Under the circumstances we face with the budget, as the chairman of the full committee (Mr. MAHON) outlined, and as the ranking Republican member (Mr. BOW) made very clear, plus our experience for the last year, plus the fact that we are skating on thin ice, vis-a-vis the White House, $150 million away from a veto, judging from what happened early this year, I urge for these reasons that the amendment be defeated.

Mr. DAVIS of Georgia. Mr. Chairman, I move to strike the last three words.

Mr. Chairman, I really hate to be the one to follow my distinguished friend and my respected and admired colleague, the gentleman from Pennsylvania (Mr. FLOOD) and would have gladly preceded the gentleman and let the gentleman have the final say on this were it not for the rules of the House that prevent a nonmember of the committee being recognized in advance of a member of the committee.

But I want to say that this subject of libraries is one that is particularly dear to my heart.

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

Mr. DAVIS of Georgia. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Chairman, I am sorry. I knew the gentleman from Iowa (Mr. SMITH) was going to take a few minutes, and the gentleman in the well did speak to me. I simply forgot about it.

Mr. DAVIS of Georgia. That is perfectly all right.

I was going to say that I think that if we shortchange in any way the money that we expend on our libraries we are shortchanging ourselves.

Mr. Chairman, I would like to associate myself completely with the remarks of my colleague and a member of the committee, the gentleman from Arkansas (Mr. PRYOR).

Mr. Chairman, I just have a few little statistics that I would like to offer for the consideration of the Members which I think tend to back up the amendment offered by the gentleman from Arkansas.

The number of institutions of higher education in 1966 was almost 2,500. There are now almost 800 public and some 250 private junior colleges. The total has increased by 50 percent over the past 3 years. It is predicted that by 1975 there will be 500 more.

In the fall of 1969 more students enrolled as freshmen—that was 1969, mind you—in the junior and community 2-year colleges, than in the 4-year institutions in the United States.

In 1968, a total of 338 4-year colleges without graduate students had libraries of less than 50,000 volumes, the minimum recommended by the American Library Association standards for college libraries.

Now, to me this is a heartbreaking thing. It is about all our people can do in my part of the country, and I am sure in other parts, to go to a junior college—and I have been to many of them, looked through them, and examined the offering they had in the way of a library—well, it leaves much to be desired, I assure you.

I listened to a speech not many weeks ago by the president of the University of Georgia, Dr. Fred Davison, and he said that this year our university library will attain a stock of 1 million volumes—well, this 50,000 recommended is only one-twentieth of that—and he said that in 3 or more years from now we will have 2 million volumes in the university library in Georgia. He also said that is the minimum you can have in order to be able to say that you have a good library.

So that it actually becomes frightening when you consider the fact that after all the efforts expended on the part of a young person to go to a junior college he finds himself strapped down with an inadequate library.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Georgia. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I would like to point out that it is $9.9 million, which may not be apparent when one first looks at the figure. It was proposed to more than double the program to help junior colleges, because last year there was allocated in the supplemental and special services $4,125,500, and it is proposed this year to use all of it under this category, so this is more than double. I am not saying that they could not use more.

Mr. DAVIS of Georgia. I grant you this is a magnificent step in the right direction. I am just not sure that it is enough. For example, this next figure that I will read is this.

In 1968, a total of 475 2-year junior or community college libraries had less than 20,000 volumes, the minimum collection recommended by the ALA, as junior college library standards.

So I wanted to put my two cents worth in and urge the support of this committee and of the House in general for the amendment offered by the gentleman from Arkansas.

Mr. MICHEL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, of course, I oppose the amendment of the gentleman from Arkansas.

The committee, in considering the President's request for library programs, has reached a fair compromise.

The bill adds funds to the public library services program and restores it to the 1970 appropriation level. The bill also adds $5 million for construction of public libraries, for which no funds had been requested. Finally, the bill increases the amount for educational broadcasting facilities because of that program's large backlog of unfunded projects. In total, the bill adds $12 million to the budget, an increase of 20 percent over the administration request.

In arriving at these decisions, the committee took into account the President's entire budget request related to library and reading programs and not just those items under the "Community Education" appropriation. The President's amendments to the 1971 budget added $96.5 million for books and reading projects. Together with special earmarking of funds already in the budget, this provided $100 million for the right-to-read program and $12.5 million for public library services, which the bill increases by another $5 million.

Since enactment of the public library construction authority in 1965—a total of $500 million—nearly $150 million in Federal funds and $350 million in State and local matching funds has been spent for construction and renovation in over 1,500 projects.

The 1971 budget, by contrast, has turned its attention from construction to other reading priorities; namely, supplementary reading instruction under title III of the Elementary and Secondary Education Act and the purchase of school library books under title II of that same act. The President has chosen to defer the construction of additional facilities in favor of these service programs. Far from abandoning library programs, the President and the Commissioner of Education have made the right to read their educational goal for the 1970's.

The priorities have also shifted in the college library resources and librarian training programs. Instead of parceling out a small basic grant of $5,000 to nearly every college and university in the country, the President's 1971 budget would limit this assistance to institutions with special needs such as outdated collections, growing student enrollments, or financial need. Librarian training would limit expensive fellowships to the doctoral level where the need is greatest and increase institute training for librarians and paraprofessionals in working in school and public libraries in poverty areas.

In keeping with the spirit of the President's message on education reform, the 1971 budget for library and reading programs represents a shift of priorities, elimination of inefficient approaches, and new directions. To view this appropriation simply in terms of more dollars for the same old programs is a disservice to the long-range interests of the library programs and the reading public.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. PRYOR).

The amendment was rejected.

The CHAIRMAN. The clerk will read.

The Clerk read as follows:

RESEARCH AND TRAINING

For carrying out, to the extent not otherwise provided, the Cooperative Research Act (except section 4) and section 303 of the Vocational Education Amendments of 1968, $105,325,000.

AMENDMENT OFFERED BY MR. QUIE

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

The Clerk read as follows:

Amendment offered by Mr. QUIE:

Page 5, line 10, strike "105,325,000" and insert in lieu thereof "$110,325,000."

Mr. QUIE. Mr. Chairman, what my amendment does is to bring up the amount of the appropriation for research and innovation for vocational education to the level that the administration requested.

If you look at the committee report on page 6, you will see a table there which indicates the amount for research and innovation last year was $14,980,000, or I should say for the present fiscal year 1970, the administration requested $25 million for 1971 and the committee reported a bill with $20 million.

I want to say at the outset I think the committee did a good job on most of the bill. They added $319 million to the total of the administration request. They made increases in areas which by and large I think are good. There are two areas where I would have done it differently. One is that I would not have provided for a cutback in the dropout prevention program, because I think that money could have been used by President Nixon in his effort to help the racially impacted school districts, that he said in his message on desegregation he wanted $500 million expended in 1971.

But the second part, I think, if we are going to reach the needs of the young people who need vocational education and training, we have to make certain we provide that vocational education and training in a way that is most effective and efficient.

Now if this was trying to convince the administration to expend some money that they did not ask for, I would not be up here offering the amendment. But this is $5 milion they felt they would like to expend for vocational education research.

The committee report indicates there will be substantial amounts available for vocational education and research and training, but I think this was in anticipation that there would be more vocational research from cooperative research. We must do more research for education and I trust that this administration did not make an extravagant request.

Therefore, Mr. Chairman, it is an amendment that is very simply understood and rather than take any more time, I will yield back the balance of my time.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment of the gentleman.

Now, this is the same story over and over again. I am beginning to sound like the proverbial broken record on this subject after so many years.

But it is the point, it is the thrust, it is the determination that the Appropriations Committee by its repute and name must present. The whole point of the appropriations process is one of balancing priorities. This administration prefers the term "realinement of priority." Very well, I embrace that. We must make a choice in the Appropriations Committee between programs when we cut up this pie of worthy projects competing for limited Federal funds.

On the question of vocational education research, sir, $20 million is included in the vocational education program for innovation, curriculum development, and research.

As a matter of fact, Mr. Chairman, there is an increase of $5 million over last year for these very things. We know their import. We have increased the amount from $15 million to $20 million. Faced with the burden that I told you we face, we cannot easily accept amendments under those circumstances.

We assure you, Mr. Chairman, that research will receive an equitable share of this increase, and I would like the administration to hear that language. We assure you of that, by all means. There is also $7 million for vocational education research in the bill under the appropriation "Research and Training." We spent considerable time in the hearings on this subject.

The States themselves may make a portion of their share of basic vocational education grant funds available for vocational research, if they wish. We have increased the amount for basic grants by $50 million over the President's budget, $50 million. I know of no reason why the States could not use a portion of this for research if they wish to. I know of no reason at all.

There is an increase of $25 million in this bill for research and training. Some of this, without any doubt or question, could be used for vocational education research. We have no objection.

Again I must repeat my conclusion. Faced with what we went through last year, knowing the situation at the White House and here on the Hill, and applying the rule of reason, realizing that we are within $150 million of a demarcation line vis-a-vis the President's veto—that is a close line—we know we are on thin ice. We think we are safe. The minority in the committee have supported this. The minority leadership on the floor has supported this, or at least has not opposed it, so I assume that they support it.

Mr. Chairman, I think those arguments are determinative, and under the circumstances I suggest that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was rejected.

Mr. WILLIAM D. FORD. Mr. Chairman, I make the point of order that a quorum is not present.

Mr. Chairman, I withdraw the point of order.

Mr. FLOOD. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. FLOOD. I take this time to advise the Chair and the Committee that the postal pay raise bill is about to be presented. I understand that action will take place immediately as the Speaker has just advised us.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HOLIFIELD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 16916, making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes, had come to no resolution thereon.

SENATE ENROLLED BILL SIGNED

The Speaker announced his signature to enrolled bill of the Senate of the following title:

S. 3690. An act to increase the pay of Federal employees.

OFFICE OF EDUCATION APPROPRIATIONS, 1971

Mr. FLOOD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 16916, with Mr. HOLIFIELD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose, the Clerk had read through line 10 on page 5.

Mr. QUIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the committee report carries some language on page 5 which I would like to have talked about in the Committee of the Whole during general debate. However, I was meeting with some of my colleagues on another education matter, and so I was not able to do it.

I note, I would say to the chairman of the subcommittee, that there is no provision for the budget estimate for 1972 of $1,339,050,000 for assistance to school districts under title I of the Elementary and Secondary Education Act. Then it goes on to say in the committee report that as long as we are able to bring up the appropriations early in the year, the committee feels it is not wise then to have forward funding.

On this point I disagree with the Committee on Appropriations.

It is my feeling that the schools of the country ought to know right now the amount of money they are going to have available next year. It is true we bring up the appropriation bill on this day, in the middle of April, and if it had gone all through the legislative process at this time, it would not be too bad for the schools. However, I would like to ask the chairman if he has any assurances from the other body about how soon they are going to take up the education appropriation and how soon we can expect this to come back to us, first, to consider a conference, and later adoption of the conference report.

Mr. FLOOD. Mr. Chairman, the gentleman has had many years' experience here on the legislative committee and many years of experience with conferences with the other body, sufficient to know that I cannot answer his question with precision.

I have an idea of what they will do, of course. They will start hearings I can tell the gentleman, this week. What that foretells, I do not know. Last year there was considerable delay. I understand, from what my spies report, that will not be the case this year, but I cannot say any more than that.

Mr. QUIE. I thought that was about all the assurance we had from the other body. We knew we were going to have education appropriations taken out of the HEW bill, because there were promises by both the chairman and ranking Republican of the House appropriation committee. With those promises we knew this committee was going to act in this kind of expeditious manner to meet the need of the schools. However, we have no assurance what the other body will do. We know what happened last year. The House passed the Labor-HEW appropriations bill last July.

The other body went home on a vacation in August. They did not do anything in September or October on the matter, and they finally passed it at the end of November. They finally waited until the 20th of January before the conference report was passed in the other body.

The schools of this country do their planning by the beginning of the calendar year. They have done their planning for this coming school year. It is already complete at this time. They ought to know this calendar year what Federal education funds are available for school year 1971–72.

If we are ever going to make certain that the education appropriations are all wisely spent, schools need to know ahead of time what funds will be available. That is why I believe the committee ought to reconsider its decision not to have forward funding.

The remainder of the appropriation bill for the Departments of Labor and Health, Education, and Welfare is still to be considered by the committee. Rather than make any fuss about it here since I do not want to slow this bill up, I will urge the chairman of the subcommittee and the subcommittee to provide forward funding in that larger bill, the Labor-HEW appropriation bill, so that the schools can know at least the amount the committee is ready to commit for fiscal year 1972.

Of course, the House Appropriations Committee will not know the additional appropriations which might be added in the 1972 appropriation bill next calendar year, when that is considered but at least this year's level could be committed for 1972.

This, I believe, we must do if the schools are going to be able to use every cent of our money wisely because they have done adequate planning.

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

Mr. QUIE. I am glad to yield to the gentleman from Pennsylvania.

Mr. FLOOD. I am aware of the considerable experience of the gentleman in the well on the Committee on Education and Labor. I believe I mentioned this in my earlier remarks.

I assure the gentleman this will receive most serious consideration. I thought I made that clear. We understand the problem and understand the gentleman's position.

Mr. QUIE. I appreciate that. With that statement on the part of the chairman of the subcommittee I will then wait with the expectation we will see forward funding not only for title I, ESEA, but for all education matters for which the authorization bill provides forward funding.

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

(On request of Mr. FLOOD, and by unanimous consent, Mr. QUIE was allowed to proceed for 1 additional minute.)

Mr. FLOOD. I am sure the gentleman did not place me in the position of making a commitment. That I cannot do.

Mr. QUIE. No.

Mr. FLOOD. I believe I made his position and mine very clear.

Mr. QUIE. It is my understanding—and let us see if the gentleman agrees—not that the gentleman has made a commitment to bring out forward funding, but that he will take this up in his subcommittee again, to see if he cannot bring out the forward funding.

Mr. FLOOD. I certainly can assure the gentleman of that.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in thorough agreement with the statement made by the previous speaker, the gentleman from Minnesota, with regard to the necessity of providing forward funding.

We have spent months and months in the Committee on Education and Labor and in the Congress trying to make our education program more effective. We know from our inquiries that school administrators throughout America invariably state that the greatest obstacle in the way of more efficiently utilizing Federal funds has been untimely funding and untimely authorizations.

I certainly want to commend the Committee on Appropriations for the timeliness of this appropriation bill. I believe the committee deserves the commendation of all Members of this body and of school administrators throughout America.

Because of the work of the committee, for the first time in many years, local and State educational agencies may know the amount appropriated by the Congress before the beginning of the fiscal year for which the appropriation is intended.

Whether they will know will depend on whether the other body will also take early action on this bill so that local school districts can plan their programs more effectively.

I agree with the gentleman from Minnesota that we must have forward funding, and I hope that the Committee on Appropriations will soon provide for this. Be that as it may, our immediate task is early final passage of this appropriation bill. We should have final enactment by the end of April, so that local educational agencies will be able to plan and program their Federal funds more efficiently.

The Committee on Appropriations has certainly done a commendable job, in my opinion, in increasing certain appropriations beyond the budget request. We have been several years trying to get title I of the Elementary and Secondary Education Act off the ground. The proposed appropriations for title I in this bill is far below what is necessary. It is above last year's level and the level of the budget request, however, and as such, is a great step forward in making the effort to reach disadvantaged children more effective. It demonstrates, to my way of thinking, that there is a greater understanding of the tremendous need for additional funds from the Federal level.

May I repeat that one of the most important aspects of this legislation is the timeliness of its consideration. This great effort will be to no avail, however, if the other body does not accord this legislation as high a priority. We cannot afford to experience again the dilemma which confronted this Congress last year when we had both untimely authorizations and untimely funding.

Mr. Chairman, I am most hopeful that the other body will follow suit and act as promptly as the House Committee on Appropriations has acted this year. It will mean that local school districts will be able to take greater advantage of Federal education programs and that the funds will be spent more efficiently.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 209. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

AMENDMENTS OFFERED BY MR. COHELAN

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

The Clerk read as follows:

Amendment offered by Mr. COHELAN: On page 9, strike out section 209.

Mr. COHELAN. Mr. Chairman, I ask unanimous consent that section 209 and section 210 be considered en bloc.

The CHAIRMAN. The gentleman from California makes the unanimous-consent request that section 209 and section 210 be considered en bloc.

Is there objection to the request of the gentleman from California?

There was no objection.

Mr. COHELAN. Mr. Chairman, I rise to offer an amendment to strike sections 209 and 210 from this bill. The language of these sections is somewhat different and, at first glance, exhibits new dimension to old arguments about Federal funds and racially segregated schools that stand in violation of the Constitu-

tion. But let us not be fooled, Mr. Chairman. The intent of these provisions is as dangerous as the old Whitten provisions that we have debated many, many times over in this Chamber.

At stake here is all the years of progress, effort, and the advances we have made so far in the civil rights movement. I also see this debate as a test of the viability of Supreme Court decisions, not to speak of the future of this country and the education of generations of American citizens.

We can no longer afford to deny equality of educational opportunity to certain segments of our society. I do not think I need to remind my colleagues of the dangers of such a course of action—we all are familiar with the arguments of this debate. I think we are all pretty much in agreement about a strong educational structure as a means of providing better educational opportunities for all of our citizens is the only realistic way to approach solving our tremendous social problems—poverty, hunger, unemployment, and certainly crime.

I urge my colleagues on both sides of the aisle to give particular and close attention to this debate and to the arguments elicited here today, so that they may have an exact understanding of the real object and purpose of these provisions.

The precise legal effect of sections 209 and 210 is clear. A careful reading of both provisions leads to the conclusion that they would not restrict the authority of the Federal Government to enforce the nondiscrimination requirements of the Civil Rights Act. They would not place any additional legal burdens on the Government in enforcing title VI.

For a "desegregated" school system, as provided in sections 209 and 210, must be read as a unitary school system. My understanding of the language is that a "desegregated" school system has met the constitutional requirements in this area of assuring equal opportunity.

The objection to sections 209 and 210, therefore, goes to the fact that they are calculated to deceive. The prohibition, although qualified, against busing and assignment of students is bound to confuse parents and school officials alike. The requirements of the law remain. But these sections will lead people to believe that no effective remedy to meet those requirements is imposed. It is irresponsible legislation, and I urge the House to strike these provisions.

These sections are designed to impede enforcement of title VI of the Civil Rights Act, which prohibits discrimination as to race, color, or national origin in programs receiving Federal funds. While the legal impact of the new Whitten provisions would be negligible, enactment of these provisions would make HEW's job of enforcing title VI much more difficult. These provisions would be yet another attempt to weaken the authority of HEW in the area of civil rights and would conflict with the Department's responsibility of supporting the public schools and preventing discrimination.

The real danger of this language is that it might very well further encourage recalcitrant school districts to assume a harder line in their defiance of the law. At the same time, districts who have agreed to work within the framework of the law in this instance and who have agreed to comply with desegregation orders might seriously jeopardize their position and might thus feel compelled to renege on their commitments to abolish dual school systems.

Mr. Chairman, I see these provisions and this new language as devices to confuse and complicate this issue a little more than is presently so. They represent but another effort to establish delaying tactics against compliance with the civil rights legislation, Supreme Court decisions, and antisegregation forces in this country. These provisions would provoke mass confusion by misleading school districts as to their responsibility in eliminating de jure segregation.

Desegregation as used in title IV of the Civil Rights Act has been judicially interpreted to mean desegregation in accordance with constitutional requirements. The new Whitten language which would subject title VI activities to the title IV definition of "desegregation" would have virtually no effect on the policies and enforcement activities of HEW with respect to title VI.

The language is mischievous, confusing, and poses yet another hindrance to proper enforcement of the law. These sections serve only to raise false hopes of relief for those who want out of a sticky situation, but the fact still remains that these provisions cannot alter the constitutional obligation to desegregate and to desegregate now.

This language endangers our national commitment to end unconstitutional segregation and therefore should be stricken from this bill.

I do not want to burden the Members with a lengthy discourse on the legal precedents showing how this version of the Whitten amendments will not curtail the obligations of HEW to enforce title VI of the Civil Rights Act, but I wish to reiterate that from a study of the various decisions in this area. "Desegregation" as defined in title IV of this act is coextensive with the duty imposed upon school districts by the 14th amendment and by title VI of the Civil Rights Act of 1964.

Mr. Chairman, to further illustrate the clear legal principles involved in the Whitten amendment, I am submitting for the RECORD a number of appellate and Supreme Court opinions. All of these decisions and opinions were handed down after the passage of the Civil Rights Act of 1964, and bear out the premise that HEW has properly discharged its obligations within the parameters of the act and consistent with the Constitution.

The legal history of this controversy is clear.

Sections 209, 210, and 211 must be struck, not because they can have any legal effect, but rather, because they are superfluous confusing and in the case of section 211, clearly unconstitutional.

We must force our obligations now. Unconscionable delay cannot be tolerated.

The court opinions follow:

CHARLES C. GREEN ET AL., PETITIONERS, *v.* COUNTY SCHOOL BOARD OF NEW KENT COUNTY, VIRGINIA, ET AL.

(391 US 430, 20 L Ed 2 716, 88. S Ct 1689)
[No. 695]

Argued April 3, 1968. Decided May 27, 1968.

SUMMARY

This case presents the question whether, under all the circumstances, a county school board's adoption of a "freedom-of-choice" plan, which allows a pupil to choose his own public school, constitutes adequate compliance with the board's responsibility to achieve a system of determining admission to the public schools on a nonracial basis. The school system in question had only two schools (each a combined elementary and high school), and under the segregated system initially established and maintained, one was for white children and the other for Negro children. The United States District Court for the Eastern District of Virginia approved the "freedom-of-choice" plan. The United States Court of Appeals for the Fourth Circuit affirmed the District Court's approval of the plan, but remanded the case on other grounds. (382 F2d 326; 382 F2d 338.)

On certiorari, the United States Supreme Court vacated the judgment of the Court of Appeals insofar as it affirmed the District Court. In an opinion by BRENNAN, J., expressing the unanimous views of the court, it was held that the "freedom-of-choice" plan could not be accepted as a sufficient step to effectuate the transition to a unitary system, where, in the period of operation of the plan, not a single white child had chosen to attend the Negro school, and although a number of Negro children had enrolled in the white school, 85 percent of the Negro children in the system still attended the Negro school.

OPINION OF THE COURT

Mr. Justice Brennan delivered the opinion of the Court [391 US 431]

The question for decision is whether, under all the circumstances here, respondent School Board's adoption of a "freedom-of-choice" plan which allows a pupil to choose [391 US 432] his own public school constitutes adequate compliance with the Board's responsibility "to achieve a system of determining admission to the public schools on a non-racial basis . . . ." Brown v Board of Education, 349 US 294, 300–301, 99 L Ed 1083, 1106, 75 S Ct 753 (Brown II).

Petitioners brought this action in March 1965 seeking injunctive relief against respondent's continued maintenance of an alleged racially segregated school system. New Kent County is a rural county in Eastern Virginia. About one-half of its population of some 4,500 are Negroes. There is no residential segregation in the county; persons of both races reside throughout. The school system has only two schools, the New Kent school on the east side of the county and the George W. Watkins school on the west side. In a memorandum filed May 17, 1966, the District Court found that the "school system serves approximately 1,300 pupils, of which 740 are Negro and 550 are White. The School Board operates one white combined elementary and high school [New Kent], and one Negro combined elementary and high school [George W. Watkins]. There are no attendance zones. Each school serves the entire county." The record indicates that 21 school buses—11 serving the Watkins school and 10 serving the New Kent school—travel overlapping routes throughout the county to transport pupils to and from the two schools.

The segregated system was initially established and maintained under the compulsion of Virginia constitutional and statutory provisions mandating racial segregation in public education, Va Const, Art IX, § 140 (1902); Va Code § 22–221 (1950). These provisions were held to violate the Federal Constitution in Davis v County School Board of Prince

Edward County, decided with Brown v Board of Education, 347 US 483, 487, 98 L Ed 873, 877, 74 S Ct 686, 38 ALR2d 1180 (Brown I). The respondent School Board continued the segregated operation of the system after the Brown [391 US 433] decisions, presumably on the authority of several statutes enacted by Virginia in resistance to those decisions. Some of these statutes were held to be unconstitutional on their face or as applied.[1] One statute, the Pupil Placement Act, Va Code § 22-232.1 et seq. (1964), not repealed until 1966, divested local boards of authority to assign children to particular schools and placed that authority in a State Pupil Placement Board. Under that Act children were each year automatically reassigned to the school previously attended unless upon their application the State Board assigned them to another school; students seeking enrollment for the first time were also assigned at the discretion of the State Board. To September, 1964, no Negro pupil had applied for admission to the New Kent school under this statute and no white pupil had applied for admission to the Watkins school.

The School Board initially sought dismissal of this suit on the ground that petitioners had failed to apply to the State Board for assignment to New Kent school. However, on August 2, 1965, five months after the suit was brought, respondent School Board, in order to remain eligible for federal financial aid, adopted a "freedom-of-choice" plan for desegregating the schools.[2] Under that plan [391 US 434], each pupil, except those entering the first and eighth grades, may annually choose between the New Kent and Watkins schools and pupils not making a choice are assigned to the school previously attended; first and eighth grade pupils must affirmatively choose a school. After the plan was filed the District Court denied petitioners' prayer for an injunction and granted respondent leave to submit an amendment to the plan with respect to employment and assignment of teachers and staff on a racially nondiscriminatory basis. The amendment was duly filed and on June 28, 1966, the District Court approved the "freedom-of-choice" plan as so amended. The Court of Appeals for the Fourth Circuit, en banc, 382 F2d 338,[3] affirmed the District Court's approval of the "freedom-of-choice" provisions of the plan but remanded the case to the District Court for entry of an order regarding faculty "[391 US 435] which is much more specific and more comprehensive" and which would incorporate in addition to a "minimal, objective time table" some of the faculty provisions of the degree entered by the Court of Appeals for the Fifth Circuit in United States v Jefferson County Board of Education, 372 F2d 836, aff'd en banc, 380 F2d 385 (1967). Judges Sobeloff and Winter concurred with the remand on the teacher issue but otherwise disagreed, expressing the view "that the District Court should be directed . . . also to set up procedures for periodically evaluating the effectiveness of the [Board's] 'freedom of choice' [plan] in the elimination of other features of a segregated school system." Bowman v County School Board of Charles City County, 382 F2d 326 at 330. We granted certiorari, 389 US 1003, 19 L Ed 2d 598, 88 S Ct 565.

The pattern of separate "white" and "Negro" schools in the New Kent County school system established under compulsion of state laws is precisely the pattern of segregation to which Brown I and Brown II were particularly addressed, and which Brown I declared unconstitutionally denied Negro school children equal protection of the laws. Racial identification of the system's schools was complete, extending not just to the composition of student bodies at the two schools but to every facet of school operations—faculty, staff, transportation, extracurricular activities and facilities. In short, the State, acting through the local school board and school officials, organized and operated a dual system, part "white" and part "Negro."

[1] It was such dual systems that 14 years ago Brown I held unconstitutional and a year later Brown II held must be abolished; school boards operating such school systems were *required* by Brown II "to effectuate a transition to a racially nondiscriminatory school system." 349 US, at 301, 99 L Ed at 1106. It is of course true that for the time immediately after Brown II the concern was with making an initial break in a long-established pattern of excluding [391 US 436] Negro children from schools attended by white children. The principal focus was on obtaining for those Negro children courageous enough to break with tradition a place in the "white" schools. See, e.g., Cooper v Aaron, 358 US 1, 3 L Ed 2d 5, 78 S Ct 1401. Under Brown II that immediate goal was only the first step, however. The transition to a unitary, non-racial system of public education was and is the ultimate end to be brought about; it was because of the "complexities arising from the transition to a system of public education freed of racial discrimination" that we provided for "all deliberate speed" in the implementation of the principles of Brown I. 349 US, at 299-301, 99 L Ed at 1105, 1106. Thus we recognized the task would necessarily involve solution of "varied local school problems." Id., at 299, 99 L Ed at 1105. In referring to the "personal interest of the plaintiffs in admission to public schools as soon as practicable on a nondiscriminatory basis," we also noted that "[t]o effectuate this interest may call for elimination of a variety of obstacles in making the transition . . . ." Id., at 300, 99 L Ed at 1106. Yet we emphasized that the constitutional rights of Negro children required school officials to bear the burden of establishing that additional time to carry out the ruling in an effective manner "is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date." Ibid. We charged the district courts in their review of particular situations to "consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. They will also consider the adequacy of any plans the [391 US 437] defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system." Id., at 300-301, 99 L Ed 1106.

[2-5] It is against this background that 13 years after Brown II commanded the abolition of dual systems we must measure the effectiveness of respondent School Board's "freedom-of-choice" plan to achieve that end. The School Board contends that it has fully discharged its obligation by adopting a plan by which every student, regardless of race, may "freely" choose the school he will attend. The Board attempts to cast the issue in its broadest form by arguing that its "freedom-of-choice" plan may be faulted only by reading the Fourteenth Amendment as universally requiring "compulsory integration," a reading it insists the wording of the Amendment will not support. But that argument ignores the thrust of Brown II. In the light of the command of that case, what is involved here is the question whether the Board has achieved the "racially nondiscriminatory school system" Brown II held must be effectuated in order to remedy the established unconstitutional deficiencies of its segregated system. In the context of the state-imposed segregated pattern of long standing, the fact that in 1965 the Board opened the doors of the former "white" school to Negro children and of the "Negro" school to white children merely begins, not ends, our inquiry whether the Board has taken steps adequate to abolish its dual, segregated system. Brown II was a call for the dismantling of well-entrenched dual systems tempered by an awareness that complex and multifaceted problems would arise which would require time and flexibility for a successful resolution. School boards such as the respondent then operating state-compelled dual systems were nevertheless clearly charged with the affirmative duty to take whatever steps might be necessary to [391 US 438] convert to a unitary system in which racial discrimination would be eliminated root and branch. See Cooper v Aaron, supra, at 7, 3 L Ed. 2d at 10; Bradley v School Board, 382 US 103, 15 L Ed 2d 187, 86 S Ct 224; cf. Watson v City of Memphis, 373 US 526, 10 L Ed 2d 529, 83 S Ct 1314. The constitutional rights of Negro school children articulated in Brown I permit no less than this; and it was to this end that Brown II commanded school boards to bend their efforts.[4]

[6-8] In determining whether respondent School Board met that command by adopting its "freedom-of-choice" plan, it is relevant that this first step did not come until some 11 years after Brown I was decided and 10 years after Brown II directed the making of a "prompt and reasonable start." This deliberate perpetuation of the unconstitutional dual system can only have compounded the harm of such a system. Such delays are no longer tolerable, for "the governing constitutional principles no longer bear the imprint of newly enunciated doctrine." Watson v City of Memphis, supra, at 529, 10 L Ed 2d at 533; see Bradley v School Board, supra; Rogers v Paul, 382 US 198, 15 L Ed 2d 265, 86 S Ct 358. Moreover, a plan that at this late date fails to provide meaningful assurance of prompt and effective disestablishment of a dual system is also intolerable. "The time for mere 'deliberate speed' has run out," Griffin v County School Board, 377 US 218, 234, 12 L Ed 2d 256, 267, 84 S Ct 1226; "the context in which we must interpret and apply this language [of Brown II] to plans for desegregation has been significantly altered." [391 US 439] Goss v Board of Education, 373 US 683, 689, 10 L Ed 2d 632, 636, 83 S Ct 1405. See Calhoun v Latimer, 377 US 263, 12 L Ed 2d 288, 84 S Ct. 1235. The burden on a school board today is to come forward with a plan that promises realistically to work *now*.

[9-13] The obligation of the district courts, as it always has been, is to assess the effectiveness of a proposed plan in achieving desegregation. There is no universal answer to complex problems of desegregation; there is obviously no one plan that will do the job in every case. The matter must be assessed in light of the circumstances present and the options available in each instance. It is incumbent upon the school board to establish that its proposed plan promises meaningful and immediate progress toward disestablishing state-imposed segregation. It is incumbent upon the district court to weigh that claim in light of the facts at hand and in light of any alternatives which may be shown as feasible and more promising in their effectiveness. Where the court finds the board to be acting in good faith and the proposed plan to have real prospects for dismantling the state-imposed dual system "at the earliest practicable date," then the plan may be said to provide effective relief. Of course, the availability to the board of other more promising courses of action may indicate a lack of good faith; and at the least it places a heavy burden upon the board to explain its preference for an apparently less effective method. Moreover, whatever plan is adopted will require evaluation in practice, and the court should retain jurisdiction until it is clear that state-im-

Footnotes at end of article.

posed segregation has been completely removed. See Raney v Board of Education, 391 US at 449, 20 L Ed 2d at 732.

[14, 15] We do not hold that "freedom of choice" can have no place in such a plan. We do not hold that a "freedom-of-choice" plan might of itself be unconstitutional, although that argument has been urged upon us. Rather, [391 U.S. 440] all we decide today is that in desegregating a dual system a plan utilizing "freedom of choice" is not an end in itself. As Judge Sobeloff has put it,

" 'Freedom of choice' is not a sacred talisman; it is only a means to a constitutionally required end—the abolition of the system of segregation and its effects. If the means prove effective, it is acceptable, but if it fails to undo segregation, other means must be used to achieve this end. The school officials have the continuing duty to take whatever action may be necessary to create a 'unitary, non-racial system.' " Bowman v. County School Board, 382 F2d 326, 333 (CA 4th Cir 1967) (concurring opinion). Accord, Kemp v. Beasley, 389 F2d 178 (CA8th Cir 1968); United States v. Jefferson County Board of Education, supra. Although the general experience under "freedom of choice" to date has been such as to indicate its ineffectiveness as a tool of desegregation,[5] there may well be instances in which it can serve as an effective device. Where it offers real promise of aiding a desegregation [391 U.S. 441] program to effectuate conversion of a state-imposed dual system to a unitary, nonracial system there might be no objection to allowing such a device to prove itself in operation. On the other hand, if there are reasonably available other ways, such for illustration as zoning, promising speedier and more effective conversion to a unitary, nonracial school system, "freedom of choice" must be held unacceptable.

[16, 17] The New Kent School Board's "freedom-of-choice" plan cannot be accepted as a sufficient step to "effectuate a transition" to a unitary system. In three years of operation not a single white child has chosen to attend Watkins school and although 115 Negro children enrolled in New Kent school in 1967 (up from 35 in 1965 and 111 in 1966) 85% of the Negro children in the system still attend the all-Negro Watkins school. In other words, the school system remains a dual system. Rather than further the dismantling of the dual system, the plan has operated simply to burden children and their parents [391 U.S. 442] with a responsibility which Brown II placed squarely on the School Board. The Board must be required to formulate a new plan and, in light of other courses which appear open to the Board, such as zoning,[6] fashion steps which promise realistically to convert promptly to a system without a "white" school and a "Negro" school, but just schools.

The judgment of the Court of Appeals is vacated insofar as it affirmed the District Court and the case is remanded to the District Court for further proceedings consistent with this opinion.

FOOTNOTES

[1] E.g., Griffin v County School Board of Prince Edward County, 377 US 218, 12 L Ed 2d 256, 84 S Ct 1226; Green v School Board of City of Roanoke, 304 F2d 118 (CA 4th Cir 1962); Adkins v School Board of City of Newport News, 148 F Supp 430 (DC ED Va.), aff'd, 246 F2d 325 (CA 4th Cir 1957); James v Almond, 170 F Supp 331 (DC ED Va 1959); Harrison v Day, 200 Va 439, 106 SE2d 636 (1959).

[2] Congress, concerned with the lack of progress in school desegregation, included provisions in the Civil Rights Act of 1964 to deal with the problem through various agencies of the Federal Government. 78 Stat 246, 252, 266, 42 USC §§ 2000c et seq., 2000d et seq., 2000h-2. In Title VI Congress declared that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance," 42 USC § 2000d. The Department of Health, Education, and Welfare issued regulations covering racial discrimination in federally aided school systems, as directed by 42 USC § 2000d-1, and in a statement of policies, or "guidelines," the Department's Office of Education established standards according to which school systems in the process of desegregation can remain qualified for federal funds. 45 CFR §§ 80.1-80.13,, 181.1-181.76 (1967). "Freedom-of-choice" plans are among those considered acceptable, so long as in operation such a plan proves effective. 45 CFR § 181.54. The regulations provide that a school system "subject to a final order of a court of the United States for the desegregation of such school . . . system" with which the system agrees to comply is deemed to be in compliance with the statute and regulations. 45 CFR § 80.4(c). See also 45 CFR § 181.6. See generally Dunn, Title VI, the Guidelines and School Desegregation in the South, 53 Va L Rev 42 (1967); Note, 55 Geo LJ 325 (1966); Comment, 77 Yale LJ 321 (1967).

[3] This case was decided per curiam on the basis of the opinion of Bowman v County School Board of Charles City County, 382 F2d 326, decided the same day. Certiorari has not been sought for the Bowman case itself.

[5] [4] "We bear in mind that the court has not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discrimination in the future." Louisiana v United States, 380 US 145, 154, 13 L Ed 2d 709, 715, 85 S Ct 817. Compare the remedies discussed in, e.g., NLRB v Newport News Shipbuilding & Dry Dock Co., 308 US 241, 84 L Ed 219, 60 S Ct 203; United States v Crescent Amusement Co., 323 US 173, 89 L Ed 160, 65 S Ct 254; Standard Oil Co v United States, 221 US 1, 55 L Ed 619 31 S Ct 502, 34 LRA NS 834. See also Griffin v County School Board, 377 US 218, 232-234, 12 L Ed 2d 256, 265-267, 84 S Ct 1226.

[5] The views of the United States Commission on Civil Rights, which we neither adopt nor refuse to adopt, are as follows:

"Freedom of choice plans, which have tended to perpetuate racially identifiable schools in the Southern and border States, require affirmative action by both Negro and white parents and pupils before such disestablishment can be achieved. There are a number of factors which have prevented such affirmative action by substantial numbers of parents and pupils of both races:

"(a) Fear of retaliation and hostility from the white community continue to deter many Negro families from choosing formerly all-white schools;

"(b) During the past school year [1966-1967], as in the previous year, in some areas of the South, Negro families with children attending previously all-white schools under free choice plans were targets of violence, threats of violence and economic reprisal by white persons and Negro children were subjected to harassment by white classmates notwithstanding conscientious efforts by many teachers and principals to prevent such misconduct;

"(c) During the past school year, in some areas of the South public officials improperly influenced Negro families to keep their children in Negro schools and excluded Negro children attending formerly all-white schools from official functions;

"(d) Poverty deters many Negro families in the South from choosing formerly all-white schools. Some Negro parents are embarrassed to permit their children to attend such schools without suitable clothing. In some districts special fees are assessed for courses which are available only in the white schools;

"(e) Improvements in facilities and equipment . . . have been instituted in all-Negro schools in some school districts in a manner that tends to discourage Negroes from selecting white schools." Southern School Desegregation, 1966-1967, at 88 (1967). See id., at 45-69; Survey of School Desegregation in the Southern and Border States 1965-1966, at 30-44, 51-52 (U.S. Comm'n on Civil Rights 1966).

[6] "In view of the situation found in New Kent County, where there is no residential segregation, the elimination of the dual school system and the establishment of a 'unitary, non-racial system' could be readily achieved with a minimum of administrative difficulty by means of geographic zoning—simply by assigning students living in the eastern half of the county to the New Kent School and those living in the western half of the county to the Watkins School. Although a geographical formula is not universally appropriate, it is evident that here the Board, by separately busing Negro children across the entire county to the 'Negro' school, and the white children to the 'white' school, is deliberately maintaining a segregated system which would vanish with non-racial geographic zoning. The conditions in this county present a classical case for this expedient." Bowman v. County School Board, supra, n 3, at 332 (concurring opinion).

Petitioners have also suggested that the Board could consolidate the two schools, one site (e.g., Watkins) serving grades 1-7 and the other (e.g., New Kent) serving grades 8-12, this being the grade division respondent makes between elementary and secondary levels. Petitioners contend this would result in a more efficient system by eliminating costly duplication in this relatively small district while at the same time achieving immediate dismantling of the dual system.

[17] These are two suggestions the District Court should take into account upon remand, along with any other proposed alternatives and in light of considerations respecting other aspects of the school system such as the matter of faculty and staff desegregation remanded to the court by the Court of Appeals.

BIRDIE MAE DAVIS ET AL., APPELLANTS-CROSS APPELLEES, UNITED STATES OF AMERICAN ET AL., APPELLANTS-CROSS APPELLEES, *v.* BOARD OF SCHOOL COMMISSIONERS OF MOBILE COUNTY ET AL., APPELLEES-CROSS APPELLANTS

(Nos. 26886, 27491, 27260, United States Court of Appeals, Fifth Circuit, June 3, 1969; Rehearing Denied June 20, 1969)

School desegregation cases. On remand, 5 Cir., 393 F.2d 690, the United States District Court for the Southern District of Alabama, Daniel Holcombe Thomas, J., entered order formulating attendance zone lines and approved school construction plans and appeals were taken. The Court of Appeals held that where only about 6% of rural Negro school population in county chose to attend traditionally white schools and no white children had chosen to attend traditionally Negro schools, freedom of choice plan for rural schools was an impermissible desegregation plan.

Reversed and remanded with directions.

Before John R. Brown, Chief Judge, Dyer, Circuit Judge, and Hunter, District Judge.

Per Curiam:

In No. 26,886 the District Court on July 29, 1968, entered an order formulating attendance zone lines for grades 1-8 in the city portion of the Mobile School System, adopted freedom of choice in the high school system, permitted transfer from a school into which a student was zoned if the student was in a racial minority of less than five percent, and continued a freedom of choice plan in the rural areas.

In Nos. 27,260 and 27,491 the District Court

on December 20, 1968, and March 14, 1969, approved construction plans for the Howard and Toulminville schools respectively.

We consolidated and expedited these appeals for oral argument.

It is apparent that the District Court relied wholly upon and gave literal interpretation to the directive in our decision of March 12, 1968, 5 Cir., 393 F.2d 690, that new attendance zones be drawn on a non-racial basis and ignored the unequivocal directive to make a conscious effort in locating attendance zones to desegregate and eliminate past segregation. The record shows and the statistics prove that the attendance zones formulated by the District Court are constitutionally insufficient and unacceptable, and such zones must be redrawn.

In approving a freedom of choice plan for high school students the District Court failed to follow the mandate in our opinion that no distinction was to be drawn between elementary and high school students with respect to attendance zones, and that the same principles were to govern the assignment of students to secondary as to primary schools.

[1] A provision permitting transfers from racial majority to racial minority schools is entirely proper and should be included in a plan.

[2] The converse, transfers from racial minority to racial majority schools, permitted by the District Court, even when restricted to those instances when the racial minority is 5% or less, is erroneous. This is tantamount to an authorization to white students to resegregate and is impermissible as a means for the perpetration of segregation. Monroe v. Board of Commissioners, 1968, 391 U.S. 450, 88 S.Ct. 1700, 20 L.Ed.2d 733; Goss v. Board of Education, 1963, 373 U.S. 683, 83 S.Ct. 1405, 10 L.Ed.2d 632.

[3] The freedom of choice plan for the rural schools approved by the District Court has singularly failed. Only about 6% of the rural Negro school population in Mobile County chose to attend traditionally white schools and no white children chose to attend traditionally Negro schools. Green v. County School Board, 1968, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716, makes it clear that freedom of choice was an impermissible desegregation plan here.

[4] With respect to the construction of new facilities in the Howard and Toulminville sites, whether these schools should be built as presently proposed, abandoned, or the location changed will largely depend on what the student demands will be after new attendance zones are established to eliminate past segregation. Until new attendance zones are formulated in accordance with this order, the order of this court enjoining the construction of the Howard school and the Toulminville project will be continued in effect.

Actually, the formulation of appropriate decrees in the cases before the Court present few, if any, justiciable issues of constitutional import. Such issues have been largely resolved. The difficulties involved in developing a proper decree concern basically practical operational questions and matters of educational administration. H.E.W., with its staff of trained educational experts "with their day to day experience with thousands of school systems", is far better qualified to deal with such operational and administrative problems than the Courts presided over by Judges, who, as one Court has phrased it, "do not have sufficient competence—they are not educators or school administrators—to know the right questions, much less the right answers." United States v. Jefferson County Board of Education, 5th Cir. 1966, 372 F.2d 836, 855; * * *.

Whittenberg v. Greenville County School District, etc. (D.S.C. March 31, 1969), 298 F.Supp. 784, 789, 790.

The orders of the District Court are reversed and the cases are remanded to the District Court with the following instructions:

1. This case shall receive the highest priority.

2. The District Court shall forthwith request the Office of Education of the United States Department of Health, Education, and Welfare to collaborate with the Board of School Commissioners of Mobile County in the preparation of a plan to fully and affirmatively desegregate all public schools in Mobile County, urban and rural, together with comprehensive recommendations for locating and designing new schools, and expanding and consolidating existing schools to assist in eradicating past discrimination and effecting desegregation. The District Court shall further require the School Board to make available to the Office of Education or its designees all requested information relating to the operation of the school district.

3. Proceed according to an expedited time schedule for the submission, review and approval of the plan, as follows:

(a) The board shall within 30 days of this order develop, in conjunction with the experts of the Office of Health, Education, and Welfare, an acceptable plan of operation, conformable to the constitutional rights of the Negro students as we have delineated in this opinion.

(b) If such plan is agreed upon by the school board and the Office of Education within the time fixed, the Court will approve such plan, unless the plaintiffs within ten days make proper showing that the plan does not meet constitutional standards.

(c) If no such agreed plan is developed within 30 days, the Office of Education is requested to submit within 10 days its recommendation of a plan for the school district.

(d) The parties shall have ten days from the date a plan is filed with the District's Court to file objections or suggested amendments thereto.

(e) For plans as to which objections are made or amendments suggested, or which in any event the District Court will not approve without hearing, the District Court shall commence hearings beginning no later than ten days after the time for filing objections has expired.

(f) A new plan for the district effective for the beginning of the 1969–70 school term shall be completed and approved by the District Court no later than August 1, 1969.

(g) The recommendations as to new construction shall be submitted to the District Court within 120 days of this order.

Because of the urgency of formulating and approving plans to be effective for the 1969–70 school term it is ordered as follows: The mandate of this court shall issue immediately and will not be stayed pending petitions for rehearing or certiorari. This court will not extend the time for filing petitions for rehearing or briefs in support of or in opposition thereto. Any appeals from orders or decrees of the District Court on remand shall be expedited. The record on appeal shall be lodged with this court and appellants' brief filed, all within ten days of the date of the order or decree of the district court from which the appeal is taken. Appellee's brief shall be due ten days thereafter. The court will determine the time and place for oral argument if allowed.

Reversed and remanded with directions.

Hunter, District Judge (concurring):

In my judgment "nonracial zoning" coupled with a majority to minority transfer provision would best serve the interests of all the school children in metropolitan Mobile. However, this court in its opinion of March 12, 1968, added a *caveat* to its instructions that attendance zones be based on objective criteria (393 F. 2d at 694):

"* * * conscious effort should be made to move boundary lines and change feeder patterns which tend to preserve segregation."

This is the law of the case and is consistent with recent decisions of the Fifth Circuit. United States v. Greenwood Municipal Separate District, 406 F. 2d 1086 (5 Cir. Feb. 1969).

Students in the rural portion of the system have been assigned to schools on the basis of freedom of choice. In 29 consolidated cases involving factual settings very familiar, I have held that Jefferson-type freedom of choice in Louisiana School Districts "had real prospects of dismantling the dual system at the earliest practicable date" and that this was the best method available to do the job. Conley v. Lake Charles Sch. Bd., W.D.La. 1968, 293 F.Supp. 84. These cases have been reversed. Hall et al. v. St. Helena Parish School Board, Nos. 26450 and 27303, May 28, 1969. There can be no doubt that Hall, supra, requires a holding here that as now constituted, administered and operating in the Mobile Public School System, freedom of choice is not effectual.

On petition for rehearing.

Per curiam:

It is ordered that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby denied, and the motion of appellees for a stay of execution and enforcement of the judgment is denied.

Hunter, District Judge:

Under the total circumstances I would grant the petition for rehearing.

UNITED STATES OF AMERICA, BY JOHN MITCHELL, ATTORNEY GENERAL, PLAINTIFF-APPELLANT, DANITA HAMPTON, BY HER MOTHER AND NEXT FRIEND, YVONNE HAMPTON, ET AL., PLAINTIFFS-INTERVENORS-APPELLANTS, *v.* CHOCTAW COUNTY BOARD OF EDUCATION ET AL., DEFENDANT-APPELLEES

(No. 27297, United States Court of Appeals, Fifth Circuit, June 26, 1969)

School desegregation case. The United States District Court for the Southern District of Alabama, Virgil Pittman, J., denied motions for supplemental relief, and appeal was taken. The Court of Appeals, Wisdom, Circuit Judge, held that where freedom of choice plan for desegregating schools had not worked and as proposed had little chance of working, school board would be required to submit a new desegregation plan based on zoning and pairing of schools.

Reversed and remanded with directions.

See also 5 Cir., 417 F.2d 845.

Wisdom, Circuit Judge:

This school desegregation case is one of a number of recent cases[1] raising the question whether school boards should resort to zoning and pairing of schools rather than adhere to freedom of choice as prescribed in *Jefferson*.[2]

Some day in the not-far-distant future this Court should be able to say to a school board, "You have met the standards implicit in the Constitution and explicit in our judicial mandates; go about your business of educating children". In *Jefferson* we hoped to accelerate that day by establishing specific but not necessarily inflexible standards that everyone could understand. We based the model decree on three principles:

(1) School boards "have the *affirmative* duty under the Fourteenth Amendment to bring about an integrated, unitary school system in which there are no Negro schools and no white schools—just school".[3]

(2) The dual system must be liquidated "lock, stock, and barrel"—students, teachers, staff, faculties, transportation, and school activities.[4]

(3) The test is an objective one: "The only school desegregation plan that meets constitutional standards is one that works";[5] freedom of choice "is a means to an end"[6]

that must yield to other means, unless the end is attained.[7]

[1, 2] *Jefferson* rested on the assumption that school boards would realize that their duty to take affirmative action to dismantle the dual system is not discharged simply by opening the doors of white schools to Negro applicants. The board's duty is not discharged until all-Negro schools in the system are done away with and faculties are so integrated "that the pattern of teacher assignment to any particular school [is] not identifiable as tailored for a heavy concentration of either Negro or white pupils in the schools."[8] Every judge in this circuit knows that the school administrators, almost without exception, have shown good faith and diligence in permitting free transfers. For that reason in many school systems there has been substantial desegregation of white schools. But every judge in this circuit also knows that there has been *no* progress in any school district toward desegregation of Negro schools.[9] The happy day when courts retire from the business of scrutinizing schools is wholly dependent on school boards' facing up to the necessity of doing away with all-Negro schools and effectively integrating faculties. That is true, no matter whether school boards use freedom of choice, zoning, or a combination of the two plans. Meantime, if freedom of choice, now so stoutly defended by school boards, is not successful, alternatives must be adopted that give promise of working *now*.

Green v. County Board of New Kent County, Virginia, 1968, 391 U.S. 430, 441, 442, 88 S.Ct. 1689, 1696, 20 L.Ed. 2d 716, supplies content to the concept of "workability".[10]

First, the Court noted that the existence of an all-Negro school is, as a matter of law, evidence of the failure of the desegregation plan. Second, statistics indicating that 85 per cent of the Negro children still attend the all-Negro school show that "the school system remains a dual system." Third, in determining whether the Board met the "commands" in *Brown*,[11] "it is relevant that the first step did not come until some 11 years after *Brown I* and 10 years after *Brown II* directed the making of a 'prompt and reasonable start' ". Fourth, the Court emphasized that the burden of dismantling the dual system was on the school boards, not the school children and their parents. When a plan is not working, the Board "must be required to formulate a new plan". Finally, the Court made two specific suggestions: zoning (where there is no residential segregation) and pairing or consolidation of schools. "These are two suggestions the District Court should take into account on remand, along with any other proposed alternatives and in light of considerations respecting other aspects of the school system such as the matter of faculty and staff desegregation remanded to the Court by the Court of Appeals."

Shortly after *Green* was decided, this Court reviewed freedom of choice plans in use in over thirty school systems. Adams v. Mathews, 5 Cir. 1968, 403 F.2d 181. We interpreted *Green* as holding that:

"If in a school district there are still all-Negro schools or only a small fraction of Negroes enrolled in white schools, or no substantial integration of faculties and school activities then, as a matter of law, the existing plan fails to meet constitutional standards as established in *Green*." 403 F.2d at 188.

I

Choctaw County is a small rural county in Alabama. Slightly more than half of the traditionally white, three traditionally Negroes. Five of its eight public schools are traditionally white, three traditionally Negro.

On August 30, 1966, twelve years after the Supreme Court decided *Brown I*, the United States filed this action to desegregate the Choctaw County public schools, September 15, 1967, the district court entered the *Jefferson* decree.

Not long after the Supreme Court decided *Green*, the United States and the intervenors[12] filed motions for supplemental relief based on *Green*. These motions alleged that zoning and pairing of schools would be more likely to achieve a unitary system than a freedom of choice plan, and requested the court to order the School Board to submit a new plan consistent with *Green*. At the hearing on July 23, 1968, the Superintendent of Schools for Choctaw County testified that Negroes and whites reside in all areas of the county; that Negroes were bussed past white schools and whites bussed past Negro schools.

In its opinion order of September 3, 1968, the district court found that in the school year 1967–68 thirteen Negroes attended white schools; no white student attended the traditional Negro schools. Two of the 105 Negro teachers in the school system taught in white schools; none of the 95 white teachers taught in Negro schools.

The district court noted that there had been complaints that white students harassed Negroes attending white schools. The court also noted that at the beginning of the 1967–68 school year the Negro community staged a boycott of the schools. The court concluded that for these reasons and also because the School Board has "not been sufficiently aggressive" in implementing the plan, that the freedom of choice plan, although having 'a great potential' " in Choctaw County, "has not yet worked effectively". Nevertheless, the district court denied the motions of the United States and of the intervenors. The court said that it was "inadvisable at this time" to enter any order using the alternatives suggested in *Green:*

"In a rural system such as we have here, which has a division of 48 per cent white and 52 per cent Negro,[13] a zoning or pairing plan which might instantly abolish the dual system, would be accompanied by (1) an emotional wrench, a fact as big as life,[14] and by (2) enormous educational problems which cannot be ignored occasioned by an educational gap which exists between the races."[15]

The district court's denial of the motions for supplemental relief was "specifically conditioned upon the Choctaw County School Board meeting the following conditions now and not later than the beginning of the second semester of the 1968–69 school year, to wit:

"(1) A minimum of 10 per cent of the Negro school population attend traditional white schools in 1968–1969, and plans made now to have not less than 20 per cent in attendance the school year beginning 1969–1970.

"(2) That in all schools in the county system that a ratio of teachers of the opposite race be not less than 6 of the majority race to 1 of the minority race in a particular school."

The record does not show to what extent the School Board succeeded in meeting these conditions in the 1969–69 school year.

[3, 4] A freedom of choice plan is not per se unconstitutional.[16] Nor is a school desegregation plan based on zoning per se constitutional.[17] But it is apparent that in Choctaw County freedom of choice has not "worked" and as proposed has little chance of working:

(1) There are still all-Negro schools;

(2) There is still only token student desegration;

(3) There is no faculty desegregation.[18]

[5, 6] As a matter of law, there must be *student* desegregation *now*, not 10 per cent in 1968–69, 20 per cent in 1969–70, and so on until desegregation eventually is effected. Reiterating its previous reminders that the time for deliberate speed has run out, the Court in *Green* stated the rule that applies today (391 U.S. at 439, 88 S. Ct. at 1694):

"The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work now." (Emphasis by the Court)

United States v. Bessemer, 5 Cir. 1968, 396 F. 2d 44, set a date for compliance with the requirement of adequate faculty desegregation: the first day of the 1970–71 school year. Under the plan approved by the district court, the Choctaw County School Board cannot possibly have faculty integrated by "C-Day".

II

We remand the case to the district court with the following instructions:[19]

(1) This case shall receive the highest priority.

(2) The district court shall require the School Board of Choctaw County to submit a new desegregation plan based on zoning and pairing of schools, as suggested by the Supreme Court in *Green*.[20] The district court shall enter findings of fact and conclusions of law as to the efficacy of the new plan to disestablish *now* the vestiges of the dual system. Attendance zones will be drawn to promote desegregation. The plan shall retain those viable elements of the *Jefferson* decree which are consistent with zoning; for example, the requirement that transportation facilities be desegregated. The district court shall require the School Board to make regular reports to the court to show the effectiveness of its desegregation plan.

(3) The plan shall provide for freedom of transfer when the student applies for a transfer from a school where his race is in the majority to a school where his race is in the minority.[21]

To avoid resegregation, minority-to-majority transfers should be permitted only in exceptional cases.[22]

(4) The plan shall provide for eliminating all-Negro schools by the start of the 1969–70 school term. An all-Negro school, even if desired by the students and their parents, is just as wrong constitutionally, as an all-white school desired by white students and their parents.

(5) By September 1970 in each school the pattern of teacher assignment to any particular school should not be identifiable as tailored for a heavy concentration of either Negro or white pupils in the school. As an interim objective, in each school the ratio of teachers of one race to teachers of the opposite race shall be approximately three to one by the start of the 1969–70 school term. Successful desegregation of faculties requires desegregation of principals, substitute teachers, and student teachers.

(6) The district court shall forthwith request the Office of Education of the United States Department of Health, Education and Welfare to collaborate with the School Board of Choctaw County in the preparation of a plan to desegregate fully and affirmatively all public schools in the county, with comprehensive recommendations for locating and designating new schools, and consolidating existing schools to assist in eradicating past discrimination and effecting desegregation.[23]

The district court shall further require the School Board to make available to the Office of Education or its designees all requested information relating to the operation of the school district.

(7) The time schedule for the submission, review and approval of the new plan shall be as follows:

(a) The board shall within 30 days of this order develop, in conjunction with the experts of the Office of Health, Education and Welfare, offer an acceptable plan of operation, conformable to the constitutional rights of the Negro students as we have delineated in this opinion.

Footnotes at end of article.

(b) If such plan is agreed upon by the school board and the Office of Education within the time fixed, the Court will approve such plan, unless the plaintiffs within ten days make proper showing that the plan does not meet constitutional standards.

(c) If no such agreed plan is developed within 30 days, the Office of Education is requested to submit within 10 days its recommendation of a plan for the school district.

(d) The parties shall have ten days from the date a plan is filed with the District Court to file objections or suggested amendments thereto.

(e) If the parties object to the plan or suggest amendments, the District Court shall commence hearings beginning not later than ten days after the time for filing objections has expired.

(f) A new plan for the district effective for the beginning of the 1969–70 school term shall be completed and approved by the District Court no later than August 15, 1969.

Because of the urgency of formulating and approving plans to be effective for the 1969–70 school term it is ordered as follows: The mandate of this court shall issue immediately and will not be stayed pending petitions for rehearing or certiorari. This court will not extend the time for filing petitions for rehearing or briefs in support of or in opposition thereto. Any appeals from orders or decrees of the District Court on remand shall be expedited. The record on any appeal shall be lodged with this court and appellants' brief filed, all within ten days of the date of the order or decree of the district court from which the appeal is taken. Appellee's brief shall be due ten days thereafter. The court will determine the time and place for oral argument if allowed.

III

The district court entered a *Jefferson*-type decree on September 15, 1967. The defendants perfected an appeal on September 21, 1967. On May 14, 1968, certain Negro children in Choctaw County and their parents filed a motion to intervene on their own behalf and on behalf of all other Negro children residing in the county. After a hearing, the district court, on June 21, 1968, granted the motion to intervene. The defendants then filed a petition for mandamus in this court to set aside the intervention on the ground that after an appeal of a cause, the district court no longer has jurisdiction to allow an intervention in the district court.

This court denied the petition for mandamus, but reserved to the Board the right to raise the issue in other proceedings.

[7] School desegregation plans under court order are under continuing review by district courts. In this case, as in many cases, the continuing development of the law requires the district court to retain jurisdiction of the cause even though there may be an appeal from a particular "final order". We hold that the district court properly acted within a sound judicial discretion in permitting the intervention in this case after the Board appealed from the entry of the *Jefferson* decree.

We note that in open court the attorneys for the plaintiff-intervenors waived any claim for attorneys' fees.

IV

Without giving any reasons, the district court taxed costs against the United States to reimburse the defendants for the expense resulting from an unnecessary pre-trial discovery.

On July 11, 1968, the defendants moved to take the deposition of some of the plaintiff-intervenors and certain other witnesses. The depositions were taken, as scheduled, over the objection of the plaintiff-intervenors. Counsel for the plaintiff-intervenors objected to some of the questions and instructed the witnesses not to answer.

The record is not clear as to what transpired. Counsel for the government state that they attended the depositions but did not participate in any of the examination; that government counsel represented only the United States; that counsel for the government neither instructed the witnesses to answer or not to answer the subject questions.

On July 17, 1968, the defendants moved the district court to compel pre-trial discovery relating to those matters about which the witnesses had previously refused to answer questions. The district court ordered the witnesses to answer, and the depositions were taken on August 7, 1968.

The defendants, as a basis for claiming costs and attorneys' fees against the plaintiff or its counsel, stated in their motion that the additional costs involved "* * * was the proximate result of the misconduct of counsel for the intervenors, *condoned and tactly approved by counsel* for the Department of Justice."

A judgment for costs "may be awarded to the prevailing party in any civil action brought by or against the United States * * *." 28 U.S.C. § 2412. This statute and Rule 54(d) speak in terms of the "prevailing party." Although not a party to the dispute over the depositions the United States was the original party to bring the action.

In view of the uncertain state of the record on this issue, we set aside that portion of the order taxing the costs of the depositions to the United States, subject to the right of the defendants to renew their motion to tax costs. We suggest to the district judge that he make findings of fact and conclusions of law as to the liability of the government for costs of the depositions.

The judgment in this case is reversed and remanded for further proceedings consistent with this opinion.

FOOTNOTES

[1] United States v. Jefferson County Board of Education, 5 Cir. 1969, 417 F. 2d 834 (Jefferson III); Davis v. Board of School Commissioners of Mobile County, 5 Cir. 1969, 414 F. 2d 69; Hall v. United States, 5 Cir. 1969, 417 F. 2d 801.

[2] United States v. Jefferson County Board of Education, 5 Cir. 1966, F. 2d 836 (Jefferson L), adopted on rehearing en banc, 1967, 380 F. 2d 385 (Jefferson II), cert. denied, 389 U.S. 840, 88 S. Ct. 67, 19 L. Ed. 2d 103.

[3] Jefferson II, 380 F. 2d at 389.

[4] "Relief to the class requires school boards to desegregate the school from which a transferee comes as well as the school to which he goes. It requires conversion of the dual zones into a single system. Faculties, facilities, and activities as well as student bodies must be integrated." Jefferson I, 372 F. 2d at 868. See also Jefferson II, 380 F. 2d at 389.

[5] Jefferson I, 372 F. 2d at 847.

[6] Jefferson II, 380 F. 2d at 390.

[7] "If school officials in any district should find that their district still has segregated faculties and schools or only token integration, their affirmative duty to take corrective action requires them to try an alternative to a freedom of choice plan, such as a geographic attendance plan, a combination of the two, the Princeton plan, or some other acceptable substitute, perhaps aided by an educational park. Freedom of choice is not a key that opens all doors to equal educational opportunities." Jefferson I, 372 F. 2d at 895–896.

[8] Jefferson II, 380 F. 2d at 394.

[9] In Lee v. Macon County Board of Education, M.D.Ala., 1967, 267 F. Supp. 458; 289 F. Supp. 975, involving a number of school systems in Alabama, the district court continues to accept freedom of choice, but has met the problem of the all-Negro school by requiring school boards to close certain schools, to consolidate and pair schools, and to assign a certain percentage of students to the school nearest their home.

[10] Raney v. Board of Education, 1968, 391 U.S. 443, 88 S.Ct. 1697, 20 L.Ed.2d 727 and Monroe v. Board of Commissioners, 1968, 391 U.S. 450, 88 S.Ct. 1700, 20 L.Ed.2d 733, 735 are companion cases.

[11] Brown v. Board of Education of Topeka, Shawnee County, Kansas, 1954, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (Brown I); 1955, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1003 (Brown II).

[12] The intervenors are Negro school children and their parents in Choctaw County.

[13] The school district in *Green* had 57 per cent Negro and 43 per cent white students. In Raney v. Board of Education of the Gould School District, 1968, 391 U.S. 443, 88 S.Ct. 1697, 20 L.Ed.2d 727, one of the companion cases to *Green*, the Negro students constituted 66 per cent of the school population.

[14] This is an impermissible consideration. As the Supreme Court said in *Brown* II, 349 U.S. at 300, 75 S.Ct., at 756, "[I]t should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them". See also Monroe v. Board of Commissioners, 1968, 391 U.S. 450, 459, 88 S.Ct. 1700, 20 L.Ed.2d 733. There is no reason to believe that the emotional wrench would be greater in Choctaw County, Alabama, than in New Kent County, Virginia (Green) or in Gould, Arkansas (Raney). See footnote 13.

[15] School desegregation cannot be delayed on the ground that Negroes have lower educational levels than whites in the same grades or age groups; that therefore "compliance with the Supreme Court's decision would be detrimental" to the students. Stell v. Savannah-Chatham County Board of Education, 5 Cir. 1961, 318 F.2d 425, 333 F.2d 55; Jackson Municipal School District v. Evers, 5 Cir. 1966, 357 F.2d 653. The existing effects of past discrimination do not justify perpetuating the unconstitutional conditions which caused the present educational inequalities.

[16] See *Green*, 391 U.S. at 339, 88 S.Ct. 1689; *Jefferson III*; Adams v. Mathews, 5 Cir. 1968, 403 F.2d 181; Hall v. St. Helena Parish School Board, 5 Cir. 1969, 417 F.2d 801.

[17] See United States v. Greenwood Separate School District, 5 Cir. 1969, 406 F.2d 1086; Henry v. Clarksdale Municipal Separate School District, 5 Cir. 1969, 409 F.2d 682.

[18] Adams v. Mathews, 5 Cir. 1968, 403 F.2d 181, 188.

[19] These instructions are similar to those expressed in *Jefferson III* and Davis v. Board of School Commissioners of Mobile County, 5 Cir. 1969, 414 F.2d 69.

[20] Davis v. Board of School Commissioners of Mobile County, 5 Cir. 1968, 393 F.2d 690, 694; United States v. Greenwood Municipal Separate School District, 5 Cir. 1968, 406 F.2d 1086; Henry v. Clarksdale School District, 5 Cir. 1969, 409 F.2d 682.

[21] Adams v. Mathews, 5 Cir. 1968, 403 F.2d 181; Board of Public Instruction of Duval County v. Braxton, 5 Cir. 1968, 402 F.2d 900.

[22] Monroe v. Board of Commissioners of Jackson, Tennessee, 1968, 391 U.S. 450, 88 S.Ct. 1700, 20 L.Ed.2d 733; Goss v. Board of Education of City of Knoxville, Tenn., 1963, 373 U.S. 683, 83 S.Ct. 1405, 10 L.Ed.2d 632.

[23] "When desegregation plans do not meet minimum standards, the school authorities should ask HEW for assistance. And district courts should invite HEW to assist by giving advice on raising the levels of the plans and by helping to coordinate a school's promises with the school's performance. In view of the competent assistance HEW may furnish schools, there is a heavy burden on proponents of the argument that their schools

cannot meet HEW standards." Jefferson I, 372 F.2d at 888 Davis v. Mobile quoted the following language from Wittenberg v. Greenville County School District, D.C.S.C.1969, 298 F. Supp. 784: "The difficulties involved in developing a proper decree concern basically practical operational questions and matters of educational administration. HEW with its staff of trained educational experts 'with their day to day experience with thousands of school systems,' is far better qualified to deal with such operational and administrative problems than the Court presided over by Judges who, as one Court has phrased it, 'do not have sufficient competence—they are not educators or school administrators—to know the right questions, much less the right answers.'"

CHOCTAW COUNTY BOARD OF EDUCATION ET AL., APPELLANTS, v. UNITED STATES OF AMERICA, APPELLEE

(No. 25639, United States Court of Appeals, Fifth Circuit, June 26, 1969)

School desegregation case. The United States District Court for the Southern District of Alabama, Virgil Pittman, J., entered order that school board close an all-Negro school, and appeal was taken. The Court of Appeals held that in view of fact that physical facilities, equipment, and instructional materials available at all-Negro school were inferior to the white and predominantly white elementary schools in county, it was proper to order county school board to close all-Negro school.

Affirmed with directions.

J. Edward Thornton, Mobile, Ala., for appellants, John Y. Christopher, Butler, Ala., Thornton and McGowin, Mobile, Ala., for counsel.

Vernol R. Jansen, U.S. Atty., Mobile, Ala., Kenneth L. Johnson, Gary J. Greenberg, Attys., Dept. of Justice, Washington, D.C., Jerris Leonard, Asst. Atty. Gen., David L. Norman, Deputy Asst. Atty. Gen., Merle W. Loper, Atty., Dept. of Justice, Washington, D.C., for appellee.

Before Wisdom, Circuit Judge, and Carswell and Roberts, District Judges.

Per Curiam:

The substantive issue in this case concerns the district court's order that the School Board of Choctaw County, Alabama, close the Melvin School, an all-Negro school.

I

The record supports the district court's finding that:

The physical facilities, equipment, and instructional materials available at the all-Negro Melvin School are inferior to the white and predominantly white elementary schools of Choctaw County. This school had, to wit, 81 students and three teachers in the 1966–1967 school year. On September 1, 1967, only two teachers had been employed although there were plans to secure one additional teacher in the event sufficient students enrolled, which in the judgment of the County Board, aside and apart from this decree, would justify keeping the school open. The evidence indicated that the number attending the Melvin School for the 1967–68 school year would be less than the, to wit, 81 who attended last year. In consideration of the size, the teacher personnel, and infeasibility of improving the Melvin School to the extent necessary in order for its education opportunities to be equivalent to those provided at the white or formerly white schools, the students presently enrolled at the Melvin School can be absorbed into other schools in Southern Choctaw County without creating conditions of overcrowding.

Here the school board deprived students at Melvin School of educational opportunities to be found in other schools in the district. It is evident that when such a school has only Negro students, closing the school will promote desegregation. The order therefore is "reasonably related" to "accomplishing" the objective of conversion to a unitary system—"equal educational opportunities on equal terms to all." Jefferson II, 5 Cir. 1969, 380 F.2d 385. The district court properly ordered the school closed. See Montgomery County Board of Education v. Carr, 5 Cir. 1968, 400 F.2d 1; Lee v. Macon County Board of Education, M.D.Ala. 1968, 292 F. Supp. 363; 289 F.Supp. 975, 978.

This is the easy case: Melvin School could not even have coexisted in 1896 with Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256.

In Green v. County Board of Education of New Kent County, Virginia, 1968, 391 U.S. 430, 89 S.Ct. 1689, 20 L.Ed.2d 716 the Supreme Court held that the board's freedom of choice plan could not be accepted as a sufficient step to effectuate a transition. The decision was based, in part, on the existence of an all-Negro school, one of the two schools in the system. The Court pointed to the fact that not a single child had chosen to attend the Negro school in the three years the plan had been in effect; the Court made no reference to the quality of the school's facilities or faculty. This Court has said, "If in a school district there are still all-Negro schools * * * then, as a matter of law, the existing plan fails to meet constitutional standards". Adams v. Mathews, 5 Cir. 1968, 403 F.2d 181. See also Henry v. Clarksdale Municipal Separate School District, 5 Cir. 1969, 409 F.2d 682; Hall v. St. Helena Parish School Board, 5 Cir. 1969, 417 F.2d 801. See United States v. Choctaw County, 417 F.2d 838, a companion case to the instant case.

II

The appellants object to the district court's taxing costs against the Superintendent of Schools and the individual members of the School Board of Choctaw County. The character of a lawsuit, whether it is brought against persons in their official or private capacity, is determined by the nature of the pleadings. Even if there is no specific averment that the suit is against defendants only in their official capacity, that is the nature of the suit if it is clear from the allegations of the complaint. Lynn v. Clark, 254 N.C. 460, 119 S.E.2d 187 (1961); Giguere v. Rosselot, 110 Vt. 173, 3 A.2d 538 (1939); Reddy v. Johnston, 77 Idaho 402, 293 P.2d 945 (1956). Here the allegations of the complaint charge the Superintendent of Schools and the Board members only in the representative capacity, and not as individuals. Massey v. Payne, 109 W.Va. 529, 155 S.E. 658 (1930). Moreover, in open court the attorneys for the United States and the intervenors have disavowed any intention of asking that costs be taxed against the individual defendants.

The portion of the judgment below ordering Melvin School closed is affirmed. The portion of the judgment taxing costs against the defendants is affirmed, subject to the clarification that the costs shall not be taxed against the defendants in their individual capacities.

APPEAL FROM THE U.S. DISTRICT COURT, NORTHERN DISTRICT OF ALABAMA

United States of America, and Doris Elaine Brown et al., Appellants, v. The Board of Education of the City of Bessemer et al., Appellees.

United States of America, and Dwight Armstrong et al., Appellants, v. Board of Education of the City of Birmingham, Jefferson County, Alabama, et al., Appellees.

United States of America and Linda Stout, by her father and next friend, Blevin Stout, Appellants, v. Jefferson County Board of Education et al., Appellees.

(Nos. 26582–26584, United States Court of Appeals, Fifth Circuit, July 1, 1969.)

Appeal from the United States District Court for the Northern District of Alabama at Birmingham; Seybourn H. Lynne, Judge, after prior remand, 5 Cir., 396 F.2d 44.

No. 26582:

Before Wisdom, Bell, and Godbold, Circuit Judges.

Per Curiam:

These school cases involve public school systems in Bessemer, Birmingham, and Jefferson County, Alabama. The central issue in each case is whether the court-approved plan carries out this Court's directive that interim goals be established for achieving total faculty desegregation by 1970–71. In another matter before this Court, cases involving two of these same school districts (Jefferson County and Bessemer County) were consolidated for purposes of appeal on the broad question of ordering a revision of the desegregation plan by requiring student assignments on a basis other than freedom of choice. United States v. Jefferson County (Jefferson III), 5 Cir. 1969, 417 F.2d 834.

We reverse and remand the instant cases for further consideration in light of United States v. Montgomery County Board of Education, 1969, 395 U.S. 225, 89 S.Ct. 1670, 23 L.Ed.2d 263, and in light of the following recent decisions of this Court: Jefferson III; United States v. Choctaw County Board of Education, 5 Cir. 1969, 417 F.2d 838 [June 26, 1969]; Davis v. Board of Commissioners of Mobile County, 5 Cir. 1969, 414 F.2d 69 [June 3, 1969]; Hall v. St. Helena Parish School Board, 5 Cir. 1969, 417 F.2d 801 [May 28, 1969]; Adams v. Mathews, 5 Cir. 1968, 403 F. 2d 181.

The mandate of this court shall issue immediately and will not be stayed pending petitions for rehearing or certiorari.

Godbold, Circuit Judge (specially concurring):

I concur in the result.

Bell, Circuit Judge (concurring specially):

I concur in the opinion and the result thereof except to the extent, if any, that the decisions of this court cited therein may exceed the requirements laid down by the Supreme Court in Green v. County School Board of New Kent County, Virginia, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968); Raney v. Board of Education of Gould, Arkansas, 391 U.S. 443, 88 S.Ct. 1697, 20 L. Ed. 2d 727 (1968); Monroe v. Board of Commissioners of City of Jackson, Tennessee, 391 U.S. 450, 88 S.Ct. 1700, 20 L.Ed.2d 733 (1968), to-wit: that dual school systems be disestablished. I am in fundamental disagreement with the approach of an appellate court stipulating the details of transition plans where couched in terms of constantly escalating interim demands. The specter of escalation, with no end in sight, retards the disestablishment process.

Congress has never acted as it could have under § 5 of the Fourteenth Amendment to set uniform standards for disestablishing dual school systems. Meanwhile, no court has defined "disestablishment". My view continues to be that school systems are entitled to know the ultimate standard. United States v. Jefferson County Board of Education, 5 Cir., 1967, 380 F.2d 385, dissenting opinion at p. 413.

UNITED STATES OF AMERICA, BY JOHN MITCHELL, ATTORNEY GENERAL, PLAINTIFF-APPELLANT, v. THE BOARD OF EDUCATION OF BALDWIN COUNTY, GEORGIA ET AL., DEFENDANTS-APPELLEES

(No. 27281, United States Court of Appeals, Fifth Circuit, July 9, 1969)

Before Wisdom and Carswell, Circuit Judges, and Roberts, District Judge.

Wisdom, Circuit Judge:

In a number of recent school desegregation cases this Court reversed the district court's orders approving a freedom of choice plan and remanded the cases with instructions that the court direct the school boards to

submit a new plan based on zoning and pairing of schools. We suggested that the plan be formulated in the light of recent decisions of the United States Supreme Court[1] and of this Court.[2]

[1–3] A freedom of choice plan is not per se unconstitutional.[3] Indeed, it may be better fitted for certain districts than an attendance zone plan when, for example, a school district has well-marked residential racial patterns. The indispensable element of any desegregation plan, the element that makes it work, is the school board's recognition of its affirmative duty to disestablish the dual system and all its effects. As this Court has often said, that duty is not discharged simply by opening the doors of white schools to Negro applicants. The schools from which the Negroes come must be segregated as well as the schools to which they go. And in any situation the school board should choose the alternative that promotes disestablishment of the dual system and eradication of the effects of past segregated schooling. For example, the sites of new schools should be selected so as to promote desegregation.

[4, 5] In the case now before the Court we conclude, after a study of the record, that the district court correctly decided that a freedom of choice plan was more suitable than a zoning plan for Baldwin County, Georgia. We base this conclusion on the county's racial residential patterns, the locations of the schools, and the projections for 1969–70. Of course, in the administration of a freedom of choice plan, no less than in the administration of a zoning plan, effective desegregation may require the closing, consolidation, or pairing of schools.

[6] Our partial approval of the existing plan for Baldwin County is only tentative. We note that, as usual in school cases, the record is stale. The projections for the next year by comparison with this school year appear to be optimistic. That too is usual. We consider it essential, therefore, for the district court promptly to hold a hearing and to make findings of fact and draw conclusions of law as to the efficacy of the plan, as modified, to disestablish the dual system *now*.

[7] It is significant that the rate of desegregation in 9 of the 11 schools within this system under its "freedom of choice" plan only barely passes muster when compared with the teachings of *Green*. There remain within the system two schools which are all-Negro. An all-Negro school simply does not meet Constitutional standards, and, as many recent decisions of this Court have emphasized, they must be eliminated by September 1969. The Supreme Court rejected "freedom of choice" plan in *Green* because, in its words:

"Racial identification of the system's schools was complete, extending not just to the composition of student bodies at the two schools but to every facet of school operation—faculty, staff, transportation, extracurricular activities and facilities. In short, the state * * * organized and operated a dual system, part 'white' and part 'Negro.'"

Thus, by this criteria, two of the eleven Baldwin County schools within the system remain all-Negro and there is no provision in the present plan for their desegregation by September 1969.

[8, 9] In addition to new steps the school board, with the approval of the district court, may take to dismantle the dual system, the plan must be modified so as to provide for the substance of the following requirements:

1. Compliance day for effective student desegregation is the first day of September 1969.

2. Compliance day for the elimination of all-Negro schools is the first day of September 1970. Steps which may be taken by the Board to eliminate racial identification of the present all-Negro schools, in addition to the specific requirements of faculty integration, are the establishment of vocational or other special courses of instruction, summer schools, and desegregation of staff and transportation and all types of extracurricular activities and facilities.

3. Compliance day for total faculty desegregation is the first day of September 1970. By "total faculty desegregation" we mean that, as stated in *Jefferson*, "the pattern of teacher assignment to any particular school should not be identifiable as tailored for a heavy concentration of either Negro or white pupils in the school".[4] In Baldwin County the district judge found that there were about 180 white teachers to 120 Negro teachers. For the 1969–70 school year the race of at least one of every five faculty members in a school must be different from the race of the majority of the faculty members at that school.[5]

4. To avoid resegregation, the transfer of a student from a school where his race is in the minority to a school where his race is in the majority may be permitted only in exceptional cases.

5. The district court shall forthwith request the Office of Education of the United States Department of Health, Education and Welfare to collaborate with the School Board of Baldwin County in the preparation of a plan to desegregate fully and affirmatively all public schools in the county, with comprehensive recommendations for locating and designating new schools, and consolidating existing schools to assist in eradicating past discrimination and effecting desegregation. The district court shall further require the School Board to make available to the Office of Education or its designees all requested information relating to the operation of the school district.

6. The plan shall also provide for the prohibition of racial discrimination in student assignments by the School Board under its current contract with Georgia Military College.

We emphasize that these are minimal September 1969 goals. The district court with the benefit of a current record and with the assistance of counsel and the United States Department of Health, Education and Welfare may find it necessary to go beyond these minimal specific requirements. The court may well conclude on the basis of the new record and in the light of suggested alternatives that, indeed, zoning, pairing, or closing certain schools is required "to convert promptly to a system without a 'white' and a 'Negro' school, but just schools".[6]

The opinion and mandate issued July 1, 1969, are recalled. This opinion is substituted for the previous opinion. Because of the urgency of this matter the mandate will issue immediately.

Affirmed with modifications.

FOOTNOTES

[1] Green v. County Board of New Kent County, Virginia, 1968, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716; United States v. Montgomery County Board of Education, 1969, 395 U.S. 225, 89 S.Ct. 1670, 23 L.Ed.2d 263.

[2] United States v. Choctaw County Board of Education, 5 Cir. 1969, 417 F.2d 838 (June 26, 1969); United States v. Jefferson County, 5 Cir. 1969, 417 F.2d 834 (June 26, 1969); Davis v. Board of Commissioners of Mobile County, 5 Cir. 1969, 414 F.2d 69 (June 3, 1969); Hall v. St. Helena Parish School Board, 5 Cir. 1969, 417 F.2d 801 (May 28, 1969); Adams v. Mathews, 5 Cir. 1938, 403 F.2d 181.

[3] Green, 391 U.S. at 430, 88 S.Ct. 1689.

[4] United States v. Jefferson County Board of Education, 1967, 380 F.2d 385, 394 (Jefferson II).

[5] In Baldwin County the Department of Justice found that there are about 180 white teachers to 120 Negro teachers. In the *Montgomery* case, supra, the Supreme Court approved the district judge's order which established for the 1968–69 school year a ratio of five to one; that is, "in a school with 12 or more teachers, the race of least one out of every six faculty and staff members was required to be different from the race of the majority of the faculty and staff members at that school". At the time the ratio of white to Negro teachers in the system as a whole was three to two. That is identical with the racial composition of teachers in Baldwin County, Georgia. The Supreme Court noted that the "goals to be required for future years were not specified but were reserved for later decisions". The Supreme Court also noted that the district court's order provided that the board must move 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". Judge Johnson ordered that the ratio of Negro to white teachers in the assignment of substitute, student, and night school teachers was to be almost immediately made substantially the same as the ratio of Negro to white teachers in each of these groups for the system as a whole.

[6] Green, 391 U.S. at 442, 88 S.Ct. at 1696; Jefferson II, 380 F.2d at 389.

Footnotes at end of article.

SCHOOL DESEGREGATION CASES

United States of America, Plaintiff-Appellant, v. Hinds County School Board et al., Defendants-Appellees. (Civil Action No. 4075 (J)).

Buford A. Lee et al., Plaintiffs-Appellees, v. United States of America, Defendant-Appellant, v. Milton Evans, Third-Party Defendant-Appellee. (Civil Action No. 2034(H)).

United States of America, Plaintiff-Appellant, v. Kemper County School Board et al., Defendants-Appellees. (Civil Action No. 1373 (E)).

United States of America, Plaintiff-Appellant, v. North Pike County Consolidated School District et al., Defendants-Appellees. (Civil Action No. 3807(J)).

United States of America, Plaintiff-Appellant, v. Natchez Special Municipal Separate School District et al., Defendants-Appellees. (Civil Action No. 1120(W)).

United States of America, Plaintiff-Appellant, v. Marion County School District et al., Defendants-Appellees. (Civil Action No. 2178 (H)).

Joan Anderson et al., Plaintiffs-Appellants, United States of America, Plaintiff-Intervenor-Appellant, v. The Canton Municipal School District et al. and the Madison County School District et al., Defendants-Appellees. (Civil Action No. 3700(J)).

United States of America, Plaintiff-Appellant, v. South Pike County Consolidated School District et al., Defendants-Appellees. (Civil Action No. 3984(J)).

Beatrice Alexander et al., Plaintiffs-Appellants, v. Holmes County Board of Education et al., Defendants-Appellees. (Civil Action No. 3779(J)).

Roy Lee Harris et al., Plaintiffs-Appellants, v. The Yazoo County Board of Education et al., Defendants-Appellees. (Civil Action No. 1209(W)).

John Barnhardt et al., Plaintiffs-Appellants, v. Meridian Separate School District et al., Defendants-Appellees (Civil Action No. 1300(E)).

United States of America, Plaintiff-Appellant, v. Neshoba County School District et al., Defendants-Appellees. (Civil Action No. 1396(E)).

United States of America, Plaintiff-Appellant, v. Noxubee County School District et al., Defendants-Appellees. (Civil Action No. 1372(E)).

United States of America, Plaintiff-Appellant, v. Lauderdale County School District et al., Defendants-Appellees. (Civil Action No. 1367(E)).

Dian Hudson et al., Plaintiffs-Appellants, United States of America, Plaintiff-Intervenor-Appellant, v. Leake County School Board et al., Defendants-Appellees. (Civil Action No. 3382(J)).

United States of America, Plaintiff-Appellant, v. Columbia Municipal Separate School et al., Plaintiff-Appellant. (Civil Action No. 2199(H)).

United States of America, Plaintiff-Appellant, v. Amite County School District et al., Defendants-Appellees. (Civil Action No. 3983(J)).

United States of America, Plaintiff-Appellant, v. Covington County School District et al., Defendants-Appellees. (Civil Action No. 2148(H)).

United States of America, Plaintiff-Appellant, v. Lawrence County School District et al,. Defendants-Appellees. (Civil Action No. 2216(H)).

Jeremiah Blackwell, Jr., et al., Plaintiffs-Appellants, v. Issaquena County Board of Education et al., Defendants-Appellees. (Civil Action No. 1096(W)).

United States of America, Plaintiff-Appellant, v. Wilkinson County School District et al., Defendants-Appellees. (Civil Action No. 1160(W)).

Charles Killingsworth et al., Plaintiffs-Appellants, v. The Enterprise Consolidated School District and Quitman Consolidated School District, Defendants-Appellees. (Civil Action No. 1302(E)).

United States of America, Plaintiff-Appellant, v. Lincoln County School District et al., Defendants-Appellees. (Civil Action No. 4294 (J)).

United States of America, Plaintiff-Appellant, v. Philadelphia Municipal Separate School District et al., Defendants-Appellees. (Civil Action No. 1368(E)).

United States of America, Plaintiff-Appellant, v. Franklin County School District et al., Defendants-Appellees. (Civil Action No. 4256(J)).

(Nos. 28030, 28042, United States Court of Appeals, Fifth Circuit, July 3, 1969. Rehearing Denied and Rehearing En Banc Denied Oct. 9, 1969.)

School desegregation cases. The United States District Court for the Southern District of Mississippi, William Cox, Chief Judge, entered orders approving continued use by school districts of freedom of choice plan as a method for disestablishment of dual school systems, and appeals were taken. The Court of Appeals held that in view of fact that no white students had ever attended any traditionally Negro school in any of school districts and every district continued to operate and maintain its all-Negro schools, school districts would no longer be able to rely on freedom of choice plan as method for disestablishing their dual school systems, and, to eliminate dual character of these schools, alternative methods of desegregation must be employed which would include such methods as zoning and pairing.

Reversed and remanded with directions.

Before John R. Brown, Chief Judge and Thornberry and Morgan, Circuit Judges.

Per Curiam:

As questions of time present such urgency as we approach the beginning of the new school year September 1969–70, the court requested in advance of argument that the parties submit proposed opinion-orders modeled after some of our recent school desegregation cases. We have drawn freely upon these proposed opinion-orders.

These are twenty-five school desegregation cases in a consolidated appeal from an en banc decision of the U.S. District Court for the Southern District of Mississippi. These cases present a common issue: whether the District Court erred in approving the continued use by these school districts of freedom of choice plans as a method for the disestablishment of the dual school systems.

The plaintiffs' position is that the District Court erred in failing to apply the principles announced in recent decisions of the Supreme Court and of this Court.

These same school districts, along with others, were before this Court last year in Adams v. Mathews, 403 F.2d 181 (5th Cir., 1968). The cases were there remanded with instructions that the district courts determine:

(1) whether the school board's existing plan of desegregation is adequate "to convert [the dual system] to a unitary system in which racial discrimination would be eliminated root and branch" and

(2) whether the proposed changes will result in a desegregation plan that "promises realistically to work now."

403 F.2d at 188. In determining whether freedom of choice would be acceptable, the following standards were to be applied:

If in a school district there are still all-Negro schools or only a small fraction of Negroes enrolled in white schools, or no substantial integration of faculties and school activities, then, as a matter of law, the existing plan fails to meet constitutional standards as established in *Green. Ibid.*

In all pertinent respects, the facts in these cases are similar. No white students have ever attended any traditionally Negro school in any of the school districts. Every district thus continues to operate and maintain its all-Negro schools. The record compels the conclusion that to eliminate the dual character of these schools alternative methods of desegregation must be employed which would include such methods as zoning and pairing.

Not only has there been no cross-over of white students to Negro schools, but only a small fraction of Negro students have enrolled in the white schools. The highest percentage is in the Enterprise Consolidated School District, which has 16 percent of its Negro students enrolled in white schools—a degree of desegregation held to be inadequate in Green v. County School Board, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968). The statistics in the remaining districts range from a high of 10.6 percent in Forrest County to a low of 0.0 percent in Neshoba and Lincoln Counties. The projected enrollment statistics for the 1969–1970 school year show little improvement.[1] For the most part school activities also continue to be segregated. Although Negroes attending predominantly white schools do participate on teams of such schools in athletic contests, in none of the districts do white and all-Negro schools compete in athletics.

These facts indicate that these cases fall squarely within the decisions of the Supreme Court in *Green* and its companion cases and the decisions of this Court. See United States v. Greenwood Municipal Separate School District, 406 F. 2d 1086 (5th Cir. 1969); Henry v. Clarksdale Municipal Separate School District, 409 F. 2d 682 (5th Cir., 1969); United States v. Indianola Municipal Separate School District, 410 F. 2d 626 (5th Cir., 1969); Anthony v. Marshall County Board of Education, 409 F. 2d 1287 (5th Cir., 1969); Hall v. St. Helena Parish School Board, 417 F. 2d 801 (5th Cir., May 28, 1969); Davis v. Board of School Commissioners of Mobile County, 414 F. 2d 69 (5th Cir., June 3, 1969); United States v. Jefferson County Board of Education, 417 F. 2d 834 (5th Cir., June 26, 1969); United States v. Choctaw County Board of Education, 5 Cir. 1969, 417 F. 2d 838 (July 1, 1969); United States by John Mitchell v. Board of Education of Baldwin County, 5 Cir. 1969, 417 F. 2d 848 (July 1, 1969); United States v. Board of Education of the City of Bessemer, 5 Cir. 1969, 417 F. 2d 846 (July 1, 1969). The proper conclusion to be drawn from these facts is clear from the mandate of Adams v. Mathews, *supra:* "as a matter of law, the existing plan fails to meet constitutional standards as established in *Green.*"

We hold that these school districts will no longer be able to rely on freedom of choice as the method for disestablishing their dual school systems.

This may mean that the tasks for the courts will become more difficult. The District Court itself has stated that it "does not possess any of the training or skill or experience or facilities to operate any kind of schools; and unhesitatingly admits to its utter incompetence to exercise or exert any helpful power or authority in that area." And this Court has observed that judges "are not educators or school administrators." United States v. Jefferson County Board of Education, *supra,* 417 F. 2d at 834. Accordingly, we deem it appropriate for the Court to require these school boards to enlist the assistance of experts in education as well as desegregation; and to require the school boards to cooperate with them in the disestablishment of their dual school systems.

With respect to faculty desegregation, little progress has been made.[2] Although Natchez-Municipal Separate District has a level of 19.2% and Lawrence County a level of 10.6%, seven school districts have less than one full-time teacher per school assigned across racial lines. In the remaining systems, less than 10 percent of the full-time faculties teach in schools in which their race is in the minority. Faculties must be integrated. United States v. Montgomery County Board of Education, 393 U.S. 1116, 89 S.Ct. 989, 22 L.Ed.2d 121 (1969). Minimum standards should be established for making substantial progress toward this goal in 1969 and finishing the job by 1970. United States v. Board of Education of the City of Bessemer, 5 Cir., 1968, 396 F.2d 44; Choctaw County, supra; Baldwin County, supra.

The Court on the motion to summarily reverse or alternatively to expedite submission of the case filed by the Government and the private plaintiffs concluded that fundamental constitutional rights of many persons would be jeopardized, if not lost, if this Court routinely calendared this case for briefing and argument in the regular course. Before we could ever hear it, the opening of the school year September 1969–1970 would have gone by. With this and the total absence of any new issue even resembling a constitutional issue in this much litigated field, we therefore concluded that the appeals should be expedited. Full arguments were had and representatives from every District were heard from. In the course of these arguments, several contentions were made as to which we make these additional specific comments.

Based upon opinion surveys conducted by presumably competent sampling experts, testimony of school administrators, board members, and educational experts, the School Districts urged, and the District Court found in effect, that the failure of a single white student to attend an all-Negro school was due to the provisions of our *Jefferson* decree which in effect prohibited school authorities from influencing the exercise of choice by students or parents. We find this completely unsupported. This record affords no basis for any expectation of any substantial change were the provision modified.

Based upon similar testimony, the School Districts urged a related contention that the uncontradicted statistics showing only slight integration are not a reliable indicator of the commands of *Green.* This argument rests on the assertion that quite apart from a prior dual race school system, there would

Footnotes at end of article

be concentration of Negroes or white persons from what was described as "polarization." To bolster this, they pointed to school statistics in non-southern communities. Statistics are not, of course, the whole answer, but nothing is as emphatic as zero, and in the face of slight numbers and low percentages of Negroes attending white schools, and no whites attending Negro schools, we find this argument unimpressive.

In the same vein is the contention similarly based on surveys and opinion testimony of educators that on stated percentages (e.g., 20%, 30%, 70%, etc.), integration of Negroes (either from influx of Negroes into white schools or whites into Negro schools), there will be an exodus of white students up to the point of almost 100% Negro schools. This, like community response or hostility or scholastic achievement disparities, is but a repetition of contentions long since rejected in Cooper v. Aaron, 1958, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5; Stell v. Savannah-Chatham County Bd. of Ed., 5 Cir., 1964, 333 F.2d 55, 61; and United States v. Jefferson County Bd. of Ed., 5 Cir., 1969, 417 F.2d 834 [June 26, 1969].

The order of the District Court in each case is reversed and the cases are remanded to the District Court with the following direction:

1. These cases shall receive the highest priority.

2. The District Court shall forthwith request that educators from the Office of Education of the United States Department of Health, Education and Welfare collaborate with the defendant school boards in the preparation of plans to disestablish the dual school systems in question. The disestablishment plans shall be directed to student and faculty assignment, school bus routes if transportation is provided, all facilities, all athletic and other school activities, and all school location and construction activities. The District Court shall further require the school boards to make available to the Office of Education or its designees all requested information relating to the operation of the school system.

3. The board, in conjunction with the Office of Education, shall develop and present to the District Court before August 11, 1969, an acceptable plan of desegregation.

4. If the Office of Education and a school board agree upon a plan of desegregation, it shall be presented to the District Court on or before August 11, 1969. The court shall approve such plan for implementation commencing with the 1969 school year, unless within seven days after submission to the court any party files any objection or proposed amendment thereto alleging that the plan, or any part thereof, does not conform to constitutional standards.

5. If no agreement is reached, the Office of Education shall present its proposal to the District Court on or before August 11, 1969. The Court shall approve such plan for implementation commencing with the 1969 school year, unless within seven days a party makes proper showing that the plan or any part thereof does not conform to constitutional standards.

6. For plans to which objections are made or amendments suggested, or which in any event the District Court will not approve without a hearing, the District Court shall hold hearings within five days after the time for filing objections and proposed amendments has expired. In no event later than August 23, 1969.

7. The plans shall be completed, approved, and ordered for implementation by the District Court no later than August 27, 1969. Such a plan shall be implemented commencing with the beginning of the 1969–1970 school year.

8. Because of the urgency of formulating and approving plans to be implemented for the 1969–70 school term, it is ordered as follows: The mandate of this Court shall issue immediately and will not be stayed pending petitions for rehearing or certiorari. This Court will not extend the time for filing petitions for rehearing or briefs in support of or in opposition thereto. Any appeals from orders or decrees of the District Court on remand shall be expedited. The record on any appeal shall be lodged with this court and appellants' brief filed, all within ten days of the date of the order or decree of the district court from which the appeal is taken. Appellee's brief shall be due ten days thereafter. The court will determine the time and place for oral argument if allowed. No consideration will be given to the fact of interrupting the school year in the event further relief is indicated.

Reversed and remanded with directions.

On Petition for Rehearing en banc.

Per Curiam:

The Petition for Rehearing is denied and the Court having been polled at the request of one of the members of the Court and a majority of the Circuit Judges who are in regular active service not having voted in favor of it, (Rule 35 Federal Rules of Appellate Procedure; Local Fifth Circuit Rule 12) the Petition for Rehearing En Banc is also denied.

ENROLLMENT BY RACE AND PERCENTAGE OF NEGROES IN WHITE SCHOOLS

District	Projected Enrollment 1969–70		Negroes in White Schools	
	Negro	White	Number	Percentage
Amite	2,649	1,484	63	2.4
Canton	3,440	1,352	4	.11
Columbia	912	1,553	60	6.6
Covington	1,422	1,968	89	5.1
Forrest	480	3,085	81	16.9
Franklin	1,029	1,124	38	3.7
Hinds	7,409	6,559	481	6.5
Kemper	1,896	786	11	.58
Lauderdale	1,872	3,060	26	1.4
Lawrence	1,263	1,889	32	2.5

1. Illustrative are the following tables, corrected to the latest available data furnished and checked by counsel, in the cases in which the Government is a party showing the racial character of the schools in each district and the enrollment by race:

RACIAL CHARACTER

District	Total number of schools	All-Negro	All-white	Predominantly white
Amite	5	2	1	2
Canton	5	3	--------	2
Columbia	4	1	--------	3
Covington	7	3	1	3
Forrest	9	1	2	6
Franklin	3	1	--------	2
Hinds	22	10	1	11
Kemper	5	2	1	2
Lauderdale	5	1	2	2
Lawrence	7	2	3	2
Leake	7	3	3	1
Lincoln	6	2	3	--------
Madison	8	4	--------	4
Marion	5	1	2	2
Meridian	19	8	--------	11
Natchez-Adams	15	7	--------	8
Neshoba	2	1	--------	1
North Pike	4	1	2	1
Noxubee	6	3	--------	3
Philadelphia	3	1	1	1
Sharkey-Issaquena	5	4	--------	1
Anquilla-Line	3	2	--------	1
South Pike	7	2	--------	5
Wilkinson	4	2	--------	2

District	Projected Enrollment 1969–70		Negroes in White Schools	
	Negro	White	Number	Percentage
Leake	1,586	1,950	67	4.3
Lincoln	941	1,149	5	.2
Madison	3,198	1,128	41	1.3
Marion	1,082	1,741	34	3.1
Meridian	3,974	5,805	606	15.2
Natchez-Adams	5,509	4,496	541	9.8
Neshoba	591	1,875	1	.16
North Pike	632	708	2	.31
Noxubee	3,002	829	95	3.2
Philadelphia	406	923	11	2.7
Sharkey-Issaquena	1,241	603	104	6.4
Anguilla-Line	769	207	30	3.9
South Pike	1,737	994	46	2.6
Wilkinson	2,032	689	55	2.7

1. There is a disagreement over proper accounting for some special classes which, for these purposes, we consider unimportant.

2. The latest corrected figures (see note 1 supra) are:

District	Full & part time teachers		Full time desegregating teachers		Part time desegregating teachers	
	Negro	White	Negro	White	Negro	White
Amite	95	66	0	0	0	0
Canton	120	81	3	11	1	9
Columbia	43	71	5	4	0	4
Covington	64	103	3	3	1	5
Forrest	43	122	4	3	1	2
Franklin	44	45	3	4	1	1
Hinds	295	281.9	22	0		
Kemper	68	45	0	1	0	3
Lauderdale	82	131	8	3	0	0
Lawrence	50	81	10	4	0	1
Leake	87	90	0	3	0	1
Lincoln	38	74	0	0	0	0
Madison	147	66	0	8	0	1
Marion	48	96	4	6	0	0
Meridian	180	317	8	17	4	10
Natchez-Adams	484		0	0	40	53
Neshoba	35	86	0	3	0	2
North Pike	26	30	1	2	1	2
Noxubee	135	61	6	1	0	0
Philadelphia	25	46	0	0	0	2
Sharkey-Issaquena	71	31	0	0	0	0
Anguilla-Line			0	0	0	0
South Pike	78	52.8	2	3.3	0	2
Wilkinson	97	39	0	0	0	0

HALL *v.* ST. HELENA PARISH SCHOOL BOARD (Cite as 417 F.2d 801 (1968))

Lawrence Hall et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. St. Helena Parish School Board et al., Defendants-Appellees. (Civil Action No. 1068).

James Williams, Jr., et al., Plaintiff-Appellants, United States of America, Intervenor-Appellant, v. Iberville Parish School

Board et al., Defendants-Appellees. (Civil Action No. 2921).

Yvonne Marie Boyd et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. The Point Coupee Parish School Board et al., Defendants-Appellees. (Civil Action No. 3164).

Terry Lynn Dunn et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. Livingston Parish School Board et al., Defendants-Appellees. (Civil Action No. 3197).

Donald Jerome Thomas et al., Plaintiffs-Appellants, v. West Baton Rouge Parish School Board et al., Defendants-Appellees. (Civil Action No. 3208).

Robert Carter et al., Plaintiffs-Appellants, v. West Feliciana Parish School Board et al., Defendants-Appellees. (Civil Action No. 3248).

Sharon Lynne George et al., Plaintiffs-Appellants, v. C. Walter Davis, President, East Feliciana Parish School Board et al., Defendants-Appellees. (Civil Action No. 3253).

Welton J. Charles, Jr., et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. Ascension Parish School Board, and Gordon Webb, Defendants-Appellees. (Civil Action No. 3257).

Rickey Dale Conley et al., Plaintiffs-Appellants, v. Lake Charles School Board et al., Defendants-Appellees. (Civil Action No. 9981).

Ura Bernard Lemon et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. Bossier Parish School Board et al., Defendants-Appellees. (Civil Action No. 10687).

Marcus Gardon et al., Plaintiffs-Appellants, v. Jefferson Davis Parish School Board et al., Defendants-Appellees. (Civil Action No. 10902).

Marcus Gordon et al., Plaintiffs-Appellants, v. Lafayette Parish School Board et al., Defendants-Appellees. (Civil Action No. 10903).

Marilyn Marie Monteilh et al., Plaintiffs-Appellants, v. St. Landry Parish School Board et al., Defendants-Appellees. (Civil Action No. 10912).

Virgie Lee Valley et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. Rapides Parish School Board et al., Defendants-Appellees. (Civil Action No. 10946).

Joann Graham et al., Plaintiffs-Appellants, v. Evangeline Parish School Board et al., Defendants-Appellees. (Civil Action No. 11053).

John Robertson et al., Plaintiffs-Appellants, v. Natchitoches Parish School Board et al., Defendants-Appellees. (Civil Action No. 11054).

Beryl N. Jones et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. De Soto Parish School Board et al., Defendants-Appellees. (Civil Action No. 11055).

Catherine Battise et al., Plaintiffs-Appellants, v. Acadia Parish School Board et al., Defendants-Appellees. (Civil Action No. 11125).

James H. Henderson, Jr., et al., Plaintiffs-Appellants, v. Iberia Parish School Board et al., Defendants-Appellees. (Civil Action No. 11126).

Margaret M. Johnson et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. Jackson Parish School Board et al., Defendants-Appellees. (Civil Action No. 11130).

Jimmy Andrews et al., Plaintiffs-Appellants, v. City of Monroe School Board et al., Defendants-Appellees. (Civil Action No. 11297).

Yvornia Decarol Banks et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. Claiborne Parish School Board et al., Defendants-Appellees. (Civil Action No. 11304).

Dorothy Marie Thomas et al., Plaintiffs-Appellants, v. St. Martin Parish School Board et al., Defendants-Appellees. (Civil Action No. 11314).

Linda Williams et al., Plaintiffs-Appellants, v. Madison Parish School Board et al., Defendants-Appellees. (Civil Action No. 11329).

Gwen Boudreaux et al., Plaintiffs-Appellants, v. St. Mary Parish School Board et al., Defendants-Appellees. (Civil Action No. 11351).

Irma J. Smith et al., Plaintiffs-Appellants, United States of America, Intervenor-Appellant, v. Concordia Parish School Board et al., Defendants-Appellees. (Civil Action No. 11577).

Vira Celestain et al., Plaintiffs-Appellants, v. Vermilion Parish School Board et al., Defendants-Appellees. (Civil Action No. 11908).

United States of America, Plaintiff-Appellant, v. Lincoln Parish School Board et al., Defendants-Appellees. (Civil Action No. 12071).

United States of America, Plaintiff-Appellant, v. Richland Parish School Board et al., Defendants-Appellees. (Civil Action No. 12169).

Jeremiah Taylor et al., Plaintiffs-Appellants, v. Ouachita Parish School Board et al., Defendants-Appellees. (Civil Action No. 12171).

United States of America, Plaintiff-Appellant, v. Bienville Parish School Board et al., Defendants-Appellees. (Civil Action No. 12177).

United States of America, Plaintiff-Appellant, v. Grant Parish School Board et al., Defendants-Appellees. (Civil Action No. 12265).

United States of America, Plaintiff-Appellant, v. De Soto Parish School Board et al., Defendants-Appellees. (Civil Action No. 12589).

United States of America, Plaintiff-Appellant, v. Avoyelles Parish School Board et al., Defendants-Appellees. (Civil Action No. 12721).

United States of America, Plaintiff-Appellant, v. East Carroll Parish School Board et al., Defendants-Appellees. (Civil Action No. 12722).

Billy Gene Moore et al., Plaintiffs-Appellants, v. Winn Parish School Board et al., Defendants-Appellees. Civil Action No. 12880).

Eric Cleveland et al., Plaintiffs-Appellants, v. Union Parish School Board et al., Defendants-Appellees. (Civil Action No. 12924).

Joyce Marie Moore et al., Plaintiffs-Appellees, v. Tangipahoa Parish School Board et al., Defendants-Appellants. (Civil Action No. 15556). Nos. 26450, 27303, 27054, 27087, 27106, 27391.

United States Court of Appeals, Fifth Circuit. May 28, 1969.

Rehearing Denied and Rehearing En Banc Denied in No. 27106. June 30, 1969.

On Motion for Clarification and Amendment in Nos. 26450, 27303, 27054, 27087, and 27106. Aug. 25, 1969.

Certiorari Denied Nov. 10, 1969. See 90 S.Ct. 218.

School desegregation cases. The United States District Court for the Eastern District of Louisiana, E. Gordon West, Chief Judge, 303 F. Supp. 1224, and the three-judge United States District Court for the Western District of Louisiana, Benjamin C. Dawkins, Jr., Richard J. Putnam, and Edwin F. Hunter, Jr., JJ., 293 F. Supp. 84, and the United States District Court for the Eastern District of Louisiana, Alvin B. Rubin, J., 298 F. Supp. 283, entered decrees, and appeals were taken. The Court of Appeals, Godbold, Circuit Judge, held that where in school districts involved in two of the appeals very few or no white students were attending formerly all-Negro schools and few of the districts had more than ten per cent of Negro children attending formerly all-white schools and many all-Negro schools still existed, existing freedom of choice plans were inadequate and cases would be remanded to district court for putting into effect new plans and where in third appeal trial judge required school board to present new plan to replace existing freedom of choice plan and held hearings and approved new plan, his decision would be affirmed.

Decision of district judge approving new plan to replace existing freedom of choice plan affirmed and all other cases reversed and remanded with instructions.

Before John R. Brown, Chief Judge, Godbold, Circuit Judge, and Cabot, District Judge.

Godbold, Circuit Judge:

We have before us appeals from three district court decrees covering thirty-six parish school systems and two city school systems, all in the state of Louisiana. These cases were submitted and argued April 21, 1969, two years after the en banc decision of this court in *Jefferson II*,[1] and eleven months after the decision of the United States Supreme Court in Green v. School Bd. of New Kent County.[2] All of the school districts involved are under the uniform decree that *Jefferson II* required for school systems in the Fifth Circuit operating under freedom of choice plans.

I. BACKGROUND

Twenty-nine of the districts are appellees in appeals from an en banc decision[3] of the District Court for the Western District of Louisiana, which declined to order modification, requested on the authority of *Green* in existing desegregation plans.[4]

Eight parishes are appellees in similar appeals from a decree of the District Court for the Eastern District of Louisiana.[5]

The Tangipahoa Parish School Board is appellant in an appeal from another decree of the Eastern District[6] directing it to change from a *Jefferson*-decree freedom of choice plan to one calling for the assignment of students "by the adoption of geographic attendance zones, or pairing of classes, or both."

[1] We begin with principles both basic and familiar to all who are concerned with the complex problem of ending the dual school system in the South. There can be no doubt of the duty of school boards to act affirmatively to abolish all vestiges of state-imposed segregation of the races in the public schools. United States v. Indianola Municipal Separate Sch. Dist., 5 Cir. 1969, 410 F.2d 626 [1969]; Henry v. Clarksdale Municipal Separate Sch. Dist., 5 Cir. 1969, 409 F.2d 682 [1969]; Adams v. Mathews, 403 F.2d 181 (5th Cir. 1968); *Jefferson II, supra.*

The respective burdens and roles of school boards and district courts are articulated in *Green* itself:

The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work *now*.

The obligation of the district courts, as it always has been, is to assess the effectiveness of a proposed plan in achieving desegregation. There is no universal answer to complex problems of desegregation; there is obviously no one plan that will do the job in every case. The matter must be assessed in light of the circumstances present and the options available in each instance. It is incumbent upon the school board to establish that its proposed plan promises meaningful and immediate progress toward disestablishing state-imposed segregation. It is incumbent upon the district court to weigh that claim in light of the facts at hand and in light of any alternatives which may be shown as feasible and more promising in their effectiveness. Where the court finds the board to be acting in good faith and the proposed plan to have real prospects for dismantling the state-imposed dual system "at the earliest

Footnotes at end of article.

practicable date," then the plan may be said to provide effective relief. Of course, the availability to the board of other more promising courses of action may indicate a lack of good faith; and at the least it places a heavy burden upon the board to explain its preference for an apparently less effective method. Moreover, whatever plan is adopted will require evaluation in practice, and the court should retain jurisdiction until it is clear that state-imposed segregation has been completely removed.

88 S.Ct. at 1694–1695, 20 L.Ed.2d at 724.

[2] If under an existent plan there are no whites, or only a small percentage of whites, attending formerly all-Negro schools, or only a small percentage of Negroes enrolled in formerly all-white schools, then the plan, as a matter of law, is not working. Henry v. Clarksdale, *supra;* Adams v. Mathews, *supra.*

[3] The good faith of a school board in acting to desegregate its schools is a necessary concomitant to the achievement of a unitary school system, but it is not itself the yardstick of effectiveness.[7]

The majority of the school boards involved in these appeals did not begin any type of desegregation of their schools prior to being ordered to do so for the 1965–1966 school year.[8] All have been operating for the 1967–68 and 1968–69 school years under *Jefferson*-decree freedom of choice plans for pupil assignment, which under numerous decisions of this circuit are required to be uniform.

All now know, judges, lawyers and school boards, that freedom of choice, *Jefferson* variety or otherwise, is not a constitutional end in itself but only a means to the constitutionally required end of the termination of the dual school system. *Green, supra; Jefferson II, supra.* Since *Green* this court explicitly has rejected freedom of choice plans that were found to be demonstrably unsuitable for effectuating transition from dual school systems to unitary nondiscriminatory systems. *See, e. g.,* Anthony v. Marshall County Bd. of Educ., 5 Cir. 1969, 409 F.2d 1287 [1969]; United States v. Greenwood Municipal Separate School Dist., 406 F. 2d 1086 (5th Cir. 1969). *See also* Graves v. Walton County Bd. of Educ., 403 F.2d 181, 189 (5th Cir. 1968); Bd. of Public Instruction of Duval County v. Braxton, 402 F.2d 900 (5th Cir. 1968).

II. THE WESTERN DISTRICT CASES

The Western District Court, sitting en banc, found that the operation of *Jefferson*-type freedom of choice in the school districts before it "has real prospects of dismantling the dual system of schools at the earliest practicable date * * *." and concluded that the best method available to eradicate the dual system of schools in these districts is freedom of choice.[9]

Appellants in the Western District cases contend that the statistical record manifestly reveals that the dual system continues and that freedom of choice has failed to produce meaningful results. They urge that the statistical record requires reversal when considered in light of *Green* and the cases in this circuit following *Green.*

The appellee school boards insist that *Green* does not foreclose the continuation of their *Jefferson*-decree freedom of choice plans. They read the statistics as revealing that progress, though in most instances statistically nominal, has been made toward the elimination of the dual system. They urge that the district court appropriately could conclude that the uniform *Jefferson*-decree freedom of choice plans under which they are operating do provide the effective relief referred to by *Green,* because, in the language of *Green,* they are operating in good faith and under plans which have real prospects for dismantling the state-imposed dual system "at the earliest practicable date." 88 S. Ct. 1689, 20 L. Ed. 2d at 724.

We turn to the facts. In the Appendix to this opinion we set out the best statistical data made available to this court for the 1967–68 and 1968–69 school years, and such data as presently is available for 1969–70 (recognizing that the latter necessarily is not complete: *see* note 2 to the Appendix.) In the current school year, 1968–69, in every one of these school districts there is at least one all-Negro school, in most districts many more than just one.

In all of the twenty-nine districts, for the current school year, only two white students exercised their freedom of choice by electing to attend all-Negro schools. To the extent data is available for the 1969–70 school year, from choice forms already exercised and reported to us since oral argument of these cases, no change of substantial consequence in this situation can be projected. *See* Appendix.

The number of Negro students attending formerly all-white schools has risen slightly since the adoption of the *Jefferson*-decree plans, but for the current school year the percentage this represents of the total Negro student population is minimal—only five of these twenty-nine systems have more than ten percent of their Negro children attending formerly all-white schools. Four parishes have less than one percent integration.

In no instance does the data made available to us for expected 1969–70 pupil assignment vary the situation existent for the current year sufficiently that compliance with constitutional standards can be projected.

We do not abdicate our judicial role to statistics. But when figures speak we must listen. It is abundantly clear that freedom of choice, as presently constituted and operating in the Western District school districts before us, does not offer the "real prospect" contemplated by *Green,* and "cannot be accepted as a sufficient step to 'effectuate a transition' to a unitary system." 391 U.S. 430, 88 S.Ct. at 1696, 20 L.Ed.2d at 726–727.

[4, 5] In addition the boards are required to examine other alternatives. The presence of other and more promising courses of action at the least may indicate lack of good faith by the board and place a heavy burden on the board to explain its preference for an apparently less effective method. *Green,* at 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed. at 724. If there are reasonably available other ways promising speedier and more effective conversion to a unitary non-racial system, freedom of choice must be held unacceptable. *Id.* 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed. at 725. Anthony v. Marshall County, *supra;* United States v. Greenwood, *supra.*

[6, 7] We reverse and remand these cases to the district court in order that a new plan may be put into effect in each school district. The obligation is upon the school boards to come forward with realistic and workable plans, and the assessment and initial review and approval or rejection of each plan is for the district court, not for this court, removed as we are from "the circumstances present and the options available in each [of twenty nine] instance[s]." Green, *supra,* 391 U.S. 430, 88 S.Ct. 1689, 1695, 20 L.Ed.2d at 724; Anthony v. Marshall County, *supra;* United States v. Greenwood, *supra;* Adams v. Mathews, *supra;* Bd. of Public Instruction of Duval County v. Braxton, *supra;* Henry v. Clarksdale, *supra.*[10] This is not to say that the district court on the scene may not, if it thinks best, require a uniform approach by all districts.[11]

There are many methods and combinations of methods available for consideration, either on a district-by-district basis or on a uniform basis if the district court so directs. Some of these are geographic zoning if it tends to disestablish the dual system, Davis v. Bd. of School Com'rs of Mobile, Ala., 393 F.2d 690 (5th Cir. 1968),[12] pairing of grades or of schools, educational clusters or parks, discontinuance of use of substandard buildings and premises, rearrangement of transportation routes, consolidation of schools, appropriate location of new construction, and majority-to-minority transfers. The resources of the Educational Resources Center for School Desegregation, at New Orleans, are available to the boards and may be utilized.[13] We set out in the margin the approach recently taken by the United States District Court for the District of South Carolina, sitting en banc in Whittenberg v. Greenville County School District, 298 F. Supp. 784 (D.C. S.C. March 31, 1969) a case concerning 22 of the 93 school districts in South Carolina.[14]

We are urged by appellants to order on a plenary basis for all these school districts that the district court must reject freedom of choice as an acceptable ingredient of any desegregation plan. Unquestionably as now constituted, administered and operating in these districts freedom of choice is not effectual. The Supreme Court in *Green* recognized the general ineffectiveness of freedom of choice.[15] But in that case, concerning only a single district having only two schools, the court declined to hold "that 'freedom of choice' can have no place in * * * a plan" that provides effective relief, and recognized that there may be instances in which freedom of choice may serve as an effective device, and remanded to the district court with directions to require the board to formulate a new plan.[16]

[8] While we have directed most of our discussion to pupil assignment, integration of faculty is of equal importance, and the boards must come forward with affirmative plans in that regard. "[T]he school board must do everything within its power to recruit and reassign teachers so as to provide for a substantial degree of faculty integration," which includes withholding of teacher contracts if necessary, United States v. Indianola, *supra;* United States v. Greenwood, *supra.* The pattern of teacher assignments to a particular school must not be identifiable as tailored for a heavy concentration of either Negro or white students. Davis v. Mobile County, *supra;* United States v. Greenwood, *supra;* United States v. Indianola, *supra.*

[9] Also a plan which will "effectuate a transition to a racially non-discriminatory school system" must include effectual provisions concerning staff, facilities, transportation and school activities—the entire school system.

III. THE EASTERN DISTRICT CASES

In the Eastern District cases the district judge concluded that freedom of choice was working well and was the best available method for the school boards to reach their constitutional obligations.

[10] Appellants and the school boards make the same contentions in these cases as were made in the Western District cases. Again, the statistical evidence makes abundantly clear that the freedom of choice plans as presently constituted, administered and operating, are failing to eradicate the dual system. *See* Appendix. For the current year not one of these districts has as many as ten percent of its Negro students enrolled in formerly all-white schools. The 1969–70 data shows that Iberville Parish has achieved ten percent, up from 9.2% for the current year. In all these districts no white student chose to attend an all-Negro school in the current year, and none has chosen an all-Negro school for 1969–70. Forty-six all-Negro schools exist in these parishes in 1968–69. As in the Western District, the partial 1969–70 data supplied to this court does not indicate any real chance of attainment of constitutional standards in 1969–70. The boards must adopt new plans.

[11] In addition, in evaluating the plans before him the district judge did not apply the standard of whether the plans are working but rather that of whether they could work. This is an erroneous standard. When testing the sufficiency of a plan that has been in operation sufficiently long to produce meaningful empirical data, that data must be considered and a determination made of

whether the plan is effectuating a transition to a racially non-discriminatory school system. And *Green* requires the district judge to weigh the existing plan in the light both of the facts at hand and of any alternatives which may be shown as feasible and more promising. The district court must consider the alternatives.

[12] Also the district court erred in holding that segregation which continues to exist after the exercise of unfettered free choice is "de facto" segregation and as such constitutionally permissible.

These cases must be reversed and remanded under the same directions as the Western District cases.

IV. THE TANGIPAHOA PARISH CASE

[13, 14] Pursuant to *Green* the district court required the Tangipahoa School Board to present a new plan to replace the existing freedom of choice plan which on October 15, 1968 it found to be ineffective. The court conducted hearings, similar to those now mandated to be held in the Western District and for the other Eastern District cases, and approved a new plan. This court has said repeatedly what we say in this opinion, that the responsibility for structuring and administering existing and new plans for disestablishing the dual system is upon the school boards and the administrators, and the primary responsibility for assessing and reviewing the plan and adopting necessary changes is upon the district court on the scene rather than at the appellate level. In the *Tangipahoa* case the district court correctly applied this policy, after a review of the facts. We affirm its decision.

V

Moore v. Tangipahoa Parish, No. 27391, is affirmed. All other cases are reversed and remanded to the district courts with the following instructions.

(a) These cases shall receive the highest priority.

(b) No later than thirty days from the date of the mandate each school board shall submit to the district court a proposed new plan for its school district to be effective with the commencement of the 1969–70 school term. Provided, however, if the district court desires to require a uniform type of plan, or a uniform approach to the formulation of plans, or issue instructions to the boards of methods that it will or will not consider, or other appropriate instructions, it shall enter its order to that effect within ten days of the date of the mandate. If the district court enters such an order the maximum time for filing plans shall be thirty days from the date of such order.

(c) The parties shall have ten days from the date a plan is filed with the district court to file objections or suggested amendments thereto.

(d) For plans as to which objections are made or amendments suggested, or which in any event the district court will not approve without hearing, the district court shall commence hearings beginning no later than ten days after the time for filing objections has expired.

(e) New plans for all districts effective for the beginning of the 1969–70 school term shall be completed and approved by the district courts no later than July 25, 1969.

Because of the urgency of formulating and approving plans to be effective for the 1969–70 school term it is ordered as follows. The mandate of this court shall issue immediately. This court will not extend the time for filing petitions for rehearing or briefs in support of or in opposition thereto. Any appeals from orders or decrees of the district court on remand shall be expedited. Any appeal may be on the original record. The record on the original record. The record on any appeal shall be lodged with this court and appellant's brief filed, all within thirty days of the date of the order or decree of the district court from which the appeal is taken.

FOOTNOTES

[1] United States v. Jefferson County Bd. of Educ., 372 F.2d 836 (5th Cir. 1966) [hereinafter, Jefferson I] *aff'd with modifications on rehearing en banc.* 380 F.2d 385 (5th Cir.) [hereinafter, Jefferson II], *cert. denied sub nom.*, Caddo Parish Sch. Bd. v. United States. 389 U.S. 840, 88 S.Ct. 67, 19 L.Ed.2d 103 (1967).

[2] Green v. County Sch. Bd. of New Kent County, 391 U.S. 430, 88 S.Ct. 1689, 20 L. Ed. 2d 716 (1968).

[3] Conley v. Lake Charles Sch. Bd., 293 F. Supp. 84 (W.D.La.1968).

[4] By order of January 9, 1969, without opinion, this court, after a poll of its members, denied the motion of appellants in the Western District cases that those cases be heard by the court en banc. Cleveland v. Union Parish Sch. Bd., 406 F.2d 1331 (5th Cir. 1969). The dissenting opinion to that order appears in 406 F.2d at 1333.

Both the Western District and the Eastern District cases were among those consolidated on appeal in Adams v. Mathews, 403 F.2d 181 (5th Cir. 1968).

[5] 303 F.Supp. 1224 (E.D.La.1969).

[6] 298 F. Supp. 283 (E.D.La.1969).

[7] "Here the district court found that the school board acted in good faith. But good faith does not excuse a board's noncompliance with its affirmative duty to liquidate the dual system. Good faith is relevant only as a necessary ingredient of an acceptable desegregation plan." Henry v. Clarksdale Municipal Separate Sch. Dist., *supra* 409 F.2d. at 684.

[8] Twenty-two of the school boards were ordered to integrate their school systems beginning with the 1965–66 school year. Two boards commenced with the 1964–65 school year. Nine began in 1966–67, and five did not begin until the 1967–68 school year.

[9] "With every ounce of sincerity which we possess we think freedom of choice is the best plan available. We are not today going to jeopardize the success already achieved by casting aside something that is working and reach blindly into an experimental 'grab bag.'" 293 F.Supp. at 88.

[10] See the concurring opinion of Judge Rubin in *Duval County:*

"*Green* emphasizes that school officials have a continuing duty to take whatever action may be necessary to provide 'prompt and effective, disestablishment of a dual system.' If one method is ineffective, they are to try another. Hence, no single plan is or can be judicially approved as a catholicon.

"*Brown I* and all of its successors, as well as *Green, Monroe,* and *Raney,* contemplate that school plans will be prepared by local officials and school boards, not by courts. But if local officials fail to assume their responsibilities under the Constitution, district courts must continue to attempt to formulate the plans that should be prepared by school officials based on their expert knowledge, training and skill." (Citations omitted. 402 F.2d at 908.

[11] *See, e. g.,* the discussion of Whittenberg v. Greenville County School District, 298 F. Supp. 784 (D.C.S.C., March 31, 1969), at note 14 *infra,* and accompanying text

[12] But a plan which contributes toward preserving segregated schools by incorporating zones corresponding to racially separate residential patterns is unacceptable. United States v. Indianola, *supra.*

[13] At least two district judges in Louisiana have ordered the use of the facilities of this center. Tangipahoa Parish, before us on this appeal, was ordered on October 15, 1968 to produce a plan for the 1969–70 school year for unitary operation of its school system. When the school board informed the court that it was unable to find a plan better than the one in existence, the court appointed the Center to prepare a plan. A hearing has not yet been held on whether the Center's plan will be adopted.

In Harris v. St. John the Baptist Parish Sch. Bd., Civ.No. 13212 (E.DLa Apr 23, 1969), the school board, after it did not come up with a plan of its own, was ordered to consult with the Center. A hearing was set on the Center's plan. The board came in with two plans of its own. The district judge accepted one of the board's plans, which incorporated some of the Center's suggestions.

[14] The district court directed that all school districts submit to the Office of Education, HEW, their existing method of operation, along with any changes proposed by them, and to seek to develop in conjunction with HEW an acceptable plan of operation "conformable to the constitutional rights of the plaintiffs * * * and consonant in timing and method with the practical and administrative problems faced by the particular districts." If a plan is agreed upon by the school district and HEW, the South Carolina district court will approve it unless the plaintiffs show it does not meet constitutional standards. If the school district already is operating under a plan approved by HEW, it will be adopted by the court absent a showing of constitutional infirmity. If no agreed plan is developed, the court will hold a hearing and enter its decree, considering the respective proposed plans of the district, the plaintiffs, and HEW.

[15] The Supreme Court said: "[T]he general experience under 'freedom of choice' to date has been such as to indicate its ineffectiveness as a tool of desegregation." 391 U.S. 430, 88 S.Ct. 1689, 1695, 20 L.Ed. 2d at 725.

See also the opinion of District Judge Heebe in Moses v. Washington Parish School Board, 276 F.Supp. 834 at 851–852 (E.D.La, 1967):

"If this Court must pick a method of assigning students to schools within a particular school district, barring very unusual circumstances, we could imagine no method more inappropriate, more unreasonable, more needlessly wasteful in every respect, than the so-called 'free-choice' system.

"Under such a system the school board cannot know in advance how many students will choose any school in the system—it cannot even begin to estimate the number. The first principle of pupil assignment in the scheme of school administration is thus thwarted; the principle ought to be to utilize all available classrooms and schools to accommodate the most favorable number of students; instead, this aim is surrendered in order to introduce an element of 'liberty' (never before part of efficient school administration) on the part of the students in the choice of their own school. Obviously there is no constitutional 'right' for any student to attend the public school of his own choosing. But the extension of the *privilege* of choosing one's school, far from being a 'right' of the students, is not even consistent with sound school administration. Rather, the creation of such a choice only has the result of demoralizing the school system itself, and actually depriving every student of a good education.

"Under a 'free-choice' system, the school board cannot know or estimate the number of students who will want to attend any school, or the identity of those who will eventually get their choice. Consequently, the board cannot make plans for the transportation of students to schools, plan curricula, or even plan such things as lunch allotments and schedules; moreover, since in no case except by purest coincidence will an appropriate distribution of students result, and each school will have either more or less than the number it is designed to efficiently handle, many students at the end of the free-choice period have to be reassigned to schools

other than those of their choice—this time on a strict geographical-proximity basis, see the *Jefferson County* decree, thus burdening the board, in the middle of what should be a period of firming up the system and making final adjustments, with the awesome task of determining which students will have to be transferred and which schools will receive them. Until that final task is completed, neither the board nor any of the students can be sure of which school they will be attending; and many students will in the end be denied the very 'free choice' the system is supposed to provide them." (Emphasis in original.)

[16] *See* Davis v. Mobile County, *supra*, in which this court required a zone plan for urban areas but left freedom of choice in effect in rural areas. *See also* the dissenting opinion to the denial of en banc hearing in the instant cases, 406 F.2d at 1338–1339: "I am not suggesting that freedom of choice should necessarily be abandoned in favor of zoning. * * * There is nothing necessarily unconstitutional about freedom of choice or geographic zoning or a combination of the two."

In spite of the fact that these provisions will not curtail HEW's obligation to enforce title VI, they will be used to delay and frustrate the goal of ending dual school systems in this country. It is for this reason that they must be defeated.

The CHAIRMAN. If the gentleman from California (Mr. COHELAN) will give the Chair his attention, the Chair would like to clarify the parliamentary situation.

The Clerk had concluded reading section 209. At that point the gentleman from California offered an amendment to section 209. And then under a unanimous-consent request the gentleman made a request that sections 209 and 210 be considered en bloc.

However, the Chair will state that the only amendment pending is to section 209, and therefore the Chair, knowing that the gentleman from California has a similar amendment to section 210, would ask the gentleman if the gentleman wished his amendment to section 210 to be considered when the gentleman asked for the consideration of the two sections en bloc.

In other words, did the gentleman want both amendments to be considered?

Mr. COHELAN. Mr. Chairman, I ask unanimous consent that both amendments be considered.

The CHAIRMAN. Then the Chair must direct the Clerk to read section 210 before the second amendment is in order.

The Clerk read as follows:

SEC. 210. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

The CHAIRMAN. Does the gentleman from California offer his amendment to section 210 and ask that both amendments be considered en bloc?

Mr. COHELAN. Mr. Chairman, I ask unanimous consent that my amendment to section 210 be read and that the amendments be considered en bloc.

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

There was no objection.

The CHAIRMAN. The Clerk will repeat the amendment.

The Clerk read as follows:

Amendment offered by Mr. COHELAN: On page 9 strike out Sec. 210.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I wish to point out at this time to the Members—and I hope you will follow me, that sections 209 and 210, of which I am the author are limitations to an appropriation bill making appropriations for the U.S. Department of Education. The Department of Education was created by the Congress. It is a creature of the Congress. Congress provided for this Department and here provides funds for its operation in furtherance of the absolute necessity for any nation to have a system for educating its people.

The fact that the Department of Education was created by the Congress for the purpose of promoting and providing education makes it not only within our right but makes it our responsibility to provide funds to implement the activities and actions in furtherance of education by that Department. Not only is that true but it makes it within our province to determine what those funds are for and what they are not for so as to keep its employees engaged in their field of education.

Now, I think the only thing in the world that should be needed by any Member of the Congress to see the need to retain these provisions and, therefore, defeat the amendment which would strike them, is to read them. I hope you will listen to me because these amendments were carefully prepared so that you will see this is not an effort to prevent desegregation of schools for all schools are now desegregated as the term was defined by Congress, in the Civil Rights Act of 1964, they are not an effort to prevent the education of our children but to promote real education. These provisions are in furtherance of education and in furtherance of peace within our schools.

Let me read these two sections which my colleague's amendment would strike. Now listen to me:

SEC. 209. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

The second provision is the same except that it provides that the Department of Education from the funds in this bill cannot withhold funds belonging to a school that is desegregated until the school comes in and offers to do these things that the first section would prohibit them from forcing. I quote:

SEC. 210. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

What we end up with when we take these sections up in connection with this appropriation is we say that where schools are already desegregated, as that term is defined by the Congress, that you cannot with money in this bill for education use it to force students to go from one desegregated school to another desegregated school over the protest of the parents.

Now, what could be more fair? It says that in schools that are already desegregated you cannot use money in this bill—the Department of Education cannot use money in this bill to move students around over the protests of their parents from one desegregated school to another desegregated school.

Now, I repeat again, it is as simple as can be, and it would restore and return the Department of Education to its responsibility and that is education.

It is in line with the statements that have been made recently that what we need today is to put education first, and I very carefully made it plain here that in these provisions we are not trying to strike down desegregation. We are trying, as the Congress did in its passage of the Civil Rights Act of 1964, when it said:

Desegregation means the assignment of students to public schools and within such schools without regard to their race, color, religion or national origin, and desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.

I hope these provisions when retained by the House and the Congress will have an influence on the Courts and by restricting activities of the Department of Education should help to have these problems solved at the local level by local people. Again all schools are already desegregated as that term is defined by the Civil Rights Act of 1964. To go further would violate or destroy the provisions of that act which say:

Desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.

I trust you will vote down the amendment and retain sections 209 and 210.

Mr. O'HARA. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred six Members are present, a quorum.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Iowa is recognized.

Mr. SMITH of Iowa. I merely wish to make an observation at this point. Since there are so many items in this bill, some of the Members may not realize it, but we are doing something material in this bill about the problems that are connected with segregation and desegregating the schools. These Whitten amendments, in one form or another, have been in this bill for several years and I personally feel the administration is going to do the same thing whether they are in the bill or not. I do not think they really make that much difference one way or the other in fact.

As I read them, they actually provide that the administration cannot do what they claim they are not doing anyway. But we did something of value and that will make a difference in the last 3 years and it has come to bear some fruit this year. We asked the Department how much money they are spending to reeducate or retrain some of these teachers who have a degree but they are really not qualified to teach. They were not spending hardly anything at all. So last year we directed that they come forward with a program, and this year they did come forward with a program, and the figures are clear. They say there are 66,000 of these teachers. They have degrees but they are just not qualified to teach. Some of them cannot even multiply. So we have financed the first year of a 3-year program.

The first year is funded in the bill. It will support sending 22,000 of these teachers to training schools so they will be able to teach, and so there will not be so much resistance to them teaching classes, whether they have a mixed pupil ratio or whether it is all black or all white. I think this is a meaningful way to increase the quality of education and attack this problem. It is a program that is not as flashy as some and is not as subject to embellishment but it is really important by comparison.

I just wanted to point out at this point that we are doing something that is really important and material, and in my judgment whether or not these amendments pass is not going to make much difference, but in my opinion this program we are financing will have some important results.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California and move to strike the last word.

Mr. Chairman, the purpose of the amendment offered by the gentleman from California (Mr. COHELAN) and me, is quite simple. It would strike the so-called Whitten provisions with which we are all familiar by this time.

I recognize that the gentleman from Mississippi (Mr. WHITTEN) has made some changes since he last made this effort. I want the legislative history to be absolutely clear on this because, in my opinion, these changes pull the teeth right out from under his provision.

Mr. WHITTEN'S new language would prohibit HEW from requiring the busing of students, closing of schools, or assignment of students over the protests of their parents, with respect to schools or school systems which are desegregated as that term is defined in title IV of the Civil Rights Act of 1964.

Let us take a look at title IV. Section 401(b) of that title says "desegregation" means the assignment of students to public schools without regard to their race, color, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

What we are talking about in the Civil Rights Act is desegregation to remedy officially sanctioned segregation, not desegregation to remedy fortuitous racial isolation, or to put it another way, de jure, not de facto, segregation.

The point is clear. The Supreme Court has only held that de jure segregation is unconstitutional. Therefore, HEW must operate within this framework. This means that under existing law, HEW cannot withhold funds from a district which is desegregated under title IV.

As my colleagues can see, this is all very confusing. It is for that reason that the gentleman from California and I want these provisions struck from H.R. 16916. Things in this area are confusing enough without adding to it.

Further confusion might serve to mislead school districts as to their legal responsibility to eliminate de jure segregation. This would be intolerable today, 15 years after the Brown decision. Nothing can, nor should, alter the constitutional obligation to desegregate.

I would also not underestimate the unfortunate psychological effect the Whitten provisions could have. They would give comfort to those who do not wish to comply with the law of the land, and harden them in their views. This would be a tragedy.

I think the issue is clear. Either we enforce the Constitution or we do not. I urge my colleagues to join Mr. COHELAN and me in supporting the civil rights of all Americans by striking sections 209 and 210.

Mr. CORMAN. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, I would like to pose a question to the gentleman from Mississippi.

The situation in Los Angeles City School District is that we have been found by the State court to be de jure segregated. Thus I assume that we do not comply with desegregation under title IV as the gentleman interprets it. Would that be a correct statement?

Mr. WHITTEN. Mr. Chairman, may I say I am not too familiar with the Los Angeles situation with the exception of having read the newspaper stories, but title IV of the Civil Rights Act of 1964 as written by the Congress provides what desegregation should mean all schools would be open to student without regard to race, color, or creed. But it goes further and says that desegregation shall not mean the assignment of students based on race, creed, or color so as to correct racial imbalance.

Mr. CORMAN. So whatever action may have been taken in the Los Angeles area was not taken under title IV of the Civil Rights Act, but under some other provision, perhaps under the Constitution.

Mr. WHITTEN. May I take this occasion to point out to the gentleman, I said to start that this bill provides funds for education, and we attempt to see that the funds will go into education. What the courts attempt to do or do under other laws would not be controlled by these sections. These provisions, in my opinion mean the Department of Education would proceed with education as the Congress provided in the act creating such department.

Mr. CORMAN. The Los Angeles School District, which is the second largest in the country and which educates some 660,000 students, is $40 million in the red, but it has been ordered by a State court to integrate its schools—and I certainly think they should do that—they are morally and legally obligated to do it—but it seems to me this amendment might prohibit, using any funds from the Federal Government to carry out that order, because I believe under the gentleman's interpretation the schools would be termed desegregated under his explanation of title IV but not under the court order.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield further, I repeated and repeated and repeated the words "to force," so if the gentleman will reread the provisions he will see throughout that even though it be redundant in some instances, it prohibits the use of the money to force these things. The gentleman is forced by the courts.

Mr. CORMAN. In other words, if the court forces the desegregation, then the school district could use Federal funds to assign and bus students and close schools if necessary?

Mr. WHITTEN. Certainly it could under the very simple language of the provisions. As the gentleman will see these restrictions limit funds "to force" by the department of education.

Mr. CORMAN. I leave it to lawyers to understand what we have just said. I am not sure I understand it.

The cost of integrating the school district—and it is a cost which must be borne—is going to be tremendous. I fear that sections 209 and 210 will be interpreted by some as denying funds to school districts who may want to head off a court order by desegregating their schools.

Accepting the gentleman's analysis that once there is a court order then it would be the court forcing the integration and not HEW. What would happen to a school district which wants to avoid the court order and wants to desegregate under the case law instead of title IV?

Mr. WHITTEN. They would have the full authority to do that. I carefully put in here, about 90 times, that the funds cannot be used "to force."

If the gentleman will bear with me, his argument supports my position. He has just described the terrible situation in which the schools find themselves. It is time we clarified the situation for them. Sections 209 and 210 do clarify it. It says

so long as the schools are run in line with desegregation as defined by the Congress in the Civil Rights Act these moneys cannot be used to force busing, to force assignment, to force transfer over the protest of parents. But they can transfer all they want. They can do all the other things if they want to. I would prohibit the use of force.

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

(By unanimous consent, Mr. CORMAN was allowed to proceed for 1 additional minute.)

Mr. CORMAN. Mr. Chairman, forced mixing is a bad term. Constitutional rights to equal education is a good term. But we are really talking about the same thing.

Are we in this great land going to give all American schoolchildren equal access to education? We have proved for more than 100 years we cannot do it if we isolate students because of their race, and it does not matter whether it is South or North or East or West.

I would hope we would put no impediment on the use of Federal funds to carry out that purpose.

Mr. RYAN. Mr. Chairman, once again we are faced with the Whitten and Jonas amendments. This time, they have been tacked into the Office of Education appropriations bill for fiscal year 1971. H.R. 16916. The language this time is slightly different, but the intent is the same as in those other instances when these amendments have been before the House—perpetuation of dual school systems in the South. The catch phrase these amendments invoke is "freedom of choice." No slogan, however, can refute the very denial of equal rights which they embody.

As I stated on the floor less than 2 months ago, on February 19, when we were considering H.R. 15931, the Labor-HEW appropriations bill, which contained similar amendments:

> Let no one deceive or be deceived. "Freedom of choice" is a perversion of terms—"freedom" can never be equated with the repression and injustice which "freedom of choice" actually constitutes.

This time around, the Whitten amendments are embodied in sections 209 and 210 of the bill now before us—the appropriation bill for the Office of Education. These two sections provide:

> SEC. 209. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so designated to or from a particular school over the protest of his or her parents or parent.
>
> SEC. 210. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as the term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so designated; or to force on account of race, creed or color the transfer to or from a particular school so designated as a condition precedent to obtaining Federal Funds otherwise available to any State, school district or school.

As usual, these provisions raise the red flag of busing, a totally spurious issue but one which is guaranteed to alarm some and which has the chance of even converting a few. The issue is not, in reality, a viable one. But in the atmosphere of these times, it is a relevant one nonetheless.

And here, I think, some mention must be made of the "atmosphere of these times." The very real possibility that these amendments may be passed by this House, as they were when we considered their predecessors in the Labor-HEW appropriation bill—which was then rectified by our colleagues in the Senate—reflects the ambivalence and even regressive attitude which the administration has expressed on civil rights. I fear greatly that the divisions which exist in this country are being exacerbated and widened by an administration which seems bent on burying, by "benign neglect" as well as by actual action, the progress in civil rights which the last 10 years have seen. This is the "atmosphere of these times."

The resignation of Leon Panetta, former head of the Office of Civil Rights in the Department of Health, Education, and Welfare, was in reality a dismissal. Mr. Panetta, an extremely intelligent, honest, and commited believer in firm enforcement of title VI of the 1964 Civil Rights Act, was forced out because of those very qualities which I have just named.

The emphasis on litigation rather than administrative enforcement by the Department of Health, Education, and Welfare—clearly the most effective means whereby to achieve school desegregation—is no accident. Litigation takes years. What is more, the onus is placed on the courts to compel desegregation, rather than on the executive. And given the reluctance of at least some Southern judges to further desegregation—a reluctance which has been all too sadly documented in the past few weeks in considering the President's most recent nominee to the Supreme Court—there is added disadvantage to such great reliance on the courts.

Nor is the administration's position on school desegregation as a policy to which it should be firmly and aggressively committed at all satisfying. The President's statement of March 25 on elementary and secondary school desegregation is, as has become the hallmark of this administration in the field of civil rights, at best ambivalent. Only last night, the Vice President spoke against colleges admitting academically "unqualified" students—a clear challenge to the aspirations of minority group members too long denied equal educational rights throughout our educational system and too long victimized by inadequate educational opportunities.

Last week the other body had the opportunity and the responsibility to repudiate the "atmosphere of these times." The other body met this responsibility by refusing to confirm the nomination of Judge G. Harrold Carswell. Today, we have the same kind of opportunity and responsibility, and we must perform no less well. This, to my mind, is the major issue before us in our consideration of the Whitten and Jonas amendments.

But, looking at these amendments in isolation—apart from their relevance to the "atmosphere of the times"—they still require rejection. The Whitten amendment sanctions "freedom of choice," compelling the Department of Health, Education, and Welfare to accept "freedom of choice" plans without regard to whether or not these plans will end dual school systems and segregation.

Yet the Supreme Court made very clear, in *Green* v. *School Board of New Kent County*, 391 U.S. 430 (1968), that "freedom of choice" plans can be sanctioned if—and only if—they effectuate "conversion of a State imposed dual system to a unitary, nonracial system." And even in such case, a "freedom of choice" plan "must be held unacceptable" when "there are reasonably available other ways, such for illustration as zoning, promising speedier and more effective conversion to a unitary, nonracial school system."

As I pointed out last February 19, the report of the U.S. Commission on Civil Rights, issued in July 1967, and entitled "Southern School Desegregation, 1966-67," makes ultimately clear the hypocrisy of "freedom of choice"—it is, pure and simple, an invitation for intimidation of blacks to prevent their exercising their freedom to choose white schools.

The Jonas amendment is equally pernicious. Embodied in section 211 of the bill, it provides:

> SEC. 211. No part of the funds provided in this Act shall be used to formulate or implement any plan which would deny to any student, because of his race or color, the right or privilege of attending any public school of his choice as selected by his parent or guardian.

Again, "freedom of choice" is being invoked. Different words, but the same evil.

An article which appeared in the March 29, 1970, edition of the Washington Post presents, in far more stark detail than I can, the nature of this evil. The article is made up of excerpts from a Justice Department brief filed with the Fifth Circuit Court of Appeals. The case in question, which the Government won, concerned Noxubee County, Miss. The court action began in 1967; the Fifth Circuit Court ruling came last summer. I commend this article to my colleagues—and especially to those who have any doubts that "freedom of choice" flies in the face of equal rights. The article follows:

[From the Washington Post, Mar 29, 1970]

HOW NEGROES "CHOOSE" SCHOOLS IN MISSISSIPPI

On June 2, 1967, in an action brought by the United States pursuant to Title IV of the Civil Rights Act of 1964, the U.S. District Court for the Southern District of Mississippi permanently enjoined the racially discriminatory operation of the Noxubee County, Miss., public schools. The order required school officials and those acting in concert with them to follow a freedom-of-choice de-

segregation plan and to provide a 30-day choice period during the month of July, during which parents or students could choose which school to attend.

On Sept. 11, 1967, after the acts of harassment and intimidation recounted below, the United States moved for an order to show cause why the school officials who had been named in the school desegregation action should not be held in civil contempt for violating certain sections of (a previous) decree which had prohibited them from influencing the choices of students or their parents.

At the same time the government instituted the present action by filing a complaint seeking an injunction against the sheriff of Noxubee County, a constable, a justice of the peace, the mayor of Brooksville in Noxubee County, the administrator of the county hospital, and eight other white citizens of Noxubee County—who were not school officials and had not been parties in the school desegregation suit—to restrain them from harassing, threatening, intimidating, coercing and punishing Negro citizens of Noxubee County for exercising their rights, under the Constitution and the court order, to choose to attend traditionally white schools.

Upon the motion of the government, the two cases were consolidated and tried together from Sept. 14–19, 1967. On Sept. 26, the court entered an order in the case involving the school officials. It found them in contempt in various respects pertaining to the distribution and submission of choice forms, as well as discouragement of Negroes choosing white schools and failure to take appropriate steps to protest or obtain protection for Negroes exercising the right to attend traditionally white schools. A new choice period was ordered for the approximately 80 Negro students who had withdrawn their choices of a white school.

The court entered no decision, however, with respect to the defendants in the present case—which concerned interference by individuals who were not school officials. Nine months thereafter, upon special motion by the United States, the court issued an opinion in which it held that the proof failed to sustain the allegations. A judgment dismissing the complaint and denying all relief requested against these defendants was entered on July 30, 1968.

FIRST EFFORTS BLOCKED

During July, 1967, a choice period was held pursuant to the model Jefferson decree. Approximately midway through this choice period a group of Negro parents decided to execute choice forms for their children's attendance at the traditionally white schools. Since many were reluctant to go into the courthouse to the superintendent's office to obtain school choice forms, the parents designated three men—Mastrow Oliver, Fred Turner and William Bradley—to obtain the forms at the school superintendent's office on Monday, July 19. The parents' reason for wanting to submit a large number of forms at one time "was to try to keep the pressure off two or three people."

A request for transfer forms was made pursuant to this plan, but was refused by John Barrett, the school superintendent, who said he could distribute choice forms only to individual parents who came and asked for them. The three Negroes then took forms for their own children and left the office. Having failed to obtain the forms from the superintendent. Oliver and Turner obtained a stencil of the choice form and had copies mimeographed on July 20–21. These forms were distributed by Oliver and various others to those Negro parents who had previously expressed and interest in obtaining them.

On Tuesday, July 25, Oliver carried a group of approximately 75 executed forms to Superintendent Barrett's office, where, in the superintendent's absence, his secretaries refused to accept them. They were subsequently delivered to Superintendent Barrett at his office by Turner and Riley Sproul on the following day, July 26. On the afternoon of July 31, the last day for making or changing a choice of schools, Oliver delivered his second group of 13 executed choice forms to Superintendent Barrett at the courthouse in Macon.

The news that these choices had been made became public, and lists of the names of Negro parents who had chosen white schools were circulated among the white citizens of Noxubee County. Several Negro parents received threatening visits from whites who urged or demanded that the Negroes withdraw their choices. (Some Negro parents withdrew their choices of white schools on the basis of reports that white citizens had been angered by their choices, even though they were not individually contacted by white people.) Many, if not all, of the Negroes were falsely told that other Negro parents had withdrawn their choices and that their children would be the only Negroes in the white schools.

PATTERN OF HARASSMENT

Shortly after the end of the choice period one of the Negro parents who had not withdrawn her daughter's choice was, for that reason, dismissed from her job at the county hospital, and three lawsuits were filed against Mastrow Oliver during the two days immediately following the close of the July choice period. Details of these incidents and of the roles played by the defendants are outlined below.

Howard Spann and his wife, Eugenia, both Negroes residing in Noxubee County, are the father and mother of James Spann, who had chosen in July to send three of his children to the white schools. Between Thursday, July 27, and Sunday, July 30, the two grandparents were visited at their home by the defendant Allen Lanier on three different occasions, although Lanier had never before visited the Spann home.

Lanier told Howard Spann on Thursday to get James to withdraw his choices for the white school or else there was liable to be trouble and both he and his son James might lose their jobs. Lanier returned on Friday and Howard told him that James had refused to withdraw his children. Lanier repeated his admonition. On the following Sunday morning, Lanier returned again and, finding that James still had not changed his mind, told Mrs. Spann that he had warned her and she would be sorry. James Spann's children attended traditionally white schools during the 1967–68 school year.

Allen Lanier also visited the homes of Mrs. Sally Mae Beck and Mrs. Annie Lee Jackson, who were sisters and who had chosen to send their children to the white schools. Lanier came to Mrs. Beck's house on Thursday, July 27. He had her name on a small card along with the name of Annie Jackson and one other person. At that time Mrs. Beck's husband and son were bringing the cows around the house, and Lanier remarked that she wouldn't be able to sell her cotton or her milk. He said if she decided to withdraw her daughter she should call him, and he left a card on which he wrote his telephone number. Lanier also told Mrs. Beck that her son's employer, who operated a feed mill, would not be able to sell his feed if her son continued to work for him.

The next morning Mrs. Beck called Lanier, and they went over to Mrs. Jackson's house. Lanier told Mrs. Jackson that she would have to move if Mr. Minor, a white neighbor, found out that she had chosen a white school for her children. Both sisters decided to withdraw their choices—Mrs. Beck because she thought her choice of a white school might prevent her from selling her milk and cotton and Mrs. Jackson because she was afraid of the economic harm that might befall her sister.

Nelsen Short had chosen the white schools for his four children. On Friday afternoon, July 28, defendant Vernon J. Hill, a white neighbor of Short's, came to see Short and warned him he should not have done it, and said that what he had done would just cause trouble. During this visit, Short saw Hill carrying a pistol in his back pocket. Hill told Short that he had a list of all the Negroes who had signed their children up to go to the white schools.

Hill returned on Sunday night before dark, and stayed until after nightfall. He had been drinking and from time to time the conversation became loud. On this visit, Hill's pistol was again in a position where it was visible to Short, who later related:

"Yes, sir, he had his pistol. He sat down on the porch and I stood there by the porch. When he went to pull up his breeches it fell out and he asked me was I scared and I told him, 'Yes, sir, this is what you had the last time you were over here,' and he went on and talked. He stood up and asked me, 'Is your wife home?' and I said, 'Yes, sir, my wife and children they are in the house,' and he told me, 'Tell them to get me a glass of water,' and I told my wife to give him a glass of water and my daughter she brought the water. My daughter she brought the glass of water and he took the glass of water and drank the glass of water and drank the rest of the whisky and stood far on the edge of the porch. I wasn't necessarily watching him, I just kinda stood there, and when he got it drank up and got ready to go he left his hat, and I said, 'Mr. Hill, you left your hat,' and I gave him his hat and he put it on his head and said, 'Now, you think about what I told you. Don't you forget it. It'll cause trouble and I thought I knowed you better than that,' and I said, 'Yes, sir.' "

(Vernon Hill testified that he had visited Nelson Short and did not deny that he made the statements attributed to him by Short.)

The defendant Fred Lavender is the administrator of the Noxubee General Hospital. Until Aug. 8, 1967, Mrs. Mary Frances Brown, a Negro who had chosen a white school for one of her daughters, was employed as a relief cook in the hospital kitchen. On Aug. 8 she was dismissed from her employment by the defendant Lavender.

Lavender had come to Mrs. Brown's home on Saturday afternoon, July 29. He talked about all the students who had dropped out of school and suggested, according to Mrs. Brown's testimony, that her daughter might be the only Negro in her room and that they might "put her back three years." Mrs. Brown stated that Lavender warned her that there is a "Lankley Tinsley" in the county, referring to a white man who had killed a Negro. Lavender also testified that this reference was made, but said that it was made first by Mrs. Brown and that he had not previously been aware that Lankley Tinsley had killed a Negro.

The choice period closed on July 31. Mrs. Brown did not withtdraw her choice. On Aug. 8 Lavender directed the hospital's dietitian, Mrs. Gousset, to fire Mrs. Brown. Mrs. Grousset testified that Mrs. Brown was fired because she violated the rule against kitchen employees being in patient's rooms, although there was no proof that Mrs. Brown had been in any patient's room and although other hospital employees testified that kitchen employees frequently entered the hallway areas, as Mrs. Brown had done, and had not been fired. Lavender testified that Mrs. Brown was fired for insubordination.

The executed choice forms were collected and delivered to the superintendent's office by Mastrow Oliver. When Oliver delivered the second set of executed choice forms on the afternoon of July 31 he was met at the

superintendent's office by a crowd of 15 to 18 men standing in the hallway. Sheriff Emmett Farrar, a defendant, who was among the men in the crowd, came up to him and said that Oliver's father "always did have sense, but I see that you ain't got no damn sense." When Oliver said he was not breaking any law, the sheriff replied that he "was fixing a good way of breaking [his] own damn neck."

Another man in the crowd asked Oliver where he lived, and Sheriff Farrar replied that "more white folks know where he was living at now since this happened than ever" and then told Oliver he wanted to talk to him when Oliver had finished his business in the superintendent's office. Oliver, who had to drive to work at night on a country road, was told by the sheriff that he would not give him any protection.

Suits for the collection of debts followed immediately upon Oliver's delivery of the choice forms on July 31. A lawyer of the defendant Dinsmore, to whom Oliver owed money on an account, was waiting for Oliver when he arrived at work the same afternoon and he stated that he wanted to file suit. Three suits were filed by Dinsmore, a gin operator, for the collection of outstanding debts owed the Dinsmore gin by Mastrow Oliver and his two brothers, Tom and Hoover.

Although Dinsmore testified that these suits were filed in the normal course of business, he also testified that he has never sued any other gin patron for the collection of accounts before or since July 31, 1967.

After the choice period was closed, the suits filed and summonses served, Mastrow Oliver attempted to get his choice of the white school changed, but was unable to do so under the provisions of the decree, and his children attended the traditionally white schools in 1967–68.

CONCLUSIONS

The only reasonable conclusion that can be drawn from the evidence in this case is that the defendants sought to frighten, force or cajole the Negro parents of Noxubee County into keeping their children in the Negro schools—a pattern of student assignment condemned as unconstitutional as long ago as *Brown & Board of Education* (1954). That their purpose was to keep the Negro students in the traditionally Negro schools is admitted by the testimony of the defendants themselves.

The repeated visits of the white defendants, many of whom were in positions of superiority or economic power over the particular parents visited, necessarily had an intimidatory effect on the Negro parents. All of them testified to their fears resulting from those visits.

The results of the defendants' activities were impressive, if not totally successful. Approximately 93 Negro students had exercised a choice to attend the white schools, and approximately 75 of these choices were changed back to Negro schools during the five days between July 27 and July 31. Only 18 Negro students retained their original choices to attend the white schools.

In two of the instances where the pressure was not successful—Mrs. Mary Frances Brown and Mastrow Oliver—one of the Negro parents was fired from her job on questionable grounds about which the testimony of the defendants' own witnesses conflicts, and the other was immediately sued on one obligation on which he had three days previously made a payment pursuant to a collection agreement and on another obligation which had not been outstanding for as long a time as other debts owed by other persons to the same creditor and previously referred by him to the same peace officer for collection.

This sudden, intensive and short-term effort on the part of the defendants—whether individually or concertedly—could have been no less than a purposeful attempt to interfere with the Negroes' rights. Numerous witnesses testified to the existence of lists of Negro parents who had chosen white schools, and the names of the parents on the list produced by Hal Land, a white resident of Noxubee County, corresponds exactly with the names as signed by those parents on their original choice forms.

The protestations of the defendants that they will abide by the future order of the district court was not reason to deny injunctive relief. Likewise, the holding of the new 10-day choice period in September for those Negro parents who originally chose a formerly white school could not erase the fear and intimidation caused by the defendants' previous conduct, especially in the absence of any judicial protection from such conduct in the future.

Parents who might have chosen a white school at the end of July, 1967, but who did not do so because of the intimidatory effects of defendants' conduct were not included in that [new] 10-day choice period.

Furthermore, the intimidation arising from these defendants' actions would have an effect broader than in the area of choosing what school to attend. The racial intimidation caused by these defendants extends into the Negroes' rights to feel that they can participate freely in school activities and programs, and even into the free exercise of other rights protected by federal law—the right to vote, to buy a house, eat in a restaurant, use public facilities, obtain a job, all without discrimination based on race.

Mr. MICHEL. Mr. Chairman, I am also concerned about sections 209 and 210—the so-called Whitten amendments—which pertain to busing of students, although I am convinced that these amendments do not change basic law nor would they require a change in HEW's regulations. A school district which has not completed its constitutional obligation to achieve a unitary system would not be desegregated within the meaning of the proposed sections 209 and 210. Such a district, therefore, would be unaffected by these sections. My concern, rather, is that the enactment of these two provisions would encourage some people to believe that, in fact, there would be a change in basic law and thus give rise to much confusion. Further, it is my belief that language which pertains to the enforcement of school desegregation belongs in substantive legislation rather than in an appropriation bill. However, since these two provisions do not change basic law, I am not asking that they be deleted.

The CHAIRMAN. The question is on the two amendments to sections 209 and 210 which the committee has agreed to consider en bloc, offered by the gentleman from California (Mr. COHELAN).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. COHELAN. Mr. Chairman, I demand tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. COHELAN and Mr. WHITTEN.

The committee divided, and the tellers reported that there were—ayes 63, noes 106.

So the amendments were rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 211. No part of the funds provided in this Act shall be used to formulate or implement any plan which would deny to any student, because of his race or color, the right of privilege of attending any public school of his choice as selected by his parent or guardian.

AMENDMENT OFFERED BY MR. CONTE

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

The Clerk read as follows:

Amendment offered by Mr. CONTE: Strike section 211, beginning on page 9, line 25, and ending on page 10, line 4.

Mr. CONTE. Mr. Chairman, the amendment I have offered with my good friend from California (Mr. COHELAN) would strike the Jonas provision from H.R. 16916.

The Jonas provision is in clear violation of the constitutional obligation to end de jure segregation once and for all. The Senate struck this provision from the fiscal 1970 bill in February. This body approved my motion to accept the Senate action by a vote of 228 to 152.

Section 211 would establish under Federal law a universal right to freedom of choice. In so doing, it would preempt the traditional authority of State governments and of local school authorities to establish educational policy.

It would sanction freedom-of-choice plans even though they might not meet the requirements of title VI of the Civil Rights Act of 1964, or the mandate of the Supreme Court which has ruled that such plans may not be constitutionally permissible.

Section 211 would also create two contradictory standards of school desegregation—one applied by the courts and presumably the Justice Department, and the other applied by HEW. I think my colleagues can well imagine what this would do to an already confused and tense situation.

It would place an unreasonable burden upon school districts which are in the process of complying with Federal law.

These school districts would face a difficult and perplexing decision, to say the least. They just could not win. If they abided by Federal nondiscrimination provisions against freedom of choice, they would lose Federal money. If they adopted a freedom of choice plan, they would risk judicial action which might well call for another type of plan.

I believe this would be an intolerable situation, and I do not want to be a part of it.

I might note what the Secretary of Health, Education, and Welfare said when this provision was debated in the Senate. In a letter to Senator MAGNUSON, about this same provision, Secretary Finch wrote:

It is my belief that it may well have been borne out of misunderstanding on the part of the House concerning the role and activities of the Office for Civil Rights for the Department. * * * Because Section 410 [211] does not appear to be consistent with actions of the courts, it could only produce an administrative nightmare for our Department. If we are to avoid the administrative chaos that this section would produce at all levels, (it) should be deleted from the bill.

That, I repeat, was the Secretary of Health, Education, and Welfare.

We must speak clearly to the school districts of this Nation. We must not con-

fuse the issue and give comfort to those who would delay integration.

I urge my colleague to join Mr. COHELAN and me in our amendment to strike section 211.

Mr. REID of New York. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I am glad to yield to my distinguished friend from New York.

Mr. REID of New York. Mr. Chairman, I commend the gentleman from Massachusetts (Mr. CONTE) for seeking to strike section 211. This provision clearly violates the constitutional obligation to eliminate de jure segregation, and clearly seeks to legalize unconstitutional freedom of choice plans. It would represent a tragic step backward and it should be deleted.

Mr. JONAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have great respect for my beloved colleague, the gentleman from Massachusetts (Mr. CONTE), but I do not agree with his argument in this instance. I have heard a lot of arguments similar to those advanced by my friend and they all ignore the key words in this section.

This is not a freedom of choice section. It is only a partial freedom of choice section. Let me just read what the section says:

> No part of the funds provided in this Act shall be used to formulate or implement any plan which would deny to any student, because of his race or color, the right or privilege of attending any public school of his choice. . . .

Now, what is all of the argument over desegregation about? How did it start? It started with the famous case of Brown against Board of Education in which the Supreme Court held, in effect, that it is unconstitutional to assign students to particular schools because of race or color. Well, now, if that was the law laid down in Brown against Board of Education, it has been repeated in successive pronouncements by the Supreme Court in other cases, and by circuit courts.

What kind of language do the courts use? They say school boards must achieve a system of admission to the public schools on a nonracial basis. And the courts have repeatedly said that no person is to be excluded from any school on the basis of his race. That is what the Supreme Court has said the Constitution means.

Well, how does that differ from what I am saying? I am saying no student shall be denied the right to attend the school of his choice because of his race or color. He can be denied the right to attend the school of his choice because of geography, because of zones, because of countless reasons. The only reason, the only way this section says he cannot be denied the right to attend the school of his choice is because of his race or color. I submit to you that is exactly what the Supreme Court has been holding the law of the land to be since 1955. And those who would argue that there is something in this section that would give a student the right to choose to go to a school across town because there is a better gymnasium in a certain school or because one school has a better football team or some other school has a better glee club, are simply drawing red herrings across the path. The only prohibition in this section is against denying students the right to attend neighborhood schools or the schools of their choice because of their color or race.

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

Mr. JONAS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, let us get some legislative history here.

Then if you have a town in Mississippi, say, where you have 90 percent black people and 10 percent white people, and you have some white students in the black schools and they do not want to go there, they do not have to go there; is that right? They can go to the white school?

Mr. JONAS. I say no; they may not be denied the right to attend the school of choice on account of race or color.

I am saying that HEW——

Mr. CONTE. The gentleman has answered my question.

Mr. JONAS. I am saying that HEW cannot use these funds to make up a plan which would deny to a student, because of his race or color, the right of attending the school that he wants to attend.

Mr. CONTE. The gentleman answered my question. They get their choice to do as they want, so you can get the little white boys over in the white school, and you can get the little black boys over in the black school.

Mr. JONAS. No; What I intended to say is that the school board has the right to make student assignments on any basis except race or color. I am not denying the right of the school board to make pupil assignments on any basis other than race or color. I am merely saying that HEW shall not formulate a plan which would deny a student the right to attend the school of his choice because he is black or because he is white; that race or color should not be considered, and I thought that was what the Supreme Court has been saying ever since Brown against Board of Education—make no racial distinctions between students in school assignments.

Those who oppose this section should keep the key words in mind: because of his race or color.

Mr. COHELAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Massachusetts (Mr. CONTE) to strike out the Jonas amendment, section 211 of this bill.

The Jonas amendment is an attempt once again to legalize unconstitutional freedom-of-choice plans. The language of this provision goes a dangerous step further than ever before by implying that each school district must establish freedom of choice plans as criteria for securing HEW funding.

This prerequisite borders on the absurd, as does the underlying intent of this amendment, which is a thinly disguised attempt to establish so-called freedom of choice plans as the only means to end unconstitutional segregation. The Supreme Court has previously ruled on this matter in Green against New Kent County, Va. on May 28, 1968.

On this occasion that Court stated:

> In desegregating a dual system, a plan utilizing freedom of choice is not an end in itself . . . the burden on the school board today is to come forward with a plan that promises to work realistically *now* . . . It is incumbent upon a school board to establish that its proposed plan promises meaningful and immediate progress toward de-establishing state-imposed segregation.

The Court added that if there "reasonably available other ways, such as zoning, promising speedier and more effective conversion to a unitary, nonracial school system, 'freedom of choice' must be held unacceptable."

Mr. Chairman, the Supreme Court's language is clear—freedom-of-choice plans are not constitutionally acceptable unless they prove effective in eliminating de jure segregation. When freedom-of-choice plans fail to result in desegregation, they are not acceptable to meet the requirements of title VI of the Civil Rights Act.

Mr. Chairman, freedom of choice plans have failed in the areas in question. Freedom of choice has been tried in the South from 1954, the year of the first Brown decision, to early 1968. During that 14-year period, black children attending white schools rose from practically zero percent to a very poor 14 percent, an average of about 1 percent a year. However, between the fall of 1967 and the fall of 1968, following the Green decision, the desegregation rate in the 11 Deep South States jumped by 6 percent to a total of 20 percent.

In the face of all of this we are now being asked to endorse the Jonas provision, which attempts in a most radical and relentless way to turn back the clock in civil rights progress. By implying that freedom of choice plans are the only means that can be used by school boards to end dual school systems, the Jonas language does not subject freedom of choice to constitutional requirements to end de jure segregation.

As drafted, the Jonas amendment can be interpreted to mean that no Federal funds can be obtained by school districts if they do not initiate freedom-of-choice plans. In other words, such plans become compulsory, and security of Federal funds becomes contingent upon the utilization of such plans. Aside from the fact that the whole concept is not subject to constitutional restrictions, think of the confusion that this could cause throughout the Nation, if enacted. Parents, not elected school boards, would assume authority for determining criteria for making pupil assignments.

But, Mr. Chairman, whatever the other interpretations, and I feel this provision is subject to many, the overriding consideration in my mind is that this amendment will be used to confuse, delay, and perhaps obstruct the end of unconstitutional de jure segregation.

In light of the Green decision, I submit that this amendment is unconstitutional on its face and for that reason it should be rejected. In addition, the passage of this could be interpreted to

mean that freedom of choice must be an operating principle in all federally assisted school districts. Such an interpretation could undermine the jurisdiction of local school districts.

I urge my colleagues on both sides of the aisle to vote to strike the Jonas amendment.

Mr. MICHEL. Mr. Chairman, I rise in support of the amendment, and I want to make it clear that it is in support of the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

While I do not oppose and I have not taken a position in opposition to the Whitten amendments, I did so because I do not think it changes basic law, and the Secretary of Health, Education, and Welfare does not feel, frankly, that the Whitten amendments change basic law.

But now we get to section 211, and it should really be stricken from the bill for several reasons.

First, it would prevent the Federal Government and local school officials from carrying out the requirements of the Constitution—requirements which this section does not and cannot remove. What this provision does is to impose a penalty on a school district for carrying out its legal obligation to desegregate. The Department would be put in the position of having to prohibit many school districts from using Federal funds to draw up and implement desegregation plans pursuant to court order. It would thus tie the hands of the Federal Government and of local school officials in dealing with the nondiscrimination requirement of law.

In addition to preventing enforcement officials from carrying out their legal obligations, section 211 would jeopardize the substantial progress made to date in school desegregation, and make more difficult the application of uniform standards in accordance with the Constitution. Furthermore, the amendment directly contravenes the President's March 24 statement on school desegregation in which he pledges to support the recent Supreme Court decisions mandating immediate desegregation. Freedom-of-choice plans, as has been demonstrated, time and again, would not be an effective method of doing this. Court decisions are unequivocal on this point.

It may well be that section 211 was added to the bill because of a misunderstanding on the part of the committee concerning HEW's Office of Civil Rights. This office does not interpret the Constitution or the law. This is the responsibility of the courts. However, once the courts have acted, it is the responsibility of HEW to help school districts comply with court decisions. Because section 211 is not consistent with court rulings on "freedom of choice plans," it could only produce an administrative nightmare for the Department. It should be deleted.

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

Mr. MICHEL. I yield to the gentleman.

Mr. ANDERSON of Illinois. As we consider this $4.1 billion education appropriation bill today, I think we would be well advised to review the criteria which President Nixon reiterated yesterday in signing the 3-year, $26.4 billion elementary and secondary education authorization. In signing that bill with "considerable reluctance," the President posed four questions which I feel should guide us in our deliberations here today and in the future. In the President's words:

> Is the level of funding realistic and responsible? Does it concentrate funds where they can do the most good? Does it expand our efforts to discover what works and what does not work in education? Does it satisfactorily reform programs such as aid to impacted areas and the other outmoded programs?

In signing that bill yesterday, the President contended that it "authorizes spending which is both excessive and misdirected," and he warned that his signature was not to be interpreted by the Congress as a "commitment to seek or approve this unrealistic level of appropriations." I want to stress that point because I know that there are some here today who will try to convince us that the President's signature on that authorizing legislation is a mandate for a substantial increase in the appropriations bill before us today. Let me only remind them that the President has clearly rejected that interpretation and that they are openly risking another veto if they attempt to exceed responsible levels of spending. I think I should point out that the bill before us today already exceeds the administration's request by $744 million and that many of us have serious reservations about the wisdom and direction in that increase.

Let me elaborate by addressing myself to the four questions posed by the President yesterday. First, is the level of funding realistic and responsible? I am reminded of a cartoon appearing in last night's Evening Star which pictured President Nixon holding his fingers in a leaky reservoir labeled "budget surplus." I think the cartoon would have been more accurate and realistic if it had pictured an election-year-oriented Congress actually running around springing more leaks in that reservoir. It seems to me that this would highlight the paradox of those who would make inflation an election year issue while at the same time engaging in reckless and irresponsible budget-busting that can only prolong and further exacerbate the inflationary situation. I do not think anyone will deny the urgent need to reorder our national priorities, and I, for one, hope the day is not far off when we can concentrate more resources on education. But our first priority must be ending inflation and we are not going to accomplish this by pursuing a policy which got us into all this trouble in the first place; and I am referring to the policy of deficit spending. If we are really serious about combatting inflation then we must first put our own house in order by balancing the budget and returning to a policy of fiscal responsibility. Instead of running around springing more leaks in the budget surplus, we should be assisting the President in patching up those leaks.

The second, third, and fourth questions posed by the President are all interrelated: Does it concentrate funds where they can do the most good? Does it expand our efforts to discover what works and what does not work in education? Does it satisfactorily reform programs such as aid to impacted areas and the other outmoded programs? These are matters, of course, which must be dealt with by the authorizing committee, and some changes have been made in the most recent authorization.

But nothing was done, for instance, to revise the impact aid formula and this is something which the President and a great many of us in the Congress are concerned about. As you know, the President had recommended that we withhold action on appropriating the $425 million for impact aid until there has been a reform in the system. The President's budget did contemplate a supplemental for this purpose, contingent upon reform. And yet, the Appropriations Committee has chosen to ignore the President's request and include the $425 million in this appropriations. I realize that the report issued by the committee states that it "is in full sympathy with the President's objective of reforming this program," but I am wondering whether that sympathy will be sufficient to force the necessary reform if the funds have already been appropriated. I seriously doubt it, and this distresses me greatly.

Another matter which is of some concern to me is that although the committee has had no compunction about exceeding the President's education request by $744 million, it has actually cutback on his request for research funds by $13 million. I realize that the $105.3 million in this bill for research and experimentation is $25 million over the amount available last year, but the fact that it is still $13 million less than the administration's request is disturbing when you consider that this research is essential to the type of educational reform the President made a strong plea for in his message.

Finally, I question the wisdom of again attempting to attach a legislative rider to this appropriation bill. But beyond this procedural objection, I again strongly protest the language of the so-called Whitten amendment on moral and constitutional grounds. In his school desegregation message, the President again stated his intention to enforce the mandate of the Constitution.

There is no doubt in my mind that the intent of the authors of this provision runs contrary to that of the President and I will continue to support amending language which makes it clear that this is not meant to circumvent that constitutional mandate. I am convinced that if we leave the public with the impression that we are somehow at odds with the courts on the issue of school desegregation we will only be encouraging more of the type of open defiance we have witnessed in Lamar, S.C., and in Manatee County, Fla. We cannot tolerate either brand of defiance and still expect our institutions to survive. We have been sworn to uphold the Constitution and the protection it extends to all our citi-

zens. Let us not be guilty of undermining the very system we were sworn to uphold and let us not be guilty of retreating on the very basic commitment to equal justice and opportunity for all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CONTE. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. CONTE and Mr. SMITH of Iowa.

The Committee divided, and the tellers reported that there were—ayes 87, noes 101.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

SUBSTITUTE AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MICHEL: Strike all after the enacting clause and insert:

TITLE I—OFFICE OF EDUCATION

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $440,000,000 of which $425,000,000 shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 30, 1950, as amended, and $15,000,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act of September 23, 1950: *Provided*, That this appropriation shall not be available to pay local educational agencies pursuant to the provisions of any other section of said title I until payment has been made of 90 per centum of the amounts to which such agencies are entitled pursuant to section 3(a) of said title and 100 per centum of the amounts payable under section 6 of said title.

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, title I–A ($1,500,000,000), title II ($80,000,000), title III ($137,393,000), title V ($29,750,000), title VII, and section 807 of the Elementary and Secondary Education Act, section 402 of the Elementary and Secondary Education Amendments of 1967, and title III–A of the National Defense Education Act of 1958 ($20,000,000), $1,808,968,000: *Provided*, That grants to State and local educational agencies under said title I–A shall not be less than grants made to such agencies in fiscal year 1968.

EDUCATION FOR THE HANDICAPPED

For carrying out, to the extent not otherwise provided, the Education of the Handicapped Act, and section 402 of the Elementary and Secondary Education Amendments of 1967, $105,000,000.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, section 102(b) ($20,000,000), parts B ($350,336,000), D, F $(17,500,000), G ($18,500,000), and H ($5,500,000) of the Vocational Education Act of 1963, as amended (20 U.S.C. 1241–1391), the Adult Education Act of 1966 (20 U.S.C. ch. 30) ($55,000,000), and section 402 of the Elementary and Secondary Education Amendments of 1967, $490,446,000, including $20,000,000 for exemplary programs under part D of said 1963 Act of which 50 per centum shall remain available until expended and 50 per centum shall remain available through June 30, 1972.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, IV (except part F), and part E of title V of the Higher Education Act of 1965, as amended, section 105(b), section 306 and title IV of the Higher Education Facilities Act of 1963, as amended, titles II, IV, and VI of the National Defense Education Act of 1958, as amended, section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), the Emergency Insured Student Loan Act of 1969, sections 402 and 411 of the Elementary and Secondary Education Amendments of 1967, and section 102(b)(6) of the Mutual Education and Cultural Exchange Act of 1961, $899,880,000, of which the following amounts shall remain available until June 30, 1972: $167,700,000 for educational opportunity grants, and amounts reallotted for grants for college work-study programs, and the following amounts shall remain available until expended: $145,400,000 for the student loan insurance programs (including $2,200,000 for computer services for the Office of Education) and $21,000,000 for annual interest payments for subsidized construction loans.

EDUCATION PROFESSIONS DEVELOPMENT

For carrying out, to the extent not otherwise provided, section 504 and parts B ($15,000,000 for subpart 2), C, D, and F of the Education Professions Development Act (title V of the Higher Education Act of 1965), and section 402 of the Elementary and Secondary Education Amendments of 1967, $135,800,000.

COMMUNITY EDUCATION

For carrying out, to the extent not otherwise provided, titles I ($35,000,000), II, III ($2,281,000) and IV ($3,428,000) of the Library Services and Construction Act (20 U.S.C. ch. 16); title II (except section 224) of the Higher Education Act of 1965 (20 U.S.C. 1021–1033, 1041), section 402 of the Elementary and Secondary Education Amendments of 1967 and part IV of title III of the Communications Act of 1934 (47 U.S.C. 390–395), $71,636,000, of which $5,000,000, to remain available through June 30, 1972, shall be for grants for public library construction under title II of the Library Services and Construction Act, and $6,000,000 shall be for educational broadcasting facilities and shall remain available until expended.

RESEARCH AND TRAINING

For carrying out, to the extent not otherwise provided the Cooperative Research Act (except section 4) and section 303 of the Vocational Education Amendments of 1968, $110,325,000.

EDUCATIONAL ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Office of Education, as authorized by law, $3,000,000 to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such office, for payments in the foregoing currencies.

SALARIES AND EXPENSES

For the necessary expenses of the Office of Education, not otherwise provided, including rental of conference rooms in the District of Columbia; $46,107,000.

STUDENT LOAN INSURANCE FUND

For the Student Loan Insurance Fund created by the Higher Education Act of 1965, $18,000,000, to remain available until expended.

HIGHER EDUCATION FACILITIES LOAN FUND

The Secretary is hereby authorized to make such expenditures, within the limits of funds available in the Higher Education Facilities Loan Fund, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 849) as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such fund: *Provided*, That loans made during the current fiscal year from the Fund shall not exceed $10,000,000 to be made from amounts available from commitments withdrawn prior to July 1, 1971, by the Commissioner of Education.

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interests or participations in assets of the Office of Education authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)), $2,952,000, to remain available until expended.

TITLE II—GENERAL PROVISIONS

SEC. 201. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18.

SEC. 202. Appropriations contained in this Act available for salaries and expenses shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 203. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 204. No part of any appropriation contained in this Act shall be used to finance any Civil Service Interagency Board of Examiners.

SEC. 205. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 206. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of such project.

SEC. 207. None of the funds contained in this Act shall be used for any activity the purpose of which is to require any recipient of any project grant for research, training, or demonstration made by any officer or employee of the Department of Health, Education, and Welfare to pay to the United States any portion of any interest or other income

earned on payments of such grant made before July 1, 1964; nor shall any of the funds contained in this Act be used for any activity the purpose of which is to require payment to the United States of any portion of any interest or other income earned on payments made before July 1, 1964, to the American Printing House for the Blind.

SEC. 208. None of the funds contained in this Act shall be available for additional permanent Federal positions in the Washington area if the proportion of additional positions in the Washington area in relation to the total new positions is allowed to exceed the proportion existing at the close of fiscal year 1966.

SEC. 209. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 210. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

SEC. 211. No part of the funds provided in this Act shall be used to formulate or implement any plan which would deny to any student, because of his race or color, the right or privilege of attending any public school of his choice as selected by his parent or guardian.

SEC. 212. The Secretary of Health, Education, and Welfare is authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

This Act may be cited as the "Office of Education Appropriation Act, 1971."

Mr. MICHEL (during the reading). Mr. Chairman, in the interest of time I ask unanimous consent that the substitute amendment be considered as read, since it is the exact bill which was considered with one amendment on page 5 increasing the $105 million figure to a $110 million figure in the research and training item.

Mr. O'HARA. Mr. Chairman, reserving the right to object, may I ask the Chair if I would yet be able to offer a point of order against the entire amendment if I agree to this unanimous consent request?

The CHAIRMAN. The gentleman would not thereby be precluded.

POINT OF ORDER

Mr. O'HARA. Then I make a point of order against the amendment offered by the gentleman from Illinois.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. O'HARA. Mr. Chairman, the point of order against the amendment offered by the gentleman from Illinois is that it contains legislation in an appropriation bill, to wit, the language on page 2, lines 6 to 12 is clearly legislation on an appropriation bill providing for different dispositions of funds under those sections than are provided by law. Therefore I make a point of order against the amendment offered by the gentleman from Illinois.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard further on that point of order?

Mr. MICHEL. Mr. Chairman, may I have again the section to which the gentleman makes reference?

Mr. O'HARA. Mr. Chairman, the point of order is against the proviso contained in the first paragraph under title I, Office of Education, which begins in the bill itself on line 6 on page 2 and runs through line 12, and I make the point of order that constitutes legislation on an appropriation bill.

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

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Chairman, it is as plain as the nose on my face, and I have got a nose, that this is clearly a limitation upon the expenditure of funds. That is clearly it. I suggest the point must be overruled.

The CHAIRMAN. Does the gentleman from Michigan desire to be heard further?

Mr. O'HARA. Mr. Chairman, I would like to be heard. I would like to say first, Mr. Chairman, if the proviso to which I have referred authorizes the use on a different formula than that provided in the basic authorizing legislation, and I do not believe that the proviso is a limitation or retrenchment of appropriations which would be an expansion, the proviso is neither a limitation nor retrenchment of appropriations, because it permits payment to be made in excess of the payments authorized by the above quoted section of Public Law 81-874.

It may be helpful to the Chairman and to my colleagues in understanding the point that the reference contained in section 5(c) just quoted, that various other sections of entitlements to payments are to the so-called familiar references to categories A and B children under impacted aid.

The CHAIRMAN (Mr. HOLIFIELD). The Chair is prepared to rule. The gentleman from Michigan (Mr. O'HARA), has raised a point of order against the proviso appearing in the amendment in the nature of a substitute and referred to in the original bill as the proviso on page 2 of the bill on the ground that it constitutes legislation on an appropriation bill in violation of clause 2, rule XXI. That proviso would make appropriations in the bill unavailable for payment to local educational agencies pursuant to the provisions of any other section of title I of the act of September 30, 1950—which authorizes school assistance in federally affected areas—until payment has been made of 90 percent of entitled allotments pursuant to section 3(a) of said title I and of 100 percent of amounts payable under section 6 of that title. The gentleman from Michigan contends that such a requirement for payments of funds appropriated in this bill has the effect of changing the allotment formula in the authorizing legislation of funds for "category A students," and is therefore legislation on an appropriation bill prohibited by clause 2, rule XXI.

On June 26, 1968, during consideration of the Department of Labor and Health, Education, and Welfare appropriation bill for fiscal year 1969, the Chair—the gentleman now occupying it—sustained a point of order against an amendment prohibiting the use of funds in the bill for educationally deprived children until there was made available therefrom for certain local educational agencies an amount at least equal to that allotted in the preceding year, since that amendment would have required the Commissioner of Education to make an apportionment of appropriated funds contrary to the formula prescribed by existing law, thus imposing additional duties on that official and changing existing law.

The Chair feels that that decision is controlling in this instance. To make the appropriations authorized under certain sections of the "impacted school aid" legislation contingent upon allotment of certain percentages of entitled funds under other sections of that authorizing legislation is to impose additional duties on the official making the allotment and to change the enforcement formula in the authorizing legislation is in violation of clause 2, rule XXI.

The Chair therefore sustains the point of order.

SUBSTITUTE AMENDMENT OFFERED BY MR. O'HARA

Mr. O'HARA. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. O'HARA:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes, namely:

TITLE I—OFFICE OF EDUCATION

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $520,000,000 of which $505,000,000 shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 30, 1950, as amended, and $15,000,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act of September 23, 1950:

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, title I-A ($1,500,000,000), title II ($80,000,000), title III ($137,393,000), title V ($29,750,000), title VII, and section 807 of the Elementary and Secondary Education Act, section 402 of the Elementary and Secondary Education Amendments of 1967, and title III-A of the National Defense Education Act of 1958 ($20,000,000), $1,808,968,000: *Provided*, That grants to State and local educational agencies under said title I-A shall not be less than grants made to such agencies in fiscal year 1968.

EDUCATION FOR THE HANDICAPPED

For carrying out, to the extent not otherwise provided, the Education of the Handi-

capped Act, and section 402 of the Elementary and Secondary Education Amendments of 1967, $105,000,000.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, section 102(b) ($20,000,000), parts B ($350,336,000), D, F ($17,500,000), G ($18,500,000), and H ($5,500,000) of the Vocational Education Act of 1963, as amended (20 U.S.C. 1241–1391), the Adult Education Act of 1966 (20 U.S.C ch. 30) ($55,000,000), and section 402 of the Elementary and Secondary Education Amendments of 1967, $490,446,000, including $20,000,000 for exemplary programs under part D of said 1963 Act of which 50 per centum shall remain available until expended and 50 per centum shall remain available through June 30, 1972.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, IV (execept part F), part E of title V, and title VI of the Higher Education Act of 1965, as amended, including section 105(b), section 306 and title IV of the Higher Education Facilities Act of 1963, as amended, titles II, IV, and VI of the National Defense Education Act of 1958, as amended, section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), the Emergency Insured Student Loan Act of 1969, sections 402 and 411 of the Elementary and Secondary Education Amendments of 1967, and section 102(b)(6) of the Mutual Education and Cultural Exchange Act of 1961, $992,100,000, of which the following amounts shall remain available until June 30, 1972: $167,700,000 for educational opportunity grants, and amounts reallotted for grants for college work-study programs, and the following amounts shall remain available until expended: $145,400,000 for the student loan insurance programs (including $2,200,000 for computer services for the Office of Education) and $21,000,000 for annual interest payments for subsidized construction loans.

EDUCATION PROFESSIONS DEVELOPMENT

For carrying out, to the extent not otherwise provided, section 504 and parts B ($15,000,000 for subpart 2), C, D, and F of the Education Professions Development Act (title V of the Higher Education Act of 1965), and section 402 of the Elementary and Secondary Education Amendments of 1967, $135,800,000.

COMMUNITY EDUCATION

For carrying out, to the extent not otherwise provided, titles I ($35,000,000), II, III ($2,281,000) and IV ($3,428,000) of the Library Services and Construction Act (20 U.S.C. ch. 16); title IIA ($20,834,000), title IIB (except 224) ($6,833,000) title IIC ($6,737,000) of the Higher Education Act of 1965 (20 U.S.C. 1021–1033, 1041), section 402 of the Elementary and Secondary Education Amendments of 1967 ($400,000) and part IV of title III of the Communications Act of 1934 (47 U.S.C. 390–395), $90,698,000, of which $9,185,000, to remain available through June 30, 1972, shall be for grants for public library construction under title II of the Library Services and Construction Act, and $6,000,000 shall be for educational broadcasting facilities and shall remain available until expended.

RESEARCH AND TRAINING

For carrying out, to the extent not otherwise provided, the Cooperative Research Act (except section 4) and section 303 of the Vocational Education Amendments of 1968, $105,325,000.

EDUCATIONAL ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Office of Education, as authorized by law, $3,000,000 to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such office, for payments in the foregoing currencies.

SALARIES AND EXPENSES

For the necessary expenses of the Office of Education, not otherwise provided, including rental of conference rooms in the District of Columbia; $46,107,000.

STUDENT LOAN INSURANCE FUND

For the Student Loan Insurance Fund created by the Higher Education Act of 1965, $18,000,000, to remain available until expended.

HIGHER EDUCATION FACILITIES LOAN FUND

The Secretary is hereby authorized to make such expenditures, within the limits of funds available in the Higher Education Facilities Loan Fund, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 849) as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such fund: *Provided*, That loans made during the current fiscal year from the Fund shall not exceed $10,000,000 to be made from amounts available from commitments withdrawn prior to July 1, 1971, by the Commissioner of Education.

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interests or participations in assets of the Office of Education authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)), $2,952,000, to remain available until expended.

TITLE II—GENERAL PROVISIONS

SEC. 201. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18.

SEC. 202. Appropriations contained in this Act available for salaries and expenses shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 203. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 204. No part of any appropriation contained in this Act shall be used to finance any Civil Service Interagency Board of Examiners.

SEC. 205. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 206. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of such project.

SEC. 207. None of the funds contained in this Act shall be used for any activity the purpose of which is to require any recipient of any project grant for research, training, or demonstration made by any officer or employee of the Department of Health, Education, and Welfare to pay to the United States any portion of any interest or other income earned on payments of such grant made before July 1, 1964; nor shall any of the funds contained in this Act be used for any activity the purpose of which is to require payment to the United States of any portion of any interest or other income earned on payments of such grant made before July 1, 1964; nor shall any of the funds contained in this Act be used for any activity the purpose of which is to require payment to the United States of any portion of any interest or other income earned on payments made before July 1, 1964, to the American Printing House for the Blind.

SEC. 208. None of the funds contained in this Act shall be available for additional permanent Federal positions in the Washington area if the proportion of additional positions in the Washington area in relation to the total new positions is allowed to exceed the proportion existing at the close of fiscal year 1966.

SEC. 209. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 210. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

SEC. 211. No part of the funds provided in this Act shall be used to formulate or implement any plan which would deny to any student, because of his race or color, the right or privilege of attending any public school of his choice as selected by his parent or guardian.

SEC. 212. The Secretary of Health, Education, and Welfare is authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

This Act may be cited as the "Office of Education Appropriation Act, 1971".

Mr. O'HARA (during the reading). Mr. Charman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. O'HARA. Mr. Chairman, the amendment in the nature of a substitute which we have offered is an amendment

which adopts the bill the committee has just approved piece by piece with just four exceptions.

The first of these exceptions, Mr. Chairman, would add an additional $92 million to various higher education programs; the amendment that was discussed in the Committee of the Whole, which the gentleman from Michigan (Mr. ESCH) would have offered had he been timely in his effort to do so.

The second exception, Mr. Chairman, would add $80 million to the impacted areas program, as would have been done in the Committee of the Whole had a timely effort been made.

The third exception, Mr. Chairman, would add $19 million to the paragraph dealing with community education and library services and construction; the amendment offered by the gentleman from Arkansas (Mr. PRYOR).

The fourth exception is to delete from the bill as it came out of the committee the proviso which would be legislation on an appropriation bill and therefore improper in an amendment offered at this time. That language, of course, is the language just discussed on the point of order, on page 2.

Mr. Chairman, I am not going to attempt in the 5 minutes allotted me to give all the reasons why these various proposals are in this single substitute. The members of the committee who would have offered the original amendments, as I understand it, will explain the amendments that they have now included in this substitute and their reasons for supporting them.

Mr. Chairman, I think that will make a persuasive case, because all this amendment does is to restore some of the funds that were appropriated in past years that were not appropriated in this bill. There is not 5 cents in here, Mr. Chairman, that is over and above amounts that this Congress has previously appropriated for these same provisions. So we are not going on any new wild goose chase, any new spending sprees. We are trying to keep up, we are trying to stand still and not lose any more ground in our educational system. This is not an extravagant effort. The total added to the committee bill by this amendment is $191,282,000—less than $200 million. This is not of the magnitude of the Joelson amendment of last year. It is a rather small amendment but nevertheless a necessary one.

I might add for the benefit of my friends who are interested in the Whitten and Jonas amendments as they were carried in the committee bill that they are contained in the substitute even though I voted against them when an effort was made to strike them out of the committee bill. They are carried in the substitute because I think the committee has made its decision on those points, and furthermore, I think the changes the gentleman from Mississippi made in his amendment this time, probably make it so it can be lived with. I do not have the same strong objections to that amendment that I have had in the past, with its new language. So there is no civil rights issue in here pro or con. The substitute is the same on the Whitten and Jonas provisions as is the committee bill. The only issue, then, is the money for these three programs—for impacted area aid, for higher education, and for library programs.

Let me assure you, Mr. Chairman and members of the committee, that it is a very modest proposal and one that can be justified, amply justified, and will be justified before the debate on this amendment is concluded.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I addressed this committee some hours ago, at some length, on precisely what my friend now proposes as a substitute.

This amendment, call it what you will, sotto voce, is only this: This is the same approach, the package approach, that caused us all so much trouble—the Congress, the President, the whole educational system of the Nation—last year, month after month, month after month, until this bill was passed in March and signed.

Mr. Chairman, this amendment is $191 million in addition to the $319 million that your committee brought here, above the President's budget. Hear this. Mark this. This amendment would increase this bill $40 million above the amount for education that was in the bill which the President vetoed just a few months ago. And, it was upon that keynote that the President vetoed last year's bill. Do you not remember? Oh, I do, after 14 months. That is what this innocuous amendment does.

This would be inviting another Presidential veto.

May I point this out, Mr. Chairman, it was the proponents of this substitute who handcuffed my subcommittee in going to conference with the Senate. Had they not voted to handcuff this subcommittee, we would have come back with at least $150 million more for education. They destroyed it. They handcuffed us. Remember that? Look at the names on that rollcall. They are so quiet in supporting this today.

In addition, we just had a very unpleasant experience with a hastily drafted postal bill as a result of a clerical error—I don't know exactly what it was—punctuation, referring to the wrong section, or what; but it delayed the postal bill, a hastily contrived piece of legislation. It frustrated everyone. Now we are here today—this amendment was spawned in minutes, and we have not been able to read it all, this very mild thing, this hydra-headed creature with only four heads instead of eight—only four heads instead of Mr. JOELSON's eight. Well, how do you like your hydras? Do you like them in eights or in fours?

Mr. Chairman, this is conceived in frustration.

Mr. Chairman, I yield back the balance of my time.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the O'Hara substitute. I hesitate to take the time of this Committee in view of the lateness of the hour and the anxiousness of Members to vote on the pending matter. But I believe it is imperative to explain the importance and significance of the amendment which has been offered by the gentleman from Michigan (Mr. O'HARA) with respect to the impact aid funds. I know that we have been over this particular program many, many times during the past 12 months.

And most recently, as a result of a veto by the President, this very House reworked the appropriation level for the impact program and set it at $505 million. We were advised at that time that with that level of funding our school districts could expect to receive only 78 percent of our entitlement. I wish to point out to this committee today that with the funds which have now been recommended by the amendment offered by the gentleman from Michigan (Mr. O'HARA) which contains the addition of $80 million, raising the impact appropriations $505 million, our school districts can expect to receive only 68 percent of our entitlement.

Now, I know that much has been said in criticism of this program, and certain school districts have been highlighted as receiving funds that they do not deserve, or which are based upon various features of the formula which are inequitable. But in presenting this case I am sure it is equally obvious to the members of this committee that there are many school districts receiving funds which they justly deserve, and in many cases—and I feel in my case in the State of Hawaii—that we are not receiving funds that we are entitled to receive. Therefore, it is patently inequitable to reduce the funding to the level of the committee bill which is below that which we approved just a few weeks ago. The committee bill provides only $425 million. A few weeks ago we authorized $505 million. This is the same amount provided in the substitute amendment offered by the gentleman from Michigan (Mr. O'HARA) which is the current level of funding, although only 68 percent of full entitlement for fiscal 1971.

I believe that the House is not interested in cutting back educational support, that it recognizes the dependence which school districts all across the country have had on this program which has been in existence for 20 years, and for 18 of those 20 years we have been able to receive nearly 100 percent of our entitlement. It was only in 1969 that it was cut back to 90 percent, and last year it was cut disastrously to 78 percent.

We realize that there is an impact reform bill now pending before the Committee on Education and Labor, and that the committee is diligently studying the various changes which need to be made in the program, and the members of this committee, as well as school superintendents, are being given a full opportunity to be heard, but it will take time, and it is my personal belief that it will not be put into effect in fiscal year 1971. Therefore to cut the program to 68-percent funding I think is about all that our school districts can be forced to endure.

I therefore urge this committee to support this substitute amendment, and

provide the needed funds for this program.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to take this time to point out to the Members that the substitute amendment cuts back the 90 percent for category A to about 75 percent and many Members in this House who have large concentrations of category A children should take notice. Hawaii is one of those States that gets cut under this amendment. Over 100 districts are heavily impacted with Indian children. They are category A children and this amendment will reduce the money for many of those districts more than any $80 million increase overall will offset. So you had better take a close look at the substitute amendment and if you think you are going to get an increase by increasing it $80 million, that will depend on whether you have a substantial number of category A children in school districts in your congressional district. This cuts the payments for those where it is needed the worst.

Mr. STEED. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I just want to take a moment to explain that if the amendment offered by the gentleman from Michigan (Mr. O'HARA) is adopted, we will have the same amount of money in the bill for next year that we have this year, but even so, the impacted schools involved get what amounts to 10 percent less than they are getting this year.

If the committee bill stands without the amendment offered by the gentleman from Michigan (Mr. O'HARA) you will get 90 percent on the A category, but all the B categories in this country will be cut so low that it will be meaningless. There will be a lot of schools that are going to get badly hurt.

I believe the least we can do is to adopt the amendment that puts $80 million back in impact aid and brings you to the level in 1971 that we now have in 1970. This is bad enough at best, but it is the least I think that we should do here today.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I want to strongly record my support of the substitute bill offered by the gentleman from Michigan, the Honorable JAMES O'HARA.

The funds contained in the substitute bill to carry out the purposes of the Bankhead-Jones Act, for land-grant teaching institutions are vital to the interest of the University of Vermont, the State of Vermont, and the whole land-grant concept.

This has been graphically brought to my attention by the president of our State university, the Honorable Lyman S. Rowell. Faced with restricted funds at the State level, the university has already had to increase out-of-State tuition for next year by $200 and is anticipating the charge of about $150 extra on Vermont students.

For each $100,000 less in anticipated income, tuition charges must be raised on our own students about $20.

At a time when we are trying to encourage students to attend college, and at a time when the universities in our smaller States are facing critical budgetary restrictions, I believe it would be foolish to reduce funds which have been historically granted to these institutions under the Bankhead-Jones Act.

I, therefore, strongly support this amendment and urge my colleagues to vote for it.

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

Mr. STAFFORD. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I would like to associate myself with the remarks made by the gentlewoman from Hawaii, (Mrs. MINK).

Mr. Chairman, I rise to deplore the decrease of funds for impact aid in the bill before us, particularly for category B students whose parents work on Federal installations outside the county. While I would prefer to vote separately on an impact aid amendment, I will vote for the O'Hara package amendment which includes it.

The report on the bill before us clearly states the President's intention to utilize the impact aid funds contained in this appropriation in accordance with the provisions of his impact aid reform bill now pending before the General Education Subcommittee of the House Education and Labor Committee. The entire design and thrust of this reform legislation is to redirect these funds to category A areas, and reduce payments to other category B districts.

Prince Georges County in my district is recipient of substantial impact aid funds, deriving most of those funds from the number of students whose parents work for the Federal Government in the District of Columbia. Under the reform legislation the funds for those students would be reduced from 50 to 20 percent of entitlement. This would result in Prince Georges receiving in fiscal year 1971 approximately one-half of its entitlement for fiscal year 1970—a reduction of approximately $6 million.

Regardless of how rich or poor, no district can accept such a sudden substantial reduction of funds without creating havoc in the ongoing educational program or, as the only alternative, imposing outrageous local taxes to compensate for the loss of funds.

One point I made in my testimony before the General Education Subcommittee on this reform legislation was the need for gradual reduction of funds to any school district, such as Montgomery and Prince Georges Counties, if and when, indeed, any reductions are made. It must be remembered that school programs have been geared for 19 years to the expectation that these Federal funds would be forthcoming. Reductions in Federal funds made gradually over a period of years would permit the absorption of this loss into the school and county budget.

Charles County, Md., in my district, which is primarily rural is one of the fastest growing counties in Maryland, and requires new school facilities as well as increasing operational budgets to accommodate the increased school enrollment of nearly 10 percent annually. Including the funds received from impact aid, which are received by the school system for a very large majority of the student population, Charles County for fiscal 1970 will only receive 6 percent of its budget from Federal sources. The State's inability to assume a larger portion of the expanding educational costs has already resulted in increased local property taxes in Charles County to a $2.90 per $100 assessed valuation.

In Prince Georges County, the other county in my district, for the past several years the population has leaped by 600 new residents each week. This growth has resulted in a population of approximately 700,000 citizens with no slowdown of growth anticipated. With an enrollment in excess of 150,000, the Prince Georges school system is one of the largest in the Nation, with a current school budget of in excess of $125 million. Since 1949, approximately $240 million has been spent for new school construction alone. At the same time, the property tax rate in Prince George's County, which is the primary source of local support for public education, is $3.56 per $100 assessed valuation, the highest rate in any county in Maryland and among the highest in the Nation. A sudden drop in Prince Georges and Charles Counties allotments of Federal funds will require another steep tax increase on the already overburdened taxpayers of my district. I frankly cannot conceive of a reduction in Federal educational funds to any district at this time when increasing costs and expansion require more, not less, funds for these vital programs.

The enactment of this amendment will direct more funds to the area of the impact aid programs which is being cut severely, will result in these programs receiving a lesser reduction of funds, and in effect, will permit the gradual reduction which seems to me very important if we are to be equitable to the programs and to children themselves.

Mr. REID of New York. Mr. Chairman, will the gentleman yield?

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

Mr. REID of New York. Mr. Chairman, I rise in support of the O'Hara amendment in the nature of a substitute to increase the funds for higher education programs by about $92.22 million, funds for impacted aid by $80 million, and funds for community services and library construction by $19 million.

The plain fact of the matter is that quality education cannot be provided on the cheap. Last year in New York State, 127 local school budgets were rejected by the voters, including 14 out of 33 in Westchester County. It is not that citizens do not want the best possible education for their children but that they simply cannot afford an increase in the

property tax when inflation and other tax increases are already pressing hard on their budgets. While I am gratified that the committee has increased the funds for title I of ESEA to $1.5 billion in order to reflect higher per pupil costs, the whole picture does not offer much encouragement for harried school administrators.

The situation is equally acute on the higher education level. Many institutions, especially the large private research universities which are the gems of our higher educational system, are in especially difficult financial circumstances. Students, too, are finding it more difficult to obtain loans on the private market, even with Federal insurance.

It seems to me that to request only 59 percent of the authorized funds for NDEA loans and only 56 percent of the authorized funds for college work-study is simply not realistic. The committee has wisely increased NDEA loan funds to the $229 million level of this fiscal year. Equally, our priorities seem misplaced when the committee reduces by almost $18 million the amount the President requested for educational opportunity grants, or when the committee goes along with the President's failure to request any funds for college construction grants. In today's money market, it is just not facing facts to assume that reliance on loans will satisfy a college's or a student's financial requirements.

Thus, I am pleased to support this substitute which, among other things, seeks to add $71 million for construction grants and add $9.3 million to the $6 million requested and recommended in the bill for title VI NDEA foreign language and area training in order to bring it to the $15.3 million fiscal year 1970 appropriation level, and to add $8 million for teaching equipment (HEA title VI).

I cannot emphasize enough the importance of more funds for foreign area studies. While some of the centers offering training in specialized foreign studies are not of consistently excellent academic quality, many of them are turning out the few first-rate scholars we have in such difficult subjects as Vietnamese and Cambodian studies. The retrenchment in these programs is part of an overall shift in emphasis away from internationalism by both the Government and foundations. To go too far in this direction is, I feel, seriously wrong for the country and its future. Beyond that, reduction in funds for this program is just one of several body blows being dealt universities, and their graduate programs in particular, by the Federal Government this year. The financial situation is so critical that the Graduate School at Yale University is being forced to reduce its September 1971 admissions by about 30 percent.

Higher education of sustained quality is one of the hallmarks of any civilization, and private universities of undisputed excellence have always been a source of strength for America as a nation. Unless we provide them with more money, not less, we will place the continuation of that tradition in serious jeopardy. This amendment seeks no funds beyond what was appropriated in the current fiscal year; it is merely treading water—but that is preferable to drowning. I urge support of the substitute.

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

Mr. STAFFORD. I yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I would point out to the House in regard to the amendment which we have presented that the impact of this amendment will merely add facilities moneys to our colleges and universities up to the level that is in the present bill which the president signed for this fiscal year. It is adding no new funds other than what is in the present 1970 fiscal year.

Secondly, I would point out that the bill as presented from the committee adds a great deal more from the standpoint of scholarships and especially loans. If we are going to give students money then we especially have to provide facilities for them at least equal to this current year, and I hope you will support the substitute for that reason.

Mr. STAFFORD. Mr. Chairman, I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, as I pointed out earlier when we discussed the Cohelan amendment to strike sections 209 and 210, the Los Angeles City School District is in deep fiscal trouble. In a tragic shortsighted effort to minimize the cost of education, the board sacrificed constitutional rights of minority students to equal education. The court has now ordered a change in policy which will unquestionably cost additional money. To further complicate the fiscal plight in which the school board finds itself, voters recently rejected a bond issue and tax rate increase.

This does not mean parents in Los Angeles oppose quality education for their children but rather that they demand a shift in the burden from a narrow, local tax base to a broader State and Federal tax base.

As has happened in a number of school districts and will happen in more, teacher frustration both as to adequacy of pay and adequacy of education for their students, has led them to strike.

I well remember the analogy used by the distinguished and capable chairman of the Armed Services Committee in persuading this House to undertake a vast new array of supersonic bombers and missiles estimated to cost $40 to $100 billion over the next few years. He said that he would rather carry a raincoat over his arm when the sun was shining than be without it in the event of rain.

Mr. Chairman, it is raining and hailing in the public schools of America. It is drowning many of our young people through poor education, to a life of failure or at best limited accomplishment. The modest increases provided in the O'Hara amendment would throw a lifeline to a few of these students and I sincerely hope the House accepts it.

We have been reminded by the chairman of the Appropriations Subcommittee of the adamant stand against funds for education taken by President Nixon in his successful veto of our last education appropriations bill. But I say, let us open the schoolhouse door to good schools for every American child and if the President through the exercise of his veto wants to stand in the door to block their entrance, it must be his decision not ours.

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

Mr. STAFFORD. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, I would like to rise in support of this amendment. I understand that it carries funding at the level for which it was funded in the past.

I would also like to stress the $71,050,000 2- and 4-year college construction grants contained in the amendment, in addition to the loan program which is being pushed. It is imperative for many colleges, particularly smaller institutions which cannot properly fund loans, to have grant moneys available to them for construction. I think it is most important to retain this type of program in the bill.

Mr. PUCINSKI. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise to congratulate the committee on bringing this legislation to the floor today. I am particularly pleased that the committee has provided $50 million more for vocational education than requested and $71.5 million more than last year.

The $490.5 million appropriated by the Committee for Vocational Education is the highest amount ever provided by the Federal Government and demonstrates how highly the House regards vocational education.

There are many excellent features in this bill. I have taken this time to clear up this question of impacted aid and to write some legislative history here on the floor regarding vocational education research.

First, regarding the impact aid amendment before us, the House should know that our subcommittee is now holding hearings on the President's Impact Reform Act of 1970 and we have invited all Members of the House to testify on this legislation.

Members should be apprised that if this legislation were to be approved as proposed by the President, it would drop some 2,000 school districts now receiving impact aid from the program at a saving of some $391 million annually, as the administration has suggested.

The President has asked that we act on this legislation in time for the 1971 appropriation. It would be my judgment that this legislation could not take effect in 1971 simply because if you were to drop 2,000 school districts from impact aid this year there would be tremendous chaos. We shall continue working on the President's proposal and I hope we can have a bill to offer the House very soon. Now, as regards vocational research, I want to ask the distinguished chairman of the committee, the gentleman from Pennsylvania (Mr. FLOOD) whether I am correct that the $20 million for exemplary programs included in this bill actually is to be used both for vocational education research and innovation. I want to be sure we under-

stand what the legislative intent here is. In the report, the committee states it has allowed "$20 million for vocational education, research and innovation," while the language in the actual bill says "$20 million for exemplary programs under part D of said 1963 act." I shall not offer a clarifying amendment if I have assurance from the chairman that this $20 million is to be evenly divided between funding vocational research and innovative in exemplary programs. It is my understanding the chairman has been assured by the Secretary that vocational research will be funded from this $20 million on an equitable or evenly divided basis. This is the legislative intent we are establishing here and any effort to circumvent this intent will be in violation of the act.

Research is the agency that puts input into the vocational education program. I would like to have some additional legislative history here, that the $20 million earmarked for exemplary programs will not be spent on continuing innovative programs but rather will be equitably distributed between research which produces the new programs. Let there be no mistake. We know there is a tendency to shortchange the Division of Comprehensive and Vocational Research and channel the money to innovative programs. I understand this money will be equitably divided between the two agencies. Is that correct?

Mr. FLOOD. I like the language—equitably distributed—I would accept that and without any doubt, in the discretion of the States and the agencies this could and should be done.

Mr. PUCINSKI. I thank the gentleman. I am pleased the chairman has sustained my view. We know that in recent years there has been a tendency to downgrade research. But it is actually vocational research that has developed the innovative programs. They are financed as innovative instead of as research because local governments delay taking over funding as long as possible.

If we failed to establish legislative intent here today and then permitted the $20 million to be spent only on funding innovative or exemplary programs, it would not be long before there would be no new feedback from research coming into vocational education. As author of the 1968 vocational amendments, I expect half of the $20 million will go to the Division of Comprehensive and Vocational Research so there can be a steady input of new and innovative programs into vocational education. Mr. Chairman, I shall watch with interest whether the intent of Congress will be carried out by the Department. I believe I can safely state that if the money is not equitably divided between research and innovative programs, when the authorization next comes before my subcommittee we shall strike innovation from the bill and insist all seed money flow through research.

I again want to thank the chairman, Mr. FLOOD, and his committee for such sympathetic understanding of the needs of vocational education.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. O'HARA).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. O'HARA. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. O'HARA and Mr. FLOOD.

The Committee divided, and the tellers reported that there were—ayes 103, noes 121.

So the substitute amendment was rejected.

Mr. FLOOD. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House, with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ALBERT) having assumed the chair, Mr. HOLIFIELD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

Mr. FLOOD. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

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

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

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MICHEL. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MICHEL moves to recommit the bill H.R. 16916 to the Committee on Appropriations with instructions to that committee to report it back forthwith with the following amendment:

Page 5, line 10, strike out "$105,325,000" and insert in lieu thereof "$110,325,000".

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

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

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed (H.R. 16916) and to include extraneous matter.

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

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL MIDNIGHT TO FILE CERTAIN REPORTS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I ask unanimous consent that the committee have until midnight to file certain reports.

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

There was no objection.

BYELORUSSIAN-AMERICAN RESOLUTION

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

Mr. ADDABBO. Mr. Speaker, on March 22, 1970, the Byelorussian-American Association commemorated the 52d anniversary of the Declaration of Independence of Byelorussia at a rally in New York City.

At the rally the participants unanimously adopted a resolution expressing the determination of the people of Byelorussian descent throughout the world to resist Soviet oppression and strive for freedom. The national headquarters of the Byelorussian-American Association are located in Jamaica, N.Y., and I urge my colleagues to read the resolution adopted at this year's commemoration. I insert the full text of the resolution in the RECORD at this point:

BYELORUSSIAN-AMERICAN RESOLUTION

Byelorussians living in the United States and Americans of Byelorussian descent fully realize the important role and immense responsibility which they share in the struggle for promoting and maintaining the human, the social, and the national rights of the Byelorussian nation. While enjoying the civil rights guaranteed all citizens of the U.S.A., Byelorussian-Americans have made use of underlying American democratic principles to direct the attention of American society and the Government to the facts concerning the economic exploitation of Byelorussia by the central Soviet authorities as well as the systematic attempts to stifle Byelorussian national culture.

The Byelorussian people, cut off from the outside world by the barbed wires of the Soviet-Russian empire and the Communist propaganda curtain, are today deprived of their rights to be masters of their own land and lives. The key positions in Byelorussia are occupied by Moscow's stooges, party bureaucrats whose main objectives are to siphon from Byelorussia her economic wealth and by means of Russification to thwart the development of Byelorussian national culture. Imperialistic Moscow, in order to better camouflage her policy of exploitation, keeps secret from the Byelorussian people and the outside world the main indicators that reflect the real nature of Soviet Byelorussia's statehood, economy, and culture. An array of unanswered questions constantly persists.

What percentage, for example, of administrative and party positions in the Byelorussian Soviet Socialist Republic (BSSR) are occupied by Russians? Will the Soviet 1970 census indicate an answer to such a question? Probably not!

What is the balance of industrial and agricultural export versus import in the Byelorussian Republic? Have the Muscovite colonizers ever answered this question? Never!

How many books and periodicals are currently being disseminated in the BSSR in Byelorussian versus Russian? Has anyone ever received an answer to this question? No one, not ever!

How many schools in the BSSR are teaching in the Byelorussian language and how many in the Russian language? Why has the Education Ministry of the Republic shamefacedly kept mute on this score?

In spite, however, of intensive Soviet propaganda by which the Soviet Communist Party attempts to cover the gloomy reality that exists today in captive Byelorussia the effects of Byelorussia of the economic and cultural oppression of her people are widely known to the outside world. And national resistance in Byelorussia is on the rise: there have been requests from Miensk (Minsk) for greater rights for the Republic's administration; requests for an increased usage of the Byelorussian language in official life of the BSSR; drives for an increased number of national theaters, museums, books and periodicals; repeated attempts by Byelorussian intellectuals to wrest from party falsifiers the treasures of their national past. That all this has been known in Western countries, is the result of the unrelenting efforts of the Byelorussian political emigres.

To paralyze these efforts toward exposure of the Soviet regime in Byelorussia, the Government of the BSSR has been conducting among Byelorussian emigres subversive activities channeling them both through the newspaper *Voice of the Homeland* and through broadcasts of the short-wave radio station *Soviet Byelorussia*.

In order to render harmless the influence upon the Byelorussian people of news on the political activities of Byelorussian emigration, the State Security Committee of the BSSR, moreover, has increased its public attacks on Byelorussian national organizations abroad. Perhaps, the most recent proof of this are the publications of a book, *In the Light of Undeniable Facts*, by Academician Lauren Abetsedarski and a so-called "novel-lampoon" of Illa Hurski, "Foreign Bread" published in the literary magazine *Polymia*. Yet, neither the falsifier of history, Abetsedarski, nor the graphomaniac Hurski have been able to divert the attention of the Byelorussian people from the plight of their economic and cultural deprivations. Such evil is readily understood and that is why at a recent conference in Miensk in January 1970 Pilatovich, the Secretary of Ideological Matters of the Central Committee of the Communist Party of Byelorussia, warned his watchdogs that currently "one of the most common dangers lies in revival of nationalism."

We convene today as participants of the 52nd Anniversary of the proclamation of the Byelorussian Democratic Republic and solemnly decide and support the following declaration:

Byelorussians everywhere—whether living in Byelorussia, or dispersed across the expanses of the Russian empire, or settled in the countries of the Free World—have never in the past nor will ever in the future become reconciled with the oppressive Communist-Russian regime in Byelorussia. With all our might and all our means we shall continue the struggle against the enslavement of the Byelorussian nation. We shall forever strive for the restoration of genuine national sovereignty and integrity as well as for the realization of freedoms set forth by the historic Charters of the Council (Rada) of the Byelorussian Democratic Republic and by the Declaration of Human Rights of the United Nations.

Long live the Byelorussian Democratic Republic!

Long live a fighting Byelorussia!

ICAO COMMITTEE DRAFTS TREATY TO ELIMINATE SAFE HAVEN FOR "HIJACKERS"

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

Mr. FASCELL. Mr. Speaker, I would like to call to the attention of the Members of the Congress an important forward step in the continuing effort to solve the problem of air piracy.

The legal committee of the International Civil Aviation Organization—ICAO—at a meeting held recently in Montreal, has prepared a draft of a special treaty which deals with the problem of unlawful seizure of aircraft in flight.

The draft treaty complements the Hague Convention and provides for the prosecution and severe punishment of "hijackers." Under the draft treaty, any State in which an offender is found would have the obligation to detain him, pending a decision of the authorities to prosecute him or to respond to a request for his extradition.

The ICAO also decided to convene a worldwide conference at the highest level of government to consider this treaty.

The conference, which is scheduled to convene at the Hague from December 1 to 16, will have the power to establish the proposed new treaty as an instrument of international agreement. The conference will also determine the number of ratifications which will be required to bring the treaty into force.

The time when the effectiveness of the treaty will be felt will depend upon the speed with which each country will ratify it as an international treaty commitment.

In addition, the legal committee of the ICAO has recommended a modification of the Warsaw Convention of 1929, which relates to the liability of the air carrier for the safety of its international passengers.

The Warsaw Convention provides that, unless the carrier proves that an accident resulting in death or injury to a passenger could not have been prevented by the carrier, it shall be liable up to an amount which is the equivalent of $16,600.

The legal committee has decided to recommend a modification of that agreement to provide for a new rule of liability. The new rule would make the carrier absolutely liable, regardless of whether the carrier was at fault. The only exception to the rule would be where the passenger or person claiming damages had himself caused or contributed to the accident.

Moreover, the limit of the air carrier's liability would be raised to $100,000.

Mr. Speaker, I have been deeply interested and involved in the actions being taken by the U.S. Government, the United Nations, the ICAO and other international groups to deal with the urgent problem of air piracy.

I believe that the forthcoming meeting at the Hague can be very significant from that standpoint, and I wanted to call it—and the work of ICAO's legal committee—to the attention of my colleagues.

ADM. THOMAS H. MOORER, NEW CHAIRMAN OF JOINT CHIEFS OF STAFF

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

Mr. ANDREWS of Alabama. Mr. Speaker, I have just been informed that the President has appointed Adm. Thomas H. Moorer to be the next Chairman of the Joint Chiefs of Staff. I congratulate the President and say that in my opinion he could not have selected a finer man for that most important job. I have known Admiral Moorer all his life. He is from my district. He is my constituent, and I am as proud of him as he is of the appointment.

Admiral Moorer has been in the Navy all his life. He has made a wonderful record. He is known throughout the Navy as a sailor's admiral. I am so happy the President has seen fit to designate Admiral Moorer as the next Chairman of the Joint Chiefs of Staff, and I predict he will make one of the finest records of service that has ever been made by such officers.

President Richard M. Nixon today announced his intention to nominate Adm. Thomas H. Moorer, Chief of Naval Operations, to succeed General Earle G. Wheeler, USA, as Chairman of the Joint Chiefs of Staff, on July 2, 1970.

The President has nominated Vice Adm. Elmo R. Zumwalt, Jr., Commander, Naval Forces, Vietnam, and Chief of the Naval Advisory Group, U.S. Military Assistance Command, Vietnam, to succeed Admiral Moorer as Chief of Naval Operations.

General Wheeler, 62, a native of Washington, D.C., who has been Chairman of the Joint Chiefs of Staff since July 6, 1964, will be nominated by the President for promotion to four star rank on the retired list.

Admiral Moorer, 58, is a native of Mount Willing, Ala. He was named Chief of Naval Operations on June 3, 1967, and was reappointed by President Nixon on July 12, 1969.

Admiral Zumwalt, 49, a native of San Francisco, Calif., has been serving in Vietnam since September 1968.

The biographies of General Wheeler, Admiral Moorer, and Admiral Zumwalt follow:

BIOGRAPHY OF GEN. EARLE G. WHEELER

Earle Gilmore Wheeler was born 13 January 1908 in Washington, D.C. He served in the District of Columbia National Guard from August 1924 to July 1928 when he entered the United States Military Academy. Upon graduation in June 1932, and being commissioned a second lieutenant of Infantry, his first duty station was the 29th Infantry at Fort Benning, Georgia. Following completion of The Infantry School course in 1937, he served with the 15th Infantry in Tientsin, China, during the Sino-Japanese incident.

In 1940, he became a mathematics instructor at West Point, and from 1941 to 1942 served with the 36th Infantry Division at Fort Sam Houston and Camp Bowie, Texas. Following graduation from the Command and General Staff College in February 1942, he commanded the Second Battalion, 141st Infantry, 36th Infantry Division, until September 1942. He then became Assistant Chief of Staff for Operations (G-3) of the 99th Infantry Division at Camp Van Dorn, Mississippi.

In 1943, he was assigned as Chief of Staff of the 63rd Infantry Division which was deployed to Europe in late 1944. The 63rd Division was committed during the Battle of the Bulge in December 1944 and was later to breach the Siegfried Line near Saarbrucken in March, 1945. The division, exploiting the breakthrough, reached Heidelberg by Easter and crossed the Danube 25 April. The Division was then pulled from the line and, with three other divisions, was readied to assault Hitler's Redoubt in the Bavarian Alps. General Wheeler was selected to lead the assault regiment. The German surrender cancelled the need for this operation.

Returning to the United States after the war, he joined the faculty of The Field Artillery School, Fort Sill, Oklahoma, in December 1945, as an instructor in combined arms.

In 1946, General Wheeler was sent to Paris, France, as Assistant Chief of Staff for Supply (G-4) of Western Base Section, serving subsequently as Acting Chief of Staff and then Deputy Chief of Staff (Operations) of the United States Constabulary in Heidelberg and Stuttgart, Germany.

Upon graduation from The National War College in July 1950, he was assigned to the Joint Intelligence Group in the Office of the Joint Chiefs of Staff.

General Wheeler was named Commanding Officer of the 351st Infantry in Trieste in 1951, and a year later as a brigadier general became Inspector of Training for Allied Forces, Southern Europe, at Naples. In 1954, he was named Assistant Chief of Staff for Plans and Operations, Allied Forces, Southern Europe.

Returning to the United States in 1955, he became Director of Plans in the Office of the Deputy Chief of Staff for Military Operations, Department of the Army, and was promoted to major general in December 1955. He became Assistant Deputy Chief of Staff for Military Operations in July 1957.

General Wheeler arrived at Fort Hood, Texas on 30 October 1968 to become Commanding General of the 2d Armored (Hell on Wheels) Division. In March 1959, he became Commanding General of the III Corps at Fort Hood, as well as the 2d Armored Division.

In April 1960, General Wheeler was named Director of the Joint Staff in the Office of the Joint Chiefs of Staff, a position he held until nominated for four-star rank and assignment on 1 March 1962 as Deputy Commander in Chief of the United States European Command.

General Wheeler returned to Washington in September 1962 and became Chief of Staff of the United States Army on 1 October 1962.

He assumed the post of Chairman of the Joint Chiefs of Staff in Washington on 6 July 1964.

PERSONAL DATA

Born: 13 January 1908, Washington, D.C.

Father: Clifton F. Wheeler (deceased).

Mother: Ida Gilmore

Married: Frances Howell, 10 June 1932, at Old Greenwich, Connecticut

Children: Gilmore S. Wheeler

Official Address. c/o The Adjutant General, Department of the Army, Washington, D.C.

EDUCATION

United States Military Academy—1932 (BS). The Infantry School (Regular Course)—1937. Command and General Staff College—1942. The National War College—1950.

CHRONOLOGICAL LIST OF PROMOTIONS

Second lieutenant, permanent, June 10, 1932.

First lieutenant, permanent, August 1, 1935.

Captain, temporary, September 9, 1940, permanent, June 10, 1942.

Major, temporary, February 1, 1942.

Lieutenant colonel, temporary, November 11, 1942.

Colonel, temporary, June 26, 1943.

Lieutenant colonel, temporary, July 1, 1947, permanent, July 1, 1948.

Colonel, temporary September 7, 1950, permanent, October 6, 1953.

Brigadier general, temporary, November 8, 1952, permanent, May 13, 1960.

Major general, temporary, December 21, 1955, permanent, June 30, 1961.

Lieutenant general, temporary, April 21, 1960.

General, temporary, March 1, 1962.

CHRONOLOGICAL LIST OF ASSIGNMENTS

29th Infantry, Fort Benning, Georgia from August 1932 to August 1936.

The Infantry School, Fort Benning, Georgia from September 1936 to May 1937.

15th Infantry, Tientsin, China, and Fort Lewis, Washington from June 1937 to July 1940.

Mathematics Instructor, US Military Academy, West Point, New York from August 1940 to June 1941.

Aide-de-Camp to Commanding General, 36th Infantry Division, Fort Sam Houston and Camp Bowie, Texas from June 1941 to December 1941.

Command and General Staff College, Fort Leavenworth, Kansas from December 1941 to February 1942.

Battalion Commander, 141st Infantry, Camp Blanding, Florida from April 1942 to September 1942.

G-3, 99th Infantry Division; Chief of Staff, 63rd Infantry Division, Camp Van Dorn, Mississippi from October 1942 to November 1944.

Chief of Staff, 63rd Infantry Division, European Campaigns from December 1944 to November 1945.

Instructor, The Field Artillery School, Fort Sill, Oklahoma from December 1945 to April 1946.

Deputy Chief of Staff, Headquarters, Western Base Section, France from May 1946 to December 1946.

G-3, Headquarters, US Constabulary, Heidelberg, Germany from January 1947 to June 1949.

Student, The National War College, Fort McNair, Washington, D.C. from August 1949 to June 1950.

Member, Joint Intelligence Group, Office of the Joint Chiefs of Staff, Washington, D.C. from July 1950 to October 1951.

Commanding Officer, 351st Infantry, Trieste from November 1951 to October 1952.

Deputy Commanding General, TRUST, Trieste from November 1952 to November 1952.

Assistant Chief of Staff for Plans and Operations, Allied Forces, Southern Europe (NATO), Naples, Italy from December 1952 to September 1955.

Director of Plans, Office of the Deputy Chief of Staff for Military Operations, Washington, D.C. from October 1955 to June 1957.

Assistant Deputy Chief of Staff for Military Operations, Washington, D.C. from July 1957 to September 1958.

Commanding General, 2d Armored Division, and Fort Hood, Texas from October 1958 to March 1959.

Commanding General, III Corps and 2d Armored Division, Fort Hood, Texas from March 1959 to March 1960.

Director, Joint Staff, Washington, D.C. from April 1960 to February 1962.

Deputy Commander in Chief, US European Command, Camp des Loges, France from March 1962 to September 1962.

Chief of Staff, US Army from October 1962 to June 1964.

Chairman, Joint Chiefs of Staff from July 1964.

CITATIONS, DECORATIONS AND HONORS

Distinguished Service Medal.

Legion of Merit.

Bronze Star Medal (Oak Leaf Cluster).

Army Commendation Medal (Oak Leaf Cluster).

Legion of Honor (Officer) (France).

Legion of Honor (Commander) (France).

Croix de Guerre with Palm (France).

Decoration of Military Merit, First Class (Mexico).

Order of Abdon Calderon, First Class (Ecuador).

Order of White Rose (Finland).

Grand Cross of the Royal Order of the Sword (Sweden).

Honorary Doctor of Laws, University of Akron.

SERVICE MEDALS

American Defense Service Medal.

American Campaign Medal.

Europe Middle East Campaign Medal.

World War II Victory Medal.

Army Occupation Medal (Germany).

National Defense Service Medal.

BADGES

Joint Chiefs of Staff Identification Badge.

General Staff Identification Badge.

Department of Defense Identification Badge.

PERSONAL BACKGROUND MATERIAL

Interests and hobbies

Fishing, Walking, Reading.

Civic activities

Boy Scouts, USO.

Religion

Protestant.

ADM. THOMAS H. MOORER, U.S. NAVY

Thomas Hinman Moorer was born in Mount Willing, Alabama, February 9, 1912, son of the late Dr. R. R. Moorer and the late Mrs. (Hulda Hill Hinson) Moorer. He was graduated from Cloverdale High School in Montgomery, Alabama, Valedictorian of the Class of 1927, and on June 10, 1929, entered the U.S. Naval Academy. As a midshipman he played football for three years. He was graduated and commissioned ensign on June 1, 1933, and through subsequent promotions attained the rank of rear admiral to date from August 1, 1958; vice admiral, to date from October 5, 1962 and admiral, to date from June 26, 1964.

After graduation in June 1933, he served six months on board the USS *Salt Lake City* as a junior officer in the gunnery department. He assisted in fitting out the USS *New Orleans* at the Navy Yard, New York, and served in that cruiser's gunnery and engineering departments from her commissioning, February 15, 1934, until detached in June 1935. During the next year he was a student at the Navy Air Station, Pensacola, Florida. After completing flight training in July 1936 he was designated a Naval Aviator.

In August 1936 he was assigned to Fighting Squadron ONE-B, based briefly on the USS *Langley* and later on the USS *Lexington*. He was transferred in July 1937 to Fighting Squadron Six, based on the USS *Enterprise*, and continued with that squadron until August 1939. He then joined Patrol Squadron Twenty-two, a unit of Fleet Air Wing Two, and later Fleet Air Wing Ten, and was with that squadron at Pearl Harbor, Territory of Hawaii, when the Japanese attacked the Fleet there on December 7, 1941. His squadron was sent to the Southwest Pacific and during the Dutch East Indies Campaign, he

was shot down in a PBY on February 19, 1942, north of Darwin, Australia. He was rescued by a ship which was sunk by enemy action the same day.

He was also awarded the Purple Heart Medal for wounds received on February 19, 1942, and the Silver Star Medal for "extremely gallant and intrepid conduct as Pilot of a Patrol Plane during and following an attack by enemy Japanese aircraft in the vicinity of Cape Diemen, February 19, 1942 . . ." The citation continues: ". . . Although he and his co-pilot were wounded in the attack, (he) succeeded in landing his badly damaged and blazing plane. His courage and leadership during a subsequent attack upon the rescue ship and while undergoing hardships and dangers of returning the survivors to the Australian mainland were in keeping with the highest traditions of the United States Naval Service."

He is entitled to the Ribbon for, and a facsimile of the Presidential Unit Citation to Patrol Squadron Twenty-two. The citation follows: "For extraordinary heroism in action as a Unit of Patrol Wing Ten attached to Aircraft, U.S. Asiatic Fleet, operating against enemy Japanese forces in the Philippine and Netherlands East Indies Areas from January 1942 to March 3, 1942. Holding fast to their courage as the Japanese ruthlessly hunted them down the Pilots of (that squadron) doggedly maintained their patrols in defiance of hostile air and naval supremacy, scouting the enemy and fighting him boldly regardless of overwhelming odds and in spite of the crushing operational inadequacies existing during the first months of the war . . ."

Between March and June 1942, he served with Patrol Squadron One Hundred One and was awarded the Distinguished Flying Cross. The citation follows: "For extraordinary achievement and heroic conduct as commander of a patrol plane on a hazardous round-trip flight from Darwin, Australia to Beco, Island of Timor, on the afternoon and night of May 24, 1942. In an undefended, comparatively slow flying boat, Lieutenant Moorer braved an area dominated by enemy air superiority, effected a precarious landing in the open sea at dusk and took off at night in the midst of threatening swells, with a heavily loaded airplane. His superb skill and courageous determination in organizing and executing this perilous mission resulted in the delivery of urgently needed supplies to a beleaguered garrison and the evacuation of eight seriously wounded men who otherwise might have perished."

After his return to the United States in July 1942, he had temporary duty from August of that year to March of the next in the United Kingdom, as a mining observer for the Commander in Chief, U.S. Fleet. He then fitted out and assumed command of Bombing Squadron One Hundred Thirty-two, operating in Cuba and Africa from its base at Key West, Florida, Boco Chica Air Base. Detached from that command, he served as gunnery and tactical officer on the staff of Commander Air Force, Atlantic, from March 1944 to July 1945.

He was awarded the Legion of Merit: "For meritorious conduct . . . as Force Gunnery and Tactical Officer on the staff of Commander Air Force, Atlantic Fleet . . ." The citation states that he "planned and supervised the development and practical application of tactics, doctrines and training methods relating to anti-submarine warfare and gunnery; supervised many experimental and developmental projects; and coordinated information on enemy tactics and countermeasures . . . By his outstanding executive ability, Commander Moorer contributed materially to the combat effectiveness of aircraft in anti-submarine warfare . . ."

From August 1945 until May 1946, he was assigned to the Strategic Bombing Survey—Japan—of the Office of the Chief of Naval Operations, engaged in the interrogation of Japanese Officials. For two years thereafter, he served as executive officer of the Naval Aviation Ordnance Test Station, Chincoteague, Virginia. He next had duty afloat as operations officer of the USS *Midway* (July 1948-November 1949), and as operations officer on the staff of Commander Carrier Division Four, Atlantic Fleet (December 1949-July 1950).

Reporting in August 1950 to Inyokern, California, he served for a year as experimental officer of the Naval Ordnance Test Station. During the year following, he was a student at the Naval War College, Newport, Rhode Island, and in August 1953, again reported for duty on the staff of Commander Air Force, Atlantic Fleet. In May 1955 he was ordered to the Navy Department to serve as aide to the Assistant Secretary of the Navy (Air) and in July 1956 was detached to sea duty as commanding officer of USS *Salisbury Sound* (AV-13).

On July 26, 1957, his selection for the rank of Rear Admiral was approved by the President and in October, the same year, he reported as Special Assistant, Strategic Plans Division, Office of the Chief of Naval Operations, Navy Department. From January 1, 1958, until July 1959, he was Assistant Chief of Naval Operations (War Gaming Matters), after which he commanded Carrier Division SIX. He returned to the Office of the Chief of Naval Operations in November 1960 and served as Director of the Long Range Objectives Group until October 1962 when he assumed command of the SEVENTH Fleet. For his service in this assignment he was awarded the Distinguished Service Medal. In June 1964 he became Commander in Chief of the Pacific Fleet. Admiral Moorer assumed command of NATO's Allied Command, Atlantic, the U.S. unified Atlantic Command, and the U.S. Atlantic Fleet on April 30, 1965.

On June 17, 1967, he was awarded a Gold Star in lieu of a second Distinguished Service Medal: "For exceptionally meritorious service as Commander in Chief Atlantic, Commander in Chief U.S. Atlantic Fleet, Commander in Chief Western Atlantic Area, and Supreme Allied Commander Atlantic . . ." The citation states in part, "During the Dominician Republic Crisis of 1965–66, he directed military operations with utmost professionalism, judgment and diplomacy, resulting in a cease-fire, politico-military stabilization of the situation . . . and finally the orderly and peaceful withdrawal of U.S. forces . . ." The citation continues: "As Supreme Allied Commander Atlantic, Admiral Moorer foresaw the need, and initiated a major revision in NATO maritime strategy . . . his development of the concept of a standing naval force for the Allied Command Atlantic; and his assistance in establishing the Iberian Atlantic Command Headquarters resulted in major contributions to the North Atlantic Treaty Organization . . ."

On June 3, 1967, he was named by President Johnson to succeed Admiral David L. McDonald, USN, as Chief of Naval Operations, Navy Department. Admiral Moorer became the eighteenth Chief of Naval Operations on August 1, 1967.

On January 13, 1969, he was awarded a Gold Star in lieu of a Third Award of the Distinguished Service Medal "For exceptionally meritorious service as Chief of Naval Operations from August 1967 to January 1969." The citation indicates that "Admiral Moorer provided forceful and aggressive leadership . . . during a period of increasing worldwide commitments and continuous commitments and continuous combat operations against enemy forces in Southeast Asia."

He was reappointed Chief of Naval Operations by President Nixon on June 12, 1969.

In addition to the Distinguished Service Medal with two Gold Stars, Silver Star Medal, Legion of Merit, Distinguished Flying Cross, Purple Heart Medal, and the Ribbon for the Presidential Unit Citation to Patrol Squadron Twenty-two, Admiral Moorer has the American Defense Service Medal with star; American Campaign Medal; Asiatic-Pacific Campaign Medal with two stars; European-African-Middle Eastern Campaign Medal; World War II Victory Medal; Navy Occupation Service Medal, Europe and Asia Clasps; China Service Medal; National Defense Service Medal with bronze star; Armed Forces Expeditionary Medal; Vietnam Service Medal; Philippine Defense Ribbon; and the Republic of Vietnam Campaign Medal with device. In May 1964 he was awarded the Stephen Decatur Award for operational competence by the Navy League of the United States and on June 3, 1968 Admiral Moorer was awarded the Honorary Doctor of Laws Degree by Auburn University, Auburn, Alabama.

He also has been decorated by ten foreign governments: Portugal (Military Order of Aviz), Greece (Silver Star Medal, First Class), Japan (Double Rays of the Rising Sun), Republic of China (Medal of Pao-Ting) and (Medal of Cloud and Banner with Special Grand Cordon), Philippines (Legion of Honor), Brazil (Order of the Naval Merit, Grande Oficial), Chile (Fran Estrella al Merito Militar), Venezuela (Order of Naval Merit 1st Class), Republic of Korea (Order of National Security Merit, 1st Class), Netherlands (Grand Cross, Order of Oranje—Nassau with Swords).

Admiral Moorer is married to the former Carrie Ellen Foy of Eufaula, Alabama. He has four children, Thomas Randolph, Mary Ellen (Mrs. David Butcher), Richard Foy, and Robert Hill Moorer. His official residence is 402 Barbour Street, Eufaula, Alabama.

VICE ADM. ELMO R. ZUMWALT, JR., U.S. NAVY

Elmo Russell Zumwalt, Jr., was born in San Francisco, California, on November 29, 1920, son of Dr. E. R. Zumwalt and Dr. Frances Zumwalt. He attended Tulare (California) Union High School, where he was Class Valedictorian and the Rutherford Preparatory School, at Long Beach, California, before his appointment to the U.S. Naval Academy, Annapolis, Maryland, from his native state in 1939. As a Midshipman he was President of the Trident Society, Vice President of the Quarterback Society, was twice winner of the June Week Public Speaking Contest (1940, 1941), and was Company Commander in 1941 and Regimental Three Striper in 1942, and participated in intercollegiate debating. Graduated cum laude and commissioned Ensign on June 19, 1942, with the Class of 1943, he subsequently progressed to the rank of Vice Admiral, to date from October 1, 1968.

Following graduation from the Naval Academy in June 1942, he joined USS *Phelps*, and in November 1943 was detached for instruction in the Operational Training Command, Pacific, at San Francisco, California. In January 1944 he reported on board the USS *Robinson*, and for "heroic service as Evaluator in the Combat Information Center . . . (of that destroyer), in action against enemy Japanese battleships during the Battle for Leyte Gulf, October 25, 1944 . . ." he was awarded the Bronze Star Medal with Combat "V." The citation further states: "During a torpedo attack on enemy battleships, Lieutenant Zumwalt furnished information indispensable to the success of the attack. . . ."

After the cessation of hostilities in August 1945, until December 8 of that year, he commanded (as prize crew officer) HIJMS ATAKA, a 1200-ton Japanese river gunboat with two hundred officers and crew.

In that capacity he took the first ship since the outbreak of World War II, flying the United States flag, up the Yangtze River to Shanghai. There they helped to restore order and assisted in the disarming of the Japanese.

He next served as Executive Officer of the USS *Saufley*, and in June 1946 was transferred to the USS *Zellars* as Executive Officer and Navigator. In February 1948 he was assigned to the Naval Reserve Officers Training Corps Unit of the University of North Carolina at Chapel Hill, where he remained until June 1950. That month he assumed command of the USS *Tills*, in commission in reserve status. The *Tills* was placed in full active commission at Charleston Naval Shipyard on November 21, 1950, and he continued to command her until March 1951, when he joined the USS *Wisconsin* as Navigator.

"For meritorius service as Navigator of the USS *Wisconsin* during combat operations against enemy North Korean and Chinese Communist forces in the Korean Theater from November 21, 1951 to March 30, 1952 . . ." he received a Letter of Commendation, with Ribbon and Combat "V," from the Commander Seventh Fleet. The letter continues: "As Navigator his competence and untiring diligence in assuring safe navigation of the ship enabled the commanding officer to devote the greater part of his attention to planning and gunfire operations. His performance of duty was consistently superior in bringing the ship through dangerously mined and restricted waters, frequently under adverse conditions and poor visibility. He assisted in the planning of the combat operations . . . (and) piloted the *Wisconsin* into the closest possible inshore positions in which maximum effect could be obtained by gunfire . . ."

Detached from the *Wisconsin* in July 1952, he attended the Naval War College, Newport, Rhode Island, and in June 1953 reported as Head of the Shore and Overseas Bases Section, Bureau of Naval Personnel, Navy Department, Washington, D.C. He also served as Officer and Enlisted Requirements Officer and as Action Officer on Medicare Legislation. Completing that tour of duty in September 1955, he assumed command of the destroyer USS *Arnold J. Isbell*, participating in two deployments to the Seventh Fleet. In this assignment he was commended by the Commander, Cruiser Destroyer Forces, U.S. Pacific Fleet for winning the Battle Efficiency Competition for his ship and for winning Excellence Awards in Engineering, Gunnery, ASW, and Operations. In July 1957 he returned to the Bureau of Naval Personnel for further duty. In January 1958 he was transferred to the Office of the Assistant Secretary of the Navy (Personnel and Reserve Forces), and served as Special Assistant for Naval Personnel until November 1958, then as Executive Assistant and Senior Aide until July 1959.

Ordered to the first ship built from the keel up as a guided missile ship, USS *Dewey* (CLG–14), building at the Bath (Maine) Iron Works, he assumed command of that guided missile frigate at her commissioning in December 1959, and commanded her until June 1961. During the period of this command, *Dewey* earned the Excellence Award in Engineering, Supply, Weapons, and was runner up in the Battle Efficiency Competition. He was a student at the National War College, Washington, D.C. in the 1961–1962 class year. In June 1962 he was assigned to the Office of the Assistant Secretary of Defense (International Security Affairs), Washington, D.C., where he served first as Desk Officer for France, Spain, and Portugal; second as Director of Arms Control and Contingency Planning for Cuba. From December 1963 until June 21, 1965 he served as Executive Assistant and Senior Aide to the Honorable Paul H. Nitze, Secretary of the Navy. For duty in his tour in the Offices of the Secretary of Defense and the Secretary of the Navy, he was awarded the Legion of Merit.

After his selection for the rank of Rear Admiral, he assumed command in July 1965 of Cruiser-Destroyer Flotilla Seven. "For exceptionally meritorious service . . ." in that capacity, he was awarded a Gold Star in lieu of a Second Legion of Merit. In August 1966 he became Director of the Chief of Naval Operations Systems Analysis Group, Washington, D.C., and in September 1968 became Commander Naval Forces, Vietnam and Chief of the Naval Advisory Group, U.S. Military Assistance Command, Vietnam.

In addition to the Legion of Merit with Gold Star, the Bronze Star Medal and Commendation Ribbon, each with Combat "V," Vice Admiral Zumwalt has the American Defense Service Medal, Fleet Clasp; American Campaign Medal; Asiatic-Pacific Campaign Medal with one silver star and two bronze starts (seven engagements); World War II Victory Medal; Navy Occupation Service Medal, Asia Clasp; China Service Medal; National Defense Service Medal with bronze star; Korean Service Medal; United Nations Service Medal; and the Philippine Liberation Ribbon. He also has the Korean Presidential Unit Citation Badge and the Philippine Republic Presidential Unit Citation Badge.

Vice Admiral Zumwalt's official home address is Tulare, California. He is married to the former Mouza Coutelais-du-Roche of Harbin, Manchuria, and they have two sons, Elmo R. Zumwalt, III, and James Gregory Zumwalt, and two daughters, Ann F. Zumwalt and Mouza C. Zumwalt.

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

Mr. ANDREWS of Alabama. I yield to the gentleman from South Carolina.

Mr. RIVERS. Mr. Speaker, I do not think the gentleman can say anything with which I would agree more fully. This is a great American, a great sailorman, and he will make one of our great Chiefs of the Joint Chiefs of Staff.

I am as proud as the gentleman from Alabama to see this gentleman receive such recognition.

Mr. ANDREWS of Alabama. Mr. Speaker, I thank my friend, the gentleman from South Carolina.

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

Mr. ANDREWS of Alabama. Mr. Speaker, I yield to my colleague, the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I join in the remarks made by the gentleman from Alabama and the gentleman from South Carolina.

Admiral Moorer was born in my district and went to school in my hometown. I would like to be able to claim him, as the gentleman did, but Admiral Moorer moved to the gentleman's district. I share the pride of the gentleman from Alabama and all Alabamians that Admiral Moorer has been elevated to Chairman of the Joint Chiefs of Staff.

POSTAL PAY REALITIES FOR HIGH-WAGE AREAS

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

Mr. WILLIAM D. FORD. Mr. Speaker, as I promised last week when we had before the House a bill from the Post Office and Civil Service Committee to increase the compensation of all Federal employees by 6 percent, I am today introducing a bill which will authorize and, in fact, require the Postmaster General of the United States to establish in areas, such as the major industrial high-wage areas, of the country, a wage differential to be paid in addition to the normal salary schedule. Higher wages must be established in those post offices or areas where it is determined that the salary schedule is so low, in comparison to prevailing wages in such areas, that the post office is unable to attract or retain the kind of qualified personnel that we need for the very important job of moving the ever increasing number of pieces of mail that our Post Office Department is called upon to handle.

Mr. Speaker, I invite those of my colleagues who agree with me that this is a principal reason for the work stoppage and one of the principal legitimate complaints of postal workers in many sections of the country, to join me in this legislation and support my efforts to have it passed through the Post Office and Civil Service Committee and then through this House.

During the recent postal work stoppage one of the most frequently aired grievances was the frustration of trying to live on wages, that are not only lower than comparable levels for private industry, but are also devoid of any reasonable relationship to the wages for a given geographic area or location. This grievance is born out by the statistics. The Bureau of Labor Statistics figures for spring of 1969 show that a family of four needs an annual income of $8,322 to live moderately well in nonmetropolitan areas. This same family to live moderately well in the major industrial centers needs $9,076. Given this fact no one should be surprised at the discontent of workers in industrial centers such as the Detroit Metropolitan area. In the area which I represent the postal worker lives everyday with the difficult reality that prevailing wage scales in the area put him at a severe economic disadvantage to workers in comparable jobs in private industry.

The Post Office cannot reasonably expect to retain employees under these conditions nor can they expect that qualified potential employees will apply for jobs under these conditions.

I believe that we can and should do something to remedy the present inequity. We need to streamline our postal pay policies by providing a means to deal with the very special problems encountered in the recruitment and retention of personnel in the relatively high-wage areas of the country.

In 1967, I offered an amendment to the Federal Salary Act to provide the pay flexibility needed to recruit and retain postal employees in high-wage areas. This amendment was accepted in the House but was stricken in the Senate bill and in the version finally accepted and enacted into public law.

The need for this provision is stronger than ever and I am therefore introducing a bill today to achieve a result sim-

ilar to that sought by my 1967 amendment.

Hearings before the Post Office and Civil Service Committee have shown that nowhere is the postal service in more trouble than in the high-wage areas in and around our major cities and industrial centers. Those who followed the recent postal strike are well aware of these problems. News coverage focused the attention of the Nation on the panorama of economic problems faced by postal employees in areas of relatively high wages and exceptionally high living costs.

This bill would not raise anyone's pay at this particular time. Rather, it would make it incumbent upon the executive branch to make a determination as to where in this country postal pay is so out of line with wages for comparable occupations that the postal service cannot recruit or retain the people that we need.

The bill further requires that, when the President finds that the pay rates in private enterprise in areas or locations are so substantially above the rates of basic compensation for positions in the postal field service as to significantly handicap the Government's recruitment or retention of well qualified employees, the President shall establish higher minimum rates of basic compensation for the positions in those areas or locations.

Comparability is only comparability if the postal worker is making the same wages as his neighbor who has comparable duties on his job. This is a sound management principle applied in private industry and I think it is sound for the postal service.

Mr. Speaker, the bill I have introduced and have been describing here provides as follows:

H.R. 16969

A bill to amend title 39, United States Code, to provide rates of pay for postal field service employees in certain areas and locations in accordance with private enterprise pay rates in these areas to assist in recruitment and retention of postal field service employees and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That that part of the text of chapter 45 of title 39, United States Code, under the heading "SALARY STEPS AND PROMOTIONS" is amended by adding at the end thereof the following new section:

"SECTION 3561. Higher Minimum rates; Presidential authority—

"(a) When the President finds that the pay rates in private enterprise for one or more occupations in one or more areas or locations are so substantially above the rates of basic compensation of those positions of the postal field service which are unique to that service as to handicap significantly the Government's recruitment or retention of well-qualified employees for such positions, he shall establish for such positions in the areas or locations higher minimum rates of basic compensation for one or more levels and shall make corresponding increases in other step rates of the pay range for each such level.

"(b) Within the limitations of subsection (a) of this section, rates of basic compensation established under that subsection may be revised from time to time by the President.

"(c) An increase in rate of basic compensation established under that subsection is not an equivalent increase in compensation within the meaning of section 3552 of this title.

"(d) The rate of basic compensation established under this section and received by an individual immediately before a statutory increase, which becomes effective prior to, on, or after the date of enactment of the statute, in the compensation of employees in the postal field service, shall be initially adjusted, effective on the effective date of the statutory increase, under conversion rules prescribed by the President.

"(e) All actions, revisions and adjustments under this section have the force and effect of statute.

"(f) The President may authorize the Postmaster General to exercise the authority conferred on the President by this section.".

(e) The table of contents of chapter 45 of title 39, United States Code, is amended by inserting—

"3561. Higher minimum rates; Presidential authority."

immediately below—

"3560. Salary Protection.".

SEC. 2. Section 5303(a) of title 5, United States Code, is amended by inserting immediately before the semicolon at the end of subparagraph (2) thereof ", except positions in the postal field service which are unique to the service".

ARMY CORPS OF ENGINEERS TAKES "NEW LOOK" FOR CONSERVATION OF ENVIRONMENT

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

Mr. GUDE. Mr. Speaker, in recent weeks, the Army Corps of Engineers has announced a "new look" to demonstrate its concern for the conservation of our environment. This new interest is most welcome. For years many have argued that the corps has been fixated on traditional engineering solutions to problems such as water supply, and has neglected other options with great potential for improving the quality of the environment.

The water shortage in Washington is a case in point. The corps has long championed a series of dams upstream to keep the city from running out of water. We can justify the Bloomington and Sixes Bridge and possibly several other tributary dams, but filling in the Potomac with concrete will not solve the water problem of a rapidly growing metropolitan area. These two dams plus the other five currently being considered for the tributary will only meet projected needs until 1985. The corps is finally turning its attention to the Potomac estuary as a source of water supply, and study is underway. The major hurdle to drawing upon the water in the estuary is, of course, galloping pollution. But there is no reason why this problem cannot be surmounted with the energy and expertise of the corps.

This week, during the Cherry Blossom Festival, signs went up around the Tidal basin to warm fisherman away from waters polluted by raw sewage. One of the major causes of this pollution is the overflow from storm sewers and combined sewers. One cure would be the construction of facilities to handle combined District of Columbia sewers by the "deep tunnel method," a system of large underground tunnels and pumping stations to store water in peak storm runoff and to discharge it for treatment and disposal during periods of slack runoff. A major public works project such as this seems to me to be made to order for the corps.

It is, of course, the task of the Congress to authorize public works projects and to oversee their environmental side effects, and we have not done all that we could to promote broader objectives in authorizing public works.

For this reason, I am today cosponsoring legislation introduced by Congressman REUSS, which would authorize and direct the Corps of Engineers to engage in public works for waste water purification and reuse. The bill places Congress squarely on record as supporting those projects which reflect the most favorable ratio of environmental benefits to costs.

I am confident that the corps will welcome a statement of congressional policy in this area, to back up its own efforts to join the ranks of those who want to make the 1970's the decade of the environment.

ROGERS COMMENDS POMPANO BEACH, FLA., ROTARY CLUB PROJECT FOR SERVICEMEN

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

Mr. ROGERS of Florida. Mr. Speaker, all too often we have the tendency to think of the conflict in Vietnam in terms of nations and not in terms of the men who are defending us there.

The Pompano Beach Rotary, however, has undertaken a project to show these men returning from Vietnam that the people of Pompano Beach appreciate the sacrifice they have made.

Starting last week, the Rotary has scheduled a weeklong respite for servicemen. The club is hosting seven men a week for 4 weeks. In all, 28 men will be given the red carpet treatment.

The Rotary project, under the chairmanship of Budd W. Boyer, has planned to greet these men and in doing so, have spread their enthusiasm throughout the area.

As a result, hotels and motels have agreed to house the men, restaurants have donated all the meals, transportation has been furnished by automobile dealers, and continuous entertainment is being provided by merchants throughout Broward County.

The city of Pompano Beach, Fla., has welcomed these men and the county of Broward has officially welcomed them also.

According to Mr. Boyer, the response has not been limited to the commercial interests. Everyone who has heard of the project has offered to help in some way.

The project was originally scheduled for a 1-month period, with groups of seven men per week. But the response

has been so great that now there is consideration being given for a twice-a-year program which would host 56 men a year.

There are many ways in which the people of America can show their appreciation to the men who have served in Vietnam. And I am sure that many service clubs around the Nation have some kind of program which is designed to give servicemen some indication of the gratitude which all Americans have for them.

But I think that the project established by the Pompano Beach Rotary is an outstanding one, and I would hope that other service clubs over the Nation would look into the possibility of establishing similar ones.

The members of the Rotary and people of Broward County have rushed to share their friendship with these men from the Jacksonville Naval Hospital. I commend them for this fine program and share with them their appreciation for these men who have served their country so well.

TRIBUTE TO REV. DR. ANNALEE STEWART OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RYAN) is recognized for 45 minutes.

Mr. RYAN. Mr. Speaker, I should like to take this opportunity to pay tribute to Rev. Dr. Annalee Stewart, who has been a dedicated and inspirational leader of the Women's International League for Peace and Freedom for more than 20 years.

Mother, minister, lecturer, and peace and freedom lobbyist, Dr. Stewart served as president of the U.S. section of the Women's International League for 4 years, from 1946 to 1950. Since that time, as most of us know, she has served as national legislative secretary for that organization. She retired on March 31, and today her friends, admirers, and associates from WILPF branches all over the Nation held a luncheon in her honor in the Nation's Capitol.

Dr. Stewart is a remarkable woman, and her career attests to that fact. She was graduated from Illinois Wesleyan University in 1921, and later did graduate work at Boston University School of Theology, Colgate-Rochester Divinity School, and Union Theological Seminary. She became one of the first women to be ordained as a minister of the Methodist Church. Dr. Stewart is the only woman in the history of Congress to have served as guest Chaplain of the House of Representatives.

In 1967 Dr. Stewart was invited by Dr. Lloyd M. Bertholf, President of her alma mater, Illinois Wesleyan University, to preach the baccalaureate sermon and receive the honorary degree of Doctor of Humanities in recognition of her work for peace, freedom and social justice.

Annalee Stewart's background in religion and education has been the foundation for many years of aiding, teaching, and counseling young people. She is well known, especially on Capitol Hill, for her efforts on behalf of the United Nations International Children's Emergency Fund, UNICEF. Having seen, in the course of 10 postwar trips to Europe, many of the suffering children aided by the United Nations fund, she was earnestly diligent in her years on Capitol Hill in reminding Members of Congress of the great good that could be done with our Government's appropriations for that cause.

I am sure that Members of the Senate who were involved will never forget one of Dr. Stewart's major lobbying triumphs. While she was legislative secretary for WILPF, she and her husband, Dr. Alexander Stewart, conducted church services in southwest Washington in a poverty-stricken neighborhood. One afternoon, Annalee Stewart invited a number of Senators to tea at the parsonage. As the story goes, when they arrived, tea was served on the kitchen windowsill. Through the window there was an appalling view of the back yards of the slums, the outdoor privies, and the human degradation in which underprivileged children lived. It is said that the Senators did not drink much tea, but they voted for the legislation Dr. Stewart was advocating.

Dr. Stewart has traveled widely, studying international conditions and meeting officials, church leaders, and educators. She attended the first nongovernmental Inter-American Congress of Women in Guatemala and is a member of the secretariat of the Federation of Inter-American Women. She attended two international congresses of the Women's International League for Peace and Freedom. She has broadcast in England and Germany, and preached in Belgium, Czechoslovakia, Finland, and Poland. In 1952, she interviewed church leaders who were going back and forth between the eastern and western zones of Germany.

In July of 1965, Mrs. Stewart was one of the two WILPF members of the interfaith team of the Clergymen's Emergency Committee for Vietnam sent to Vietnam under the sponsorship of the Fellowship of Reconciliation. There, the group spoke with United States and Vietnamese officials, soldiers, students, news correspondents, labor union officials, and supporters of North Vietnam and the NLF. She also visited Thailand, Hong Kong, Hiroshima, and Tokyo with the same team.

Dr. Annalee Stewart is an exceptional leader of an organization so worthwhile that only someone so qualified as she could truly represent it. When women from 12 countries met together at The Hague in 1915, their purpose was to organize for woman suffrage. The outbreak of the First World War, however, persuaded them to dedicate their energies to working for worldwide peace. Thus, their first meeting was concerned with the setting of principles aimed at achieving peace. President Wilson later told one of the U.S. delegation that he used some of their peace proposals as a basis for his 14 points.

The permanent organization of the Women's International League for Peace and Freedom was established at the second meeting, which took place in Zurich in 1919. Today, WILPF has members in national sections in nearly 40 countries. All of the national sections work together for world organization, functioning democratically, within the framework of law, for the peaceful settlement of international disputes and for the development of international social and economic cooperation.

Each section works, by democratic methods, with its own government for the economic and social well-being of individuals, irrespective of race and creed, and for the protection of their civil rights, as well as for universality of membership in the United Nations. Above all, the League is concerned with worldwide, total disarmament to bring about lasting peace.

The WILPF supported the League of Nations and established its headquarters in Geneva, where assistance could be provided to all the national sections of the organization and close contact maintained with international problems. When the San Francisco Conference convened for the purpose of establishing the United Nations, the League sent official observers, and in 1948 it was accorded consultative status with the Economic and Social Council. It was subsequently also given the privilege of having an official representative at UNESCO, FAO, WHO, and the ILO.

The Women's International League for Peace and Freedom deserves the most credit, perhaps, for work in the field of disarmament. The league has taken an active role in helping to bring about the progress toward arms control and disarmament which has been made in recent years.

Annalee Stewart, who worked on behalf of the WILPF for many years for the establishment of an Arms Control and Disarmament Agency, has said:

> Disarmament is not a sometime thing. It is a method for survival in the nuclear age. It requires constant political research and analysis. Universal disarmament will always remain the goal, but disarmament plans and negotiating procedures, once devised, do not remain good for all time. We all know that the missiles of today have made the missiles of yesterday obsolete. So too, new ventures into the stellar regions will necessitate the extension of international law into outer space, making aspects of today's disarmament plans obsolete. A well staffed and financed Agency is necessary to properly carry out the job of formulating disarmament policy on a continuing basis.

In addition to these fields most closely related to world peace, the WILPF has also made notable contributions in other areas. For example, it has been active in the protection of civil liberties and the rights of minorities, and has worked to alleviate poverty. In recent years Dr. Stewart has spent many months in Mississippi, Georgia, Alabama, New Orleans, and Florida, helping to develop lines of communication between the white and black communities, participating in anti-

poverty programs, and organizing WILPF branches.

Dr. Annalee Stewart's career, and the work of the Women's International League for Peace and Freedom serve as examples of the great accomplishments which can be achieved by individuals with courage, faith, strength, and determination, and by organizations made up of such individuals. Mrs. Stewart will be missed greatly in her retirement. However, I know that she will continue to contribute her extraordinary talents to the search for world peace and that her example will encourage future generations of individuals who share her noble goals and ideals.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a Nation. Canada has one commercial bank for every 2,100,000 people. Germany has one commercial bank for every 204,000 people. The United States, with its highly competitive and diverse dual banking system, has one bank for every 15,000 people.

LEGISLATION TO REQUIRE THE OPEN DATING OF PACKAGED FOODS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FARBSTEIN) is recognized for 20 minutes.

Mr. FARBSTEIN. Mr. Speaker, last November I introduced H.R. 14816, legislation to require the final date a food can safely be kept on a grocer's shelves to appear on the label of all perishable and semiperishable foods. Last week, I released the results of two surveys conducted in the District of Columbia on food coding practices. See the CONGRESSIONAL RECORD of April 9, 1970, page 11123. One survey was done by the Consumer Action Committee of the District of Columbia Democratic Central Committee. A second one was done by my staff. The two dramatically demonstrate that current food coding practices do not prevent large amounts of out-of-date food being sold to the consumer. Such findings, unfortunately, are applicable to almost every part of the country.

Response to the legislation has been both massive and overwhelmingly in favor. Tomorrow, I intend to reintroduce the bill with cosponsors to demonstrate the significant support for the bill among the Members of the House of Representatives.

The newspaper article that first brought these conditions to my attention was a feature by Mrs. Marguerite Kelly, which appeared in the Potomac magazine section of the Washington Post last October. Because it so forcefully portrays the food coding practices of supermarket chains, I insert the article at this point in the RECORD.

The text of the article follows:

[From Potomac magazine, Oct. 19, 1969]

TAKE NOTE—"THE DAY I CRACKED THE CHICKEN CODE AT A&P"

(By Marguerite Kelly)

Our supermarkets have turned me into a super spy.

At first I was a simple spy—finding the ripest peaches (partly by sniffing but mostly sort of leaning, thumb-to-fuzz) and watermelon (the broomstraw spins full around, once) and the latest frozen limas (they're greener) which are kept handily in the bottom of the back of the bin.

In the meat department, however, it was never possible to follow my nose the way our foremothers did. Instead denouements occurred each Friday when the groceries were stored. There the plastic was stripped off the meat and occasionally some tainted hamburger made me settle for hot dogs.

I had put it all down to The Breaks until that day I cracked the chicken code.

To tell you the truth, this took more cleavage than brains.

One Friday an A&P butcher in Virginia, easily a candidate for Most Obliging Man of the Year, beamed down as he opened the one-way glass behind the meat counter, looked at my (1) bosom and (2) four packs of chicken and said, "You'll really do better with these," exchanging mine marked 2S for the only four in the case marked 5K.

Five minutes later ("You know, ma'am, there are two things we can't tell customers—what's going on sale and what the code means. I mean, I could get fired.") he said that the letter was the initial of the woman who weighed the meat. The number?

"Well, how many days a week do we work, ma'am?"

Six, of course. 1 for Monday and that means Friday (5) was fresher than Tuesday (2).

According to a spokesman for the grocery industry, every item sold in a supermarket, except perhaps the produce, has a date, in code—a short series of numbers or letters or both stamped somewhere on the package, either by the manufacturer, wholesaler or chain store. Some dates represent the last day of shelf life, called the "pull" date, and other dates represent the packaging date, which oddly enough is not called the "push" date. Any identical coding systems between chains is purely coincidental and codes change as frequently as once a month—and probably sooner, if publicized.

"We have to use codes," said one clerk. "You know how you housewives are. If we used a date you could read, you'd pick the latest one, and then grocery costs would be higher than ever."

And from one grocery spokesman who wouldn't be named: "Simple dating would cause chaos in the marketplace."

Many of the codes are unknown even to the store manager, until he receives an expiration sheet from headquarters, telling him what to pull. Other goods, generally canned, are taken off by food company representatives on their duly appointed rounds.

It is in perishable foods—the meats and eggs and cheeses and milk—that code dating draws its most flak, both from the few customers who know about it and a handful of lawmakers who have checked into supermarket practices.

To Rep. Benjamin Rosenthal, chairman of the occasional Special Inquiry on Consumer Representation of the Government Affairs Committee, codes are "CIA-mysterious. They only help the retailer. A housewife ought to know when a product was packaged and the last usable date. Does it require national legislation? I don't think so. I think much can be done on a local level."

For Washingtonians, whose City Council has lost so much power this year, Rosenthal suggested Congress might give back two things at once—"The power to stop dating by code and the power to name bridges."

In a survey of five of the eight major chains in our area, I found there are a lot of ways to skin this cat, and for some reason, they all were supposed to be for my own good.

GIANT

At the Giant, a marvelously patient dairyman said, in what turned out to be a refrain, "That's really simple," as he decoded the Dannon boysenberry yoghurt.

"Now look, 2110. If it were the first six months of the year, January to June, the code would start with 1. From July to December, they start with 2. Now this code means it's good until Aug. 11. If it were September, it would be 2111, because you would add the 2 and the 1 to get 3, for September."

He never did decipher the code for July, which seems like it should have read 2110 too, but you can worry about that next year.

Meat is frankly marked with the wrapping date of 04 at the Giant, for the fourth of the month, and eggs and refrigerator biscuits use clear expiration dates, if you turn the boxes sideways and look on the end.

"I can keep the AA eggs for 7 days, but then they start losing their AA quality. The A eggs keep for 10 days."

A. & P.

Eggs are stamped the same way at the A&P but when I moved to crabmeat I found

VA5C

8J4

"Lady, that's easy. Forget all the other numbers. Just look for

8J4

he said, spinning the can around. "That's the last day we can sell it. Aug. 4. Of course, it probably would be alright in your own home, under good refrigeration. But if I were you, I'd eat it before.

"That J? That's for the year. The J stands for 1969," he said, looking a little surprised at his customer's stupidity.

The cheese at that suburban A & P, the glutinous, processed American cheese, the kind you give to the children for lunch, had a 24 on it, which the clerk said meant the date it was packaged.

"American cheese is good for two or three weeks. You know, these numbers aren't for you, lady. Don't you worry. If anything goes bad, you just bring it back to us. A & P stands behind everything it sells," he said, looking critically at the date on another package of cheese and tucking it under his arm.

Moving onto the adjacent shelf, he picked up a package of bologna: 8126.

Again, lady, it was simple. The bologna was good until Aug. 12, he said, picking up a couple of outdated pounds of sliced bologna.

"The 6? That's just for our own information. If the plant says to pull every package of bologna with a 6 on it, we do—in case the ingredients aren't exactly right or maybe it's an ounce short. You'd be surprised how many times we get called."

He added some general advice.

"If I were you though, I'd never keep a package of lunch meat more than 3 or 4 days without freezing it," the man said, picking up two packages with broken seals and making way, arms full, to the back of the store, Employes Only.

SAFEWAY

Safeway codes are of course, different, but at the first outlet, on the outer edge of the inner city, the clerks were very helpful.

Eggs were nice and simple: 8–11 for one brand and 2–07 for another brand read out as Aug. 1 and Aug. 7 as the "pull" dates. Lucerne yoghurt was a straightforward 829 (yes, Aug. 29) pull date.

At this point, when I was confidently con-

sidering myself a master cryptologist, the blocks of Safeway's American cheddar read: AAA and BKA and other baffling three-letter collections. The Friendly Clerk said it meant it was good until Jan. 1 or Feb. 11 or maybe that was the day they wrapped it, or something.

When I got to the meat department—bologna was labelled 4294 ("lady, just add the 4 and the 4 and don't you see, it's good until the 29th"). Just a few feet away, the code for fresh meat read 110—and according to the butcher, the 0 was the code number for the wrapper. Each person in the meat department has his own code number. On Aug. 4 this meant, please don't buy the neck bones after Aug. 11, which would have meant a surprising one week away, but he may of course have been kidding.

At another outlet of Safeway the employes were more edgy about revealing the code.

Where meat was coded 082, the young man said, "That's a code. It's for employes to read. I'm not supposed to tell you."

When asked if 082 meant Aug. 8, he said, "Yes." The next package said 073 and the clerk said it was the date, presumably Aug. 7.

"By law," he said, "you can't leave it in the same package. You have to rewrap it."

A former meat wrapper for a Washington chain said, "I've seen a frozen turkey wrapped and rewrapped and rewrapped again, and a different code date on it every time."

"How long can you do that?"

'Till the manager catches you," she said.

She was formerly employed by a supermarket chain that, according to Rep. Rosenthal, pays up to 60 per cent of a meat manager's salary in bonuses—depending on how close he comes to the annual gross expected from his department. The same system applies to the produce manager, the store manager, the supervisor and all the way up to the regional vice-president.

GRAND UNION

Of the five chains shopped, Grand Union probably has fewer codes than the others,

At the Grand Union the meats and eggs have pull dates on them: AUG 6 or AUG 9, although on items like hot dogs and bologna the tickets read 3195 or 7141, which meant Aug. 19 or Aug. 14.

The clerk would not tell why the first and last digits varied for the same month.

"You have to realize lady, it's a code." They still, in August, totaled to "8" for August.

In the same section, the Parks sausage had still another code, 0805 for Aug. 5, the date it was packaged, said the company representative, and with surprising speed he was displaying it early that same morning.

Two different brands of bacon had another code: 3274 meant Sept. 7 and 7141 meant Sept. 4, because, said another clerk, "You add the first two digits and the last digit and that gives you a 9 for September."

Bulk cheese, that sharp cheddar kind you rustle up with macaroni, was marked 8K09 for the packaging date of Aug. 9 and of course, K means 1969, you dum-dum. As for 12K16 on the sliced American cheese, the clerk looked honestly perplexed.

"Of course, K for the year, but the rest of it just doesn't make sense, unless they changed the code while I was on vacation. They do that a lot," he said.

CONSUMERS CO-OP

Across five Maryland suburbs, Consumers Co-Op had dated the eggs and meats and the lunchmeats the same as at Safeway—add the first and last digit for the month, and the two inside numbers represent the date.

A nervous young clerk, speaking low and looking from left to right, said, "Everything's coded, you know. Everything's different and sometimes they put an 0 in. That's just to fool people. I'm not supposed to be telling you this. Why not? I don't know."

According to the Consumers Inquiry staff, the dairy codes are supposed to be the hardest to break, but that wasn't true.

For Thompson's Dairy, the code on their milk cartons is the same in both stores and home delivery, and "simple" to understand, said the kindly route manager just after he explained how lucky we were to have a two-day-a-week delivery instead of three.

"You have to realize, this code is just for the wholesaler, but I'll explain it to you. Today is the second, right? Now you see this 10 across the top," pointing to a hard-to-read impression, without ink, on the sealing tab.

"That means Aug. 10. Every carton I'm delivering to you today will have a 10 on it," he said flatly, picking up the next carton, which said 9, and the last one, which said 8.

The Sealtest milk at the Giant also had its code in the same place but it was a more complicated 6A07.

The dairyman explained, "The 6 just stands for something like the machine number and the A is for the time of day it was processed. The 07 means that I can't sell this milk past midnight, Aug. 7. There's a one-week limit."

Safeway's Lucerne milk has a similar marking style.

When it comes to bread, however, nobody's telling—and without an informer, a super spy becomes an amateur very quickly.

In all regular bread departments, the code was guarded closely, although chain brands generally print the day boldly on the end of the loaf.

At Grand Union, the bread in the delicatessen section, a marvelous selection of it, had a price on it and a B and yes, ma'am, B stands for Tuesday. The regular breads, however, had secret codes.

And at the Giant, a clerk who had been as confiding as a five-year old child became downright testy.

"We don't lie. That day-old cholla (Jewish eggbread) is just what it says, day-old. You can trust us, lady. That's Saturday's bread.

The bread had a white sticker marked E35 and next to it, a blue one, marked A20. It cost 20 cents to buy it, on a Monday, instead of 35 cents. A less trusting shopper might have thought the E stood for Friday.

ENVIRONMENTAL QUALITY ADMINISTRATION ACT OF 1970

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 10 minutes.

Mr. MINISH. Mr. Speaker, the effort to deal with environmental pollution is uniting us as a people more than any other issue in recent memory. Unfortunately, the Federal structure is not similarly united to translate this national commitment into effective and meaningful action to battle pollution.

Presently the Federal Government's programs to control air, water and land pollution are splintered among at least six executive departments, and countless agencies, commissions, and boards. This proliferation of responsibility and authority results in built-in efficiency and inertia in the struggle against environmental pollution.

Water pollution control is within the primary jurisdiction of the Federal Water Pollution Control Administration in the Department of the Interior. However, the U.S. Corps of Engineers has authority to control industrial discharges into waters which they dredge, and the Department of Housing and Urban Development makes grants and loans for the construction of sewage systems. The Department of Health, Education, and Welfare, through the Air Pollution Control Administration, oversees the major Federal activities to control air pollution. Responsibility for pesticide control resides in the Department of Agriculture. The Bureau of Mines in the Interior Department administers some solid waste programs, and the Department of Transportation contains the Office of Noise Abatement.

In order to streamline Federal activities to improve the environment, I am today introducing the Environmental Quality Administration Act of 1970. Sponsored by Senator EDMUND MUSKIE in the Senate, this legislation would consolidate all Federal antipollution offices and programs in one independent regulatory agency whose overriding responsibility would be the protection of our environment against changes which adversely affect the quality of our life.

Specifically, the Environmental Quality Administration will be charged with identifying pollutants and their effects, developing the technical capacity to implement pollution standards, and enforcing such standards to protect the public health and welfare from both short- and long-term adverse effects of pollution. The agency will be headed by an administrator and five deputies appointed by the President with the advice and consent of the Senate. However, it will operate as a separate, self-contained, and independent force for environmental quality within the Federal Government.

Mr. Speaker, our technology has made it possible to attain the world's highest levels of agricultural and industrial production, to meet consumer demands, and to explore outer space. However, we have yet to employ this technology adequately to protect the resources of our environment. To do so requires the effective coordination and management of existing and future programs providing for the control and prevention of air and water pollution, the disposal of solid waste, and the conservation of natural resources. The Environmental Quality Administration Act will provide the means by which our determination and concern can be transformed into meaningful action and strong enforcement.

ESCAMBIA BAY JAYCEES HONOR OUTSTANDING YOUNG SOLDIER

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I was very pleased and proud recently to have the opportunity on behalf of the Escambia Bay Jaycees to present to S. Sgt. Richard Allen Davis, Jr., of Pensacola, Fla., the club's annual Distinguished Service Award. The DSA is presented traditionally each year during January by the Jaycees to a young man "Whose dedication to service to humanity will serve as a lasting reminder and inspiration to all men of all nations." I quote Jaycees President Stanley Wilson that—

Although the DSA Award is not unique as it was begun in 1938 and is traditionally given annually to a young man in the community who is head and shoulders above the crowd, and has honored such men as Orson Welles, Howard Hughes, Richard Nixon, John F. Kennedy and Capt. Gus Grissom, it is unique in that we are giving it this year to a young man from the Pensacola area serving his community and country on the front lines in Vietnam and who is showing leadership and dedicated service qualities. We felt that this award is particularly fitting as a means of demonstrating the Jaycees' support of their country and the young men serving it in a time when elements within America are actively demonstrating their rejection of it and the principles for which it was founded.

Staff Sergeant Davis, who has served two consecutive tours in Vietnam on a volunteer basis was most recently assigned with the U.S. Army 10th Cavalry at Pleiku. This admirable young man, who joined the Army in August 1967 and has risen rapidly in the ranks, has established an outstanding military record. To date he has received the Combat Infantry Badge, Paratrooper Badge, two Army Commendation Awards, two Bronze Stars, the Air Medal, the Vietnam Campaign Medal, National Defense Service Medal and the Vietnamese Service Medal. Richard, who is just 21, is to be highly commended for his record of achievement in his military career and for his selection to receive the Escambia Bay Jaycees Distinguished Service Award.

At the same time, may I warmly congratulate the Escambia Bay Jaycees organization on the important role they are playing in the recognition and encouragement of these deserving young people. Participating in the award ceremony from the Jaycees organization were Stanley Wilson and Zearl Lancaster.

THE COAST GUARD RESERVE IS TOO VALUABLE TO BE ABOLISHED

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, to the very great surprise of most of us in the Congress, the administration has proposed to abolish the Coast Guard Reserve. Apparently this has been done without consulting the committees of Congress which have very important responsibilities in this area. From the evidence, it even appears that those in the service who are responsible for the operation and those most knowledgeable about the need for the Coast Guard Reserve also were not consulted. It is easy to make a case against the abolishment of the Coast Guard Reserve. It is in my opinion an essential element of our defense team, and it is important both in peace and in war. I strongly urge that Congress reverse the decision which has been made and that the Coast Guard Reserve be fully funded and that it be continued in operation.

It is interesting to note that the distinguished chairman of the Armed Services Subcommittee on Retirement, the Honorable F. EDWARD HÉBERT, has explored this proposal and Mr. HÉBERT has made it clear that he and his committee are convinced of the vital importance of the Coast Guard Reserve. Let me suggest that this same interest is shown by a substantial number of the members of the Defense Subcommittee of the Appropriations Committee. Both committees are fully aware of the essential nature of the work of the Coast Guard and Coast Guard Reserve.

Mr. HÉBERT and his colleagues on the Armed Services Subcommittee held a hearing on February 27, and went into this matter, with the advantage of advance knowledge and judgment in the area. In connection with the military authorization bill, Mr. HÉBERT had this to say, and it is significant:

Unlike the bill that we considered last year, there is no request this year for the selected reserve of the Coast Guard. Frankly, I believe the elimination of the selected reserve of the Coast Guard is a violation of the reserve forces bill of rights and vitalization act of 1967, and pre-empts the authority of Congress and specifically the Armed Services committees of the Senate and House who are responsible for establishing selected reserve strengths.

The maintenance and support of our military forces, and particularly of a large and viable reserve, is insurance for national safety, and a deterrent to war. I am sure that each of us shares in the hope and prayer that we will never have to call them up. But how worthy will be the support we have given the reserves if they are in any sense fully committed to action in wartime.

Those responsible for the safety of our Nation are the men and women, in the agencies and establishments of the military services. It has always been my view that they are the ones upon whose judgment we must rely in these matters. We are fortunate that in our Nation dedicated and sacrificial citizens with skill and inspiration have always been available to defend our Nation, and they have done so successfully. Today, the leadership of our military services are the most gifted in the world.

It is important that we seek and listen to their advice in all matters affecting the national security.

Mr. HÉBERT and his committee, in considering the Coast Guard Reserve, would, of course, call in the Commandant, as they did on February 27. Let us go to the record and ascertain what Adm. Willard Smith's views are on the subject of the proposed abolishment of the Coast Guard Reserve.

I read from the record of the hearings:

Representative HÉBERT. I again repeat: The first time that you knew that the Reserve Coast Guard was to be eliminated was when you were told it was to be eliminated as a result of these alleged studies?

Admiral SMITH. Yes sir, that is correct.

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Representative HÉBERT. Did you propose elimination of the Reserves?

Admiral SMITH. No, sir, we did not.

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Representative HÉBERT. But I want it firmly established that you were not consulted. Were you given an opportunity to justify the retention of a selected reserve training program of 16,590 shown to be necessary by your report? Am I to assume that this presentation was made when you first discussed this matter?

Admiral SMITH. Yes sir, we did make a presentation to the Bureau of the Budget for this program.

Representative HÉBERT. And you at that time justified the 16,590 reserve strength?

Admiral SMITH. This is what we requested.

Representative HÉBERT. That is what you requested. At no time then, in making this presentation did you indicate you wanted the reserve eliminated, or did experts ask your opinion on eliminating the reserve entirely?

Admiral SMITH. No sir, not in connection with the budget presentation.

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Representative HÉBERT. But were these steps acceptable, or were you doing them because you had to do them within the framework of the budget?

Admiral SMITH. We accepted the fact that this action was going to be taken, Mr. Chairman.

Representative HÉBERT. But it was not to your liking?

Admiral SMITH. These were presented as problems associated with it.

Representative HÉBERT. Did you like it?

Admiral SMITH. No, sir.

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Representative PIRNIE (New York). Admiral, when this figure for the selected reserve was established, you had a mission in mind, did you not?

Admiral SMITH. Yes, sir; that is correct.

Representative PIRNIE. Could you tell us that mission?

Admiral SMITH. Mr. Pirnie, we have a number of missions under the mobilization concept. These are assigned to us by the navy, since we become part of the navy in time of war.

Representative PIRNIE. What I was trying to develop was the importance of that mission, and if you can characterize its basic purposes, I think it might help further questioning.

Admiral SMITH. I might say, Mr. Pirnie, that generally these are in support of Navy responsibilities in wartime situations. The largest in respect to resources—the largest task is the port security and port safety task, which accounted for about 70% of our early response reserve callup. In addition to that, we have tasks to participate in extensions generally of our peacetime missions in a wartime environment, the Merchant Marine Safety, aids to navigation, vessel patrolling and anti-submarine operations.

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Representative PIRNIE. Is it fair to say the selected reserve had, to a certain extent, mobilization designations with regard to mission?

Admiral SMITH. Yes, sir; they have.

Representative PIRNIE. Isn't that the highest type of readiness?

Admiral SMITH. Yes, sir. We regarded them as the highest type of readiness and the ones that would respond most promptly.

Representative PIRNIE. Do you feel there is any substitute for that type of capability?

Admiral SMITH. We feel that there will be a loss, there is no question that there will be a loss in the quick response under emergency conditions.

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Representative DANIEL (Virginia). Admiral Smith, what specialty ratings do you require to perform your wartime port security missions?

Admiral SMITH. The techniques and skills that we try to provide in our port security people have to do with capability of conducting waterside surveillance for safety purposes of our piers and terminals. All shoreside surveillance with respect to security from sabotage, security from fire to insure that the equipment is being handled properly on the docks. To establish an identification procedure so that only authorized people enter the port and terminal areas. These are

some of the principal items we are talking about.

Representative DANIEL. What other skills are required? What other specialties?

Admiral SMITH. One other one that is important under these conditions are a group of people who are able to supervise the handling of explosives, dangerous cargoes. A sizeable number of them must be qualified to operate boats. They must be versed in general law enforcement techniques, the matter of apprehending and handling of people who have to be removed from the port area.

* * * * *

Admiral SMITH. But the port security mission, since it involves the great majority of our early response reserve forces would feel the impact of this. When I say that, I say that we would not have available as an early response the number of people that we have felt it was necessary to carry out this function.

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Representative HÉBERT. If you had not been estopped by the Bureau of the Budget, you would be sitting in the same chair, appearing before the same committee, justifying 16,590 which you consider the rock-bottom minimal to carry out your mission, isn't that correct?

Admiral SMITH. If our budget request had been approved this is the figure we would be talking about, yes, sir.

These are clearly stated and unmistakable views of the Commandant of the Coast Guard. They are based upon a lifetime career of service to his country by the Commandant, who is the leader, the chief executive, and the top-rated expert of the Coast Guard.

These views must be taken seriously by the Congress.

At the same hearing, where Admiral Smith revealed his professional convictions, the top individual who deals with Reserve affairs in the Department of Defense Secretariat also testified. I cite his testimony on this matter to make it perfectly clear that the civilian leadership as well as the military leadership in this field has differing views from that of the Bureau of the Budget on the matter of Coast Guard Reserve.

The Assistant Secretary of Defense for Manpower and Reserve, the Honorable Roger T. Kelley, testified that he was not consulted prior to the Bureau of the Budget decision to eliminate the Coast Guard Selected Reserve.

This was true even though he is the responsible individual in the Department of Defense secretariat and the Coast Guard Reserve strength, under law, is his responsibility. Here is what was said:

Representative HÉBERT. Your position as assistant secretary does take under cognizance and jurisdiction the reserve strength of the coast guard which reverts to the Department of Defense during wartime?

Assistant Secretary KELLEY. Yes to both questions. My responsibility does, and the coast guard does revert.

Representative HÉBERT. Were you brought into any conferences before the decision was made to reduce the coast guard reserve to nothing?

Assistant Secretary KELLEY. No sir; I was not.

The Assistant Chief of Naval Operations—Naval Reserve—Rear Adm. Julian T. Burke, Jr., testified before the House Armed Services Committee that "the Navy is not able to take on additional missions of the Coast Guard."

The chairman of the House Internal Security Committee, Representative RICHARD ICHORD, in a recent statement concerning the importance of the security of our industrial potential said:

Of similar importance to our defense is the security of our merchant vessels, ports and harbors. The shipping industry is an essential to our Navy and defense transportation.

Mr. Speaker, it seems perfectly clear that the administration is proposing that the Congress take the risk of denuding the Nation's defenses in one important field, and leaving unprotected to a large degree a most important part of the physical structure of our country. We are advised that someone—it has been suggested that a single clerk was responsible—proposed in the initial preparation of the President's budget in the Bureau of the Budget simply struck out a $25 million item in order to save a little money, and that this was done without any consideration whatsoever to the recommendations of the Secretary of Defense and the Commandant of the Coast Guard.

For a fact, from testimony developed by the able chairman of the House subcommittee handling Reserve matters (Mr. HÉBERT) the critical, and what should have been the persuasive, recommendations in this matter were either not sought or were completely ignored or overridden. What kind of preparedness policy is this?

Finally, let us remember what are the wartime missions assigned to the Coast Guard, for which a mobilization readiness must be achieved at all times. These include:

First. Port security, covering the protection of ports, waterfront facilities, vessels, vital locks, bridges, and so forth, from damage or destruction due to subversion or accident; control of anchorages, and movements of vessels; regulation and control of fishing vessels; prevention of the entrance into the United States of persons or objects inimical to national security; regulation and supervision of dangerous cargo handling; screening of persons having access to the waterfront; water and land patrols.

Second. Wartime manning of additional Coast Guard and Navy vessels for duties as assigned.

Third. Expansion of search and rescue operations to support military requirements.

Fourth. Expansion of aids to navigation, icebreaking, and ocean station operations in support of wartime military requirements.

Fifth. Naval patroling operations.

Sixth. Augmentation of fleet to war manning level.

Any suggestion that one of the five Armed Forces be relieved of its necessary training and given instead tasks to perform which have no relation to these assignments is not realistic. The proposal that the Coast Guard itself be eliminated from the defense team is simply not a tenable one.

We hope and believe that upon calm and realistic appraisal of this matter that the Congress will not only reverse this decision, but will provide the necessary support and guidance to require the retention of the Coast Guard Reserve and to manage and train it to the highest degree of readiness.

FARM LEGISLATION

(Mr. SISK asked and was given permission to extend his remarks at this point in the RECORD and to include certain quotes from the chairman of the Committee on Agriculture.)

Mr. SISK. Mr. Speaker, for many months the House Committee on Agriculture has been meeting, often in night sessions with Secretary of Agriculture Clifford Hardin and his top aides, trying to reach an agreement on general farm legislation to replace the existing law which expires at the end of this year.

Chairman POAGE has diligently led these discussion sessions. He has devoted time and energy and shared his vast knowledge of agricultural problems in an earnest desire and effort to improve the lot of the American farmer. Yet, Mr. Speaker, he has been criticized by some farm organization leaders because he joined in getting subcommittee approval last week of wheat and feed grain price support legislation which those particular leaders thought was insufficient.

The chairman, Mr. Speaker, has made it abundantly clear that he too would like to get passage of legislation increasing farm price supports in line with the increased cost of items which go into production. But, he is realistic enough to know that such legislation cannot win approval of the Congress, so that, in Chairman POAGE's own words, "It is better to get a part of something than a whole of nothing."

On April 9, 1970, a statement was issued by John Scott, chairman of the steering committee of the farm coalition group, an organization of farm organizations. Referring to the livestock and grains subcommittee action, the statement singled out Chairman POAGE in particular and described the vote as a "sellout" of grain producers.

The able and dedicated chairman of the Agriculture Committee has responded vigorously and with clarity to this charge, expressing his views both in a general news release and letters to individuals. Included in the news release were these comments:

As I see it, the major duty of the Committee on Agriculture is to secure the passage of an effective farm bill. Obviously this can only be done through cooperation. The days in which the so-called "farm bloc" was sufficiently powerful to pass any legislation it wanted have long since passed. Unfortunately, some of our farm leaders seem to be living in a dream world of long ago in which they had the votes to pass whatever they felt was best for farmers.

The Democrats have a majority in the House of Representatives, but the Democratic Leadership certainly cannot prevail upon anything like a majority of the House to support farm legislation. The same situation exists on the Republican side where about the same percentage of Members oppose farm legislation without regard to its provisions.

Obviously, neither the Republicans nor the Democrats can alone pass a farm bill. Neither the Agriculture Committee nor the Department of Agriculture has the power to pass legislation simply by presenting it. It is necessary to get votes from somewhere other

than from "farm" districts. The only possibility I know of securing farm legislation is by securing the cooperation of our Committee and the Secretary of Agriculture, including the cooperation of the members of both parties.

Chairman POAGE then went on to say he agreed with the Coalition that larger government payments to farmers was justified, especially in the light of such recent actions as passage of a Federal workers pay increase bill, but that he has seen no evidence a farm bill of that kind could be enacted into law.

He continued:

With no farm programs, I think it is clear that American farmers would rapidly sink to an even less favorable economic level. In other words, desirable as the Coalition program might be as an objective, none of its advocates seem to have any vague idea of how they can secure its passage, and without passage, this program is of course no more than "pie in the sky."

I think, on the other hand, that I see a real possibility of passage of a program which will maintain substantially the present income of farmers. The Secretary of Agriculture has repeatedly stated that he would support legislation which would (for at least three years) maintain approximately the present level of government assistance for our farmers.

In a letter to one friend Mr. POAGE said criticism of the subcommittee action indicated a complete misunderstanding of the situation, and of the fact that individual judgments were involved and that there were honest differences of opinion.

He added:

I realize that no one can ever prove just exactly whose judgment is best but I also know that if I have gone through a long dry summer and I am starting the winter with no feed on hand and a whole lot more stock than I can possibly carry, that I am going to be forced to sell to the man who comes along and offers me cash rather than hold on and let my stock starve while I talk about a fair price for my cattle.

We are in about that position now. We are talking about $3 billion of farm income where I think it is clear that we will not get anything unless we act.

Of course, we are faced with the same uncertainty which confronts the farmer who must sell his cattle. We can always hope that it will rain tomorrow or that someone will come along and pay more, but you know and I know that the time comes when you must sell. I think that we have reached that point, and we did not have to take the completely ruinous price that the Coalition publicity men have indicated.

The chairman noted that the legislation which drew the fire of the coalition guarantees for 3 years $2.77 per bushel on domestic wheat, which was parity when the administration agreed to the figure, and $1.35 per bushel on corn, which is actually 8 cents per bushel higher than the supports in the measure before the adoption of the amendments to which the coalition objected.

In conclusion, Chairman POAGE said:

I know that it is a matter of judgment as to whether or not the Administration would make any further concession—the same kind of judgment that you must exercise when you are selling your cattle. I am convinced that we have reached a point where we cannot obtain any further concession.

STATEMENT IN SUPPORT OF LIMITING IMPORTS BECAUSE OF THEIR DAMAGE TO OUR DOMESTIC INDUSTRIES

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, the currently changing picture of world trade requires a reassessment of our foreign trade policy. American exports are declining. Imports are mounting steadily. Our favorable balance of trade, the excess of what we earn abroad compared to what we spend for foreign goods, has almost disappeared.

Imports to the United States have been increasing at such a rate as to make serious inroads in our domestic markets. Japanese, Asian, and European goods have been disrupting our industries and causing unemployment. Clearly we have reached a crossroads that demands change from past policies. The Presidential proposal to Congress considers in part the plight of some of our domestic industries, but it does not go far enough in the protection of our workers losing jobs to cheaper foreign products.

The fact that the United States is the largest market, and the major open market in the world economy, does not excuse continuing the present policy. On the contrary it makes it more relevant and timely to change it now. Hardly a week passes by without reports of difficult or unsuccessful meetings and official negotiations dealing with the problem of mounting imports in face of a relative decline in our exports. Generally, statements from all parties concerned are more self-seeking than self-evident. But there is also noticeable a change in mood and a stiffening of national positions. The seriousness of this situation is underscored by the very fact that meaningful international relations, both political and economic, must be based on a give-and-take formula. I find that we have been doing most of the giving. In fact, we have been giving so long that our trade partners have frozen in their position of taking to such an extent that they seem now to take it for granted as the natural state of affairs.

Let me be specific. Our Government's dealings with the Japanese Government on the matter of textile imports have been marked by intransigence. The high point of this was reached by the statement of the powerful Japanese Minister of International Trade and Industry who in February 1970, was quoted as saying:

There can be no way of pushing ahead talks unless the United States accepts Japan's basic thinking.

In an unprecedented move, the United States presented to Japan in late January of this year detailed economic data to show that U.S. textile firms and apparel industries are being injured by imports. On March 10 a report from Tokyo described the curent United States-Japan export curb talks as fruitless. Seemingly a dead end has been reached. This, however, was followed by a flying visit to Washington by a high Japanese diplomat who reportedly envisaged Japanese voluntary restraints only after Japanese exports to this country exceeded a 50 percent rise over any preceding year. Is this a realistic and reasonable approach in trying to solve a problem to mutual benefit and satisfaction?

Measures that made some sense when Japan was rebuilding its war ravaged economy and trying to create industries that could stand on their own in international competition have no shred of justification now.

Of course, the problem does not lie with textiles alone, nor is it confined to Japan. Other major industrial products are affected by mounting imports, among them toys, hand bags, shoes, and electrical supplies.

Assistant Commerce Secretary Kenneth N. Davis, Jr., bluntly cautioned Western Europe and Japan that they must give fairer treatment to American exports sold in their markets and that both trading areas should not underestimate the American administration's determination to achieve an equitable solution.

Mr. Davis said:

For the benefit of all the world's trade, it is time for Japan and Europe to respond more fairly than heretofore to 20 years of U.S. leadership in expansionist world trade policy!

But I believe our Government is not pressing the issue strongly enough. The lack of results and the seeming widening policy of restrictive practices of the various nations involved would indicate that our Government is derelict. Extended consultations and talks across the Atlantic have yielded at best accusations and counteraccusations.

For Europeans to insist on our repeal of some of our new nontariff barriers while they are about to erect new barriers discriminating against American electronic components is an unreasonable and untenable position. The recent French-German-British accord may well be considered by its members as nondiscriminatory, but it is clearly aimed at what the Electronic Industries Association estimates to be about one-third of the U.S. shipments of electronic components to Europe.

At the same time, Europeans failed to mention the severity of their barriers in agriculture which surpass any rational basis in fact. If the European Commission is publicly expressing anxieties about import restrictions pending in Congress, then they ought to publicly and privately consider the issues in terms of their merits and in line with their avowed "extremely liberal" policy toward trade, instead of contributing to the atmosphere of criticism and suspicion of intentions.

Quite contrary to many of its pronouncements, the European Community has been busy in protective action lately. The Common Market has been signing preferential trade agreements with a variety of African and Mediterranean countries. These trade pacts often violate the spirit if not the letter of the GATT principles in favor of a "hot pursuit" of narrowly defined national interest.

It is interesting to note that privately the Common Market has been saying that the basic circumstances of international trade have been altered since the industrial tariffs were reduced almost 40 percent in the Kennedy round. This is exactly the point that I have been expounding. If GATT principles within which the Kennedy round have been conducted and, so far, partly implemented are no longer viable, then it is high time for this Congress to establish new guidelines consonant with our current national interest and policy. It may well be that the Common Market does not want a division of the world in economic blocs. Nor would this, I believe, be in the interest of the United States. But we cannot sit here just watching events as they unfold.

I am not in favor of either political warfare or economic warfare, I believe that reason can prevail. But now is the time to use reason and bring our house in order. We cannot wish our problems away. We have a responsibility toward our citizens and our Nation's economy. We cannot allow the present unsettled situation to rule us or to continue unchecked. If the administration is unable to achieve its stated goal within the existing framework of international trade agreement we, in Congress, have the duty to do it here and now. The legislation that Congress should support would only assure us and our trading partners full participation of a fair share of an orderly growth of our markets. This becomes even more imperative now in face of growing direct subsidies of foreign exports undercutting our efforts to sell our goods abroad, while at the same time U.S. manufacturers are being asked by the same governments to transfer production and jobs out of the United States. We cannot allow imports or foreign government to dislocate American industries and cause factory shutdowns in Brooklyn or anywhere else in this Nation.

JOB CORPS CLOSINGS

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. RYAN. Mr. Speaker, I have read with interest the recently released "Manpower Report of the President." I was particularly concerned with that section of the report discussing Job Corps, inasmuch as I opposed the administration's closure of 59 centers last June, and I have grave doubts that events since then have served in any way to dispel the concern which prompted my opposition.

To my distress, the "Manpower Report of the President" is long on rhetoric, but the administration remains short on performance.

The report notes that "30 new, relatively small centers are planned, some with nonresident enrollees." This is the rhetoric. The performance is revealed by the subsequent statement that "three such centers were open in the latter half of 1969—in New Jersey—Camp Kilmer; Koko Head, Hawaii; and Phoenix, Ariz." This paltry total of new centers comes as no surprise to me—last January 20 I deplored the lackluster performance of the Department of Labor. But it does certainly conflict with the Secretary of Labor Schultz' assurance to Congress that at least 10 of the 30 proposed new centers would be opened by last September.

What is more, in actuality the New Jersey center merely replaces a previous, much larger center. And the Koko Head center similarly is the replacement for a former Job Corps center. So, there was really only one "new" center opened last year—in Phoenix. And that center only had 50 enrollees during 1969.

The rhetoric of the President's Manpower Report may be encouraging, but the performance gap is without doubt extremely discouraging. This administration has defaulted on the Government's obligation to the youths who formerly could look to Job Corps as a chance—perhaps even their last chance—to help themselves.

I have other problems, as well, after reading the President's report. For example, it is stated that "some 35 percent of the openings in the new centers are planned for young women, compared with 28 percent of total Job Corps openings in fiscal 1969." I commend Job Corps for seeking to raise the number of women enrollees in the program, inasmuch as the need for educational help, social adjustment, and skill training is certainly as great in the case of disadvantaged women as it is for their male counterparts. In fact, given the job discrimination levied against women throughout our society, I would venture that their need for job training to make them especially eligible for better jobs may even exceed that of the young men.

However, I believe Job Corps still to be doing too little. What is more, this 35-percent goal is difficult to reconcile with the language of the Economic Opportunity Act, which, as established by the amendments adopted in 1967, provides in section 117(b):

> The Director shall take necessary action to assure that on or before June 30, 1968, of the total number of Job Corps enrollees receiving training at least 25 percentum shall be women. The Director shall immediately take steps to achieve an enrollment ratio in training in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socio-economic, educational, and training needs of the population to be served.

I can appreciate that there might be some ambiguity in the phrase "enrollment ratio of 50 percentum women." This same language is used in the conference report—Report No. 1012—to the Economic Opportunity Amendments of 1967, as well as the House report—Report No. 866. And, in all instances, the phrase is susceptible to being interpreted, I suppose, as meaning there shall be one woman for every two men—that is, a 1:2, or 50 percentum ratio. However, I think the legislative intent clearly to have been that there be equality in the number of women enrollees and men enrollees—that is, one woman for one man. Therefore, I have serious question whether the administration is comporting with the will of Congress—a will which was expressed over 2 years ago and which remains unchanged.

There is one more reference to the Manpower report of the President I wish to make before addressing the disaster which has been inflicted upon the disadvantaged, desperate youth of, most particularly, our urban ghettos and the rural South, by the closure of 59 Job Corps centers. This point goes to the statistics presented by the report, which I confess leave me extremely distressed

The report describes "the Government's two main programs of work and training for disadvantaged youth—the Neighborhood Youth Corps and the Job Corps." This is the description the administration itself ascribes to NYC and Job Corps—"the two main programs." Yet NYC has been restructured by the Labor Department to exclude youths 18 and older from its out-of-school component. This formal restructuring, which produced a reduction in enrollment and which was preceded by stopping all enrollments of youths 18 years and older in May of 1969, is reflected in the figures offered in the table presented on page 59 of the report: In January 1969, there were 45,700 youths enrolled in the neighborhood youth corps out-of-school program, whereas in January 1970, the number was down to 32,100.

Needless to say, the Job Corps enrollment figures presented by that table shows a similiar drastic decrease—from 32,900 in January 1969, down to 19,500 in January 1970. So, we have a combined total reduction for the two programs of 27,000 enrollees. Actually, the problem is even worse than this, since the figures for the first month of 1969 do not really reflect the total number of youths enrolled in these two programs at sometime during 1969. This figure, for Job Corps alone, is 53,000 youths who were enrolled at some point during the 12 months of 1969.

Yet, if these are the two main programs directed at disadvantaged youth, where then have those youths who presumably would have filled the no longer available slots in these two curtailed programs gone?

The answer to that question does not appear to me from the statistics, In fact, if anything, these statistics confirm the administration's repudiation of the Government's obligation to these youths—and to the rest of society—to aid them.

The figures for the programs operated under the Manpower Development and Training Act show that in January 1969, there were 91,600 enrollees. In January 1970, the number of MDTA trainees had dropped to 85,400, a decline of 6,200. The only programs showing any significate rise in enrollment are Job Opportunities in the Business Sector—JOBS—and the Work Incentive program—WIN. Yet, neither of these meets the needs of disadvantaged youths whose educational and skill levels require intensive upgrading. The report itself acknowledges what is well known—the serious problems of the WIN program. And the JOBS program aims at the hiring of workers by private companies, whose facilities, even

if supportive services are available, are of small avail to teenagers.

Thus, there really is no place but the severely curtailed Job Corps for youths 16 to 22 in need of the counseling, skill training, and educational tutoring which that program provides. And particularly abysmal, as well as dismal, is the story of what has befallen Job Corps. Fifty-nine centers were closed. By now, only five supposedly new centers have been opened—the three mentioned in the Manpower report as having been opened in 1969, and two more which have opened since in Portland, Oreg., and Atlanta. This minuscule number of replacements for the closed centers is totally unacceptable.

In addition, these centers are restricted in terms of enrollment. The New Jersey center, for example, is open only to New Jersey youths. Thus, whereas its predecessor had in it approximately 800 young men from New York, the "new" center excludes these youths. They must be sent to Camp Atterbury in Indiana or Camp Breckenridge in Kentucky. I find this turn of events totally incompatible with the very words of the President's Manpower Report, at page 71:

> Formal evaluation and the practical lessons of operating experience showed that, although some of the underlying premises of the Job Corps were sound, others were questionable. Extremely high dropout rates in the first 30 days following enrollment cast doubt on the wisdom of locating enrollees far from home and in isolated areas.

How much farther must a New York City youth be sent to be considered "far from home"?

As I said in my statement on the floor of the House on January 20, I have serious question whether this practice of shipping New York City youths hundreds of miles away while there is a center virtually in their backyard comports with section 106(d) of the Economic Opportunity Act and with section 103(1) of that act.

But, my quarrel is not with legalities. My quarrel is with the administration's continued repudiation of our young men and women who have grown up with all the disadvantages that poverty, urban blight, poor education, and lack of hope can inflict on them. This repudiation is unjustified. It is unwise. This week we shall be debating the administration's family assistance plan, a key component of which is work training, and yet at the same time the administration continues to deny such training to youths who desperately need—and ask for no more than—a chance. Let us give them that chance.

PCB'S—AN ENVIRONMENTAL HAZARD

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

Mr. RYAN. Mr. Speaker, recent scientific research has shown that polychlorinated biphenyls—PCB's—pose a serious danger to the environment. Polychlorinated biphenyl—PCB's—are chemical compounds manufactured in the United States by the Monsanto Co. under the trade name Aroclor. PCB's, and their residues are extremely toxic to fish, birds, animals, and humans. Until recently, little was known about PCB's, even though their use is widespread. But it is now clear that they have within them the seeds of disaster.

As PCB's are not soluble in water, they are—like DDT—very persistent in the environment. This insolubility factor makes PCB's capable of being widely distributed over the earth via air currents. Upon being ingested by animals or humans, they are soluble in fat.

To the chemical industry, PCB's are a miracle ingredient used in thousands of products from hydraulic fluid to plastic wrappings to insecticides to printing inks. To scientists in several countries who have been carrying on independent research, PCB's are a menace that has been discovered in birds, fruits, fish, conifer needles, human fat, and human milk.

These scientists tell us that like their chemical cousin—DDT—PCB's cause birds to lay eggs with shells too thin to protect the embryos they enclose. Moreover, PCB's have a deleterious effect on the reproductive capacity of animals.

PCB's not only threaten wildlife. Human beings are likewise imperiled. If PCB's come into contact with the skin, they cause chloracne, a serious skin condition. If inhaled, the result is even more dramatic and frightening: among the symptoms are nausea, rapid breathing, loss of weight, and a lowered red blood cell count. More serious results are the deterioration of the kidneys, jaundice, and atrophy of the liver. In sufficient quantities PCB's can cause death.

While dangerous quantities of PCB's are sprayed into the environment as pesticides, this insidious chemical also infects the environment through more roundabout means. It appears that PCB's are getting into the environment in many ways—through the smokestacks of manufacturing plants, through the weathering or friction wear of PCB materials, and through the burning of plastics containing PCB's.

Dr. Robert Risebrough, associate specialist at the Institute of Marine Resources, Department of Nutritional Sciences, University of California at Berkeley, has done extensive research into the problem of PCB's. In an article entitled "More Letters in the Wind" in the January–February 1970 issue of Environment, Dr. Risebrough and Virginia Brodine state:

> A thorough investigation of the physiological effects of the agricultural and industrial chlorinated hydrocarbons, including their effects on the reproductive systems of both birds and mammals, is urgent.

I have called upon the administration to mobilize all available resources to detail the extent of the threat posed by PCB's, and to take steps to eliminate that threat.

I have urged Secretary of Agriculture Hardin to take immediate action to ban the use of PCB's in pesticides. And I have urged Secretary of the Interior Hickel similarly to take immediate action, in order to assure that our fish and wildlife are not further endangered by this environmentally dangerous chemical.

In my communications with Commissioner Charles C. Edwards of the Food and Drug Administration, I have called for establishment of food tolerance levels for PCB's, and urged that a study be undertaken to determine whether PCB's should be completely banned for all uses. Also, I have urged Commissioner Edwards to require that all products containing PCB's be labeled, in order that the public may be fully apprised of their presence in the products they purchase.

I have also asked Chairman Arnold B. Elkind of the National Commission on Product Safety to employ the Commission's investigatory powers to determine the nature and extent of the threat of PCB's to the environment.

Finally, I have called upon Chairman Russell Train of the Council on Environmental Quality to coordinate the efforts of all appropriate Government agencies, so that the public may know the sources and the seriousness of the PCB hazard, and in order that steps can be taken to eliminate this hazard as soon as possible.

Insofar as the Monsanto Co., the sole manufacturer of PCB's, is concerned, I have called for its complete cooperation in these Federal actions to determine the extent of the threat posed by PCB's. I have requested it to release all of its production and sales figures for its three plants manufacturing AROCLOR. Scientists tell me that only with these figures can they intelligently gage how much of the chemical is getting into the environment.

In addition, Monsanto should immediately state, clearly and without equivocation, whether during the manufacturing process any PCB's are released into the environment, in any form; in what quantities they are released; and what control measures are in effect or are being developed. Monsanto should release to the public a complete list of the uses of PCB's so that consumers can be aware of their presence. Any manufacturer who uses PCB's should publish a list of the products containing these compounds, and such products should be labeled as containing PCB's.

The deterioriation and degradation of our environment are accelerating with a frightening speed. Any delay in instituting controls for chemical contaminants only makes the potential consequences that much more ominous. We have used up just about all the luck available in unthinkingly and uncaringly despoiling our environment and endangering life by the use of dangerous man-made products. Thalidomide, DDT, oil slicks—these are only harbingers of more and greater disasters. Wisdom and caution must begin to prevail.

SOVIET SCIENCE AND TECHNOLOGY: SOME IMPLICATIONS FOR U.S. POLICY

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, a recent issue of Orbis, a quarterly journal of world affairs contains a thoughtful and provocative article on "Soviet Science

and Technology: Some Implications for U.S. Policy." The article was authored by Prof. Foy D. Kohler and Dr. Mose L. Harvey. Mr. Kohler is professor in the Center for Advanced International Studies at the University of Miami and was formerly Ambassador to the U.S.S.R. as well as Deputy Under Secretary of State for Political Affairs. Dr. Harvey is director of the center at the University of Miami and former director of Intelligence and Research for the U.S.S.R. and Eastern Europe and senior member, Policy Planning Council, Department of State.

Because of the deep consideration being given at this point to the forthcoming SALT talks between the United States and the Soviet Union, I thought that this article would prove of particular interest and help to my colleagues. I am, therefore, including in the RECORD the text of the article and commend it to my colleagues' attention:

SOVIET SCIENCE AND TECHNOLOGY: SOME IMPLICATIONS FOR U.S. POLICY

(By Foy D. Kohler and Mose L. Harvey)

Many factors have contributed to the downgrading of the Soviet threat that has marked Western appraisals of the international situation over the past several years. Certainly one of the most basic is a recurrence among opinion-makers of an old habit of discounting Soviet as against U.S. capabilities in the sphere of science and technology.

No one has gone so far as to return to the pre-Sputnik appraisal of the USSR as a technologically backward nation. Most observers appear now to agree that the Soviet Union is capable of great achievement in particular fields, especially when related to urgent military needs, through marshaling overwhelming human and material resources on a "cost-be-damned" basis. Most observers also recognize that from the standpoint of overall activity the USSR deserves ranking as a technological superpower. Nevertheless, recent comparative appraisals of the United States and the USSR differ vastly from those of a few years ago. Not only have the extreme alarms of the Sputnik era died out. The USSR is portrayed as lagging seriously behind the United States in most areas of scientific-technological endeavor. And projections show the odds more favorable to a widening than a closing of existing gaps.

American scientists and technologists who have had opportunity to visit the Soviet Union and to view at first hand—and in some cases to participate in—ongoing scientific activities in the areas of their specialties have played a leading role in the reassessment process. Since inauguration of the U.S.-Soviet exchange program in 1958, several thousand American scientists and technologists have journeyed to the USSR for periods ranging from a few days to a year or so, and have returned to relate their observations and experiences. Quite a few have made repeat trips, gaining appreciably in authoritativeness as a result.

Consistently, these American visitors have been impressed by the high qualifications and attainments of some of the individual Russian scientists with whom they have had contact. Many have also been impressed by one or another particular line of investigation they have observed. Nearly all have been strong in praise of accomplishments in certain disciplines—notably mathematics, astronomy, branches of theoretical physics, and, within narrow limits, oceanography: the Russians are acknowledged to be among the world leaders in these fields. But as a general matter, the Americans have seen the overall level of research, experimentation and application in the USSR as substantially under that of the United States, and in many instances under that of Western Europe and Japan. All branches of chemistry, experimental physics, earth sciences, meteorology, communication sciences and communication technology, all branches of the life sciences, electronics, cybernetics, reliability engineering, nuclear power, computer-controlled automation, metal alloys, metal substitutes, and even metallurgy, have repeatedly been subjected to critical evaluation. It has not been unusual for observers to speak in terms of a Soviet lag of a number of years behind the United States, as for example "ten years" in the case of chemistry, "ten or more years" for different of the life sciences, and "many, many years" for cybernetics.

Americans have been particularly influenced by the contrast between U.S. and Soviet research facilities and support resources. Almost uniformly they have dwelt upon ill-designed and poorly-housed laboratories, limited equipment, overcrowding, the absence of research tools considered standard in the United States, the lack of trained research assistants and other support personnel, the paucity of research supplies, evident continued dependence on foreign sources for many basic items of equipment, the absence of sophisticated computers and other electronic devices. They have been impressed by the up-to-dateness of some "prestige" facilities and have shown awareness that other advanced facilities were off-limits to them because of military considerations. But this has not altered the seeming consensus: that from the physical standpoint the overall Soviet situation is somewhat primitive in comparison with the United States.[1]

West Europeans, who long were preoccupied with their plight "in between" the technological colossi to the East and West, have in recent years added their voices to the deprecatory appraisals of Soviet capabilities emanating from U.S. scientists and technologists. A main contributing factor has been the failure of the USSR to hold its commanding lead in space—something many European scientists appeared not to have expected—together with evidence that it has not realized the same sort of general forward surge in science and technology in consequence of its space efforts as has the United States. The West Europeans have been especially influenced by complaints of the Russians themselves over their comparative rate of progress, and have used data of Soviet origin to construct a picture of a technological gap between the United States and the USSR comparable to that between the United States and Western Europe.

The Organization for Economic Cooperation and Development, for example, gave limited circulation in mid-1968 to a 738-page study on "Science Policy in the USSR" that showed, on the basis of Soviet sources, considerable disarray in Soviet efforts in science and technology. The Economist of February 8, 1969 used this study as point of departure for an appraisal that appears more or less typical of informed opinion throughout Western Europe:

Looking at the Russians' achievements in space, one finds it hard to believe that one of their obsessions at home is with the technological gap between themselves and the United States, and the way to close it. The Russians are, after all, training quite a staggering number of scientists and engineers; half the students coming out of the universities are qualified as either the one or the other, making the number of young, technically qualified graduates coming out each year substantially higher than it is in the United States. . . . It is not lack of trained men that explains the gap, nor is it lack of money. The sums spent on science have been increasing annually and very rapidly. . . . The Russians have tried the brute force approach of throwing in masses of men and money on a scale approaching the American—but fail to get the results they were looking for. They are now groping for some more subtle key to technological innovation and this is having a profound effect on the whole of their economic thinking. For what the Russians appear to have found is that innovation requires first of all an attitude of mind that is not fostered by a normal Marxist economy.[2]

II

Up to a point, the change in view with regard to Soviet scientific and technological attainments represents a healthy development. Few of the false images that have been created from time to time about the Soviet Union have matched in absurdity the exaggerated notions of its overall scientific and technological prowess built up in the wake of Sputnik. Yet there is real danger that in redressing a serious imbalance in one direction we will create an equally serious imbalance in the other. This danger is all the more real since many who currently rate Soviet accomplishments and prospects as substantially below those of the United States appear not to give adequate weight either to recent adverse trends in U.S. policies and purposes or to remedial efforts in the USSR. In practical terms of U.S. national interests and needs, are we justified in the far-reaching inferences we seem to be drawing from what may be a transitory situation? Are we safe in projecting, as we appear intent on doing, a current balance sheet into the indefinite future? This question breaks down into whether we are, on the one hand, underestimating the potential of the Russians, or, on the other, overestimating our own.

III

There has long been a semblance of "roller-coasterism" in our evaluations of the Soviet Union. We tend to ignore or discount for extended periods impressive evidence of great purposefulness and intensive activity toward a given goal or goals. Then a sudden turn of events alerts our attention to what is actually going on and sheer surprise—sometimes consternation—causes an upturn in appreciation that generates its own momentum, sweeping not only up to but far beyond any realistically justified point. There follows a period of revision, born of Soviet failure to measure up to the artifically inflated expectations—or fears—and appraisals turn downward, again gathering their own momentum and passing far beyond a realistically justified point.

During the initial phases of the first Five-Year Plan, few took seriously this highly publicized effort to force the rapid transformation of the USSR into a first-class industrial power. The consensus was that the Russians were simply too backward, their system too faulty, their resources too limited to realize the goals they had set for themselves. The backdrop of such views was not the Soviet Russia actually existing in 1929, but the feudal, economically primitive Russia that had been conjured up as an aftermath of the Bolshevik takeover. Forgotten was the great industrial progress achieved during the four decades prior to the First World War, progress that had raised the one-time sprawling agricultural country to the rank of fourth among the industrialized nations of the world, with an impressive productive capacity in coal, steel, petroleum and textiles, and with a railway net second only to that in the United States. Forgotten also was the recovery that had been effected during the period of the New Economic Policy. And no one seemed to recognize the potential effectiveness of a single-minded lead-

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ership willing to go to extremes of ruthlessness to realize its purposes.

When, in 1932, the Kremlin announced the completion of the Five-Year Plan in four years and produced convincing evidence of striking successes in a number of fields, the news, in combination with the deepening Great Depression in the West, produced a shock wave. In the minds of many, Soviet Russia, for the first time, began to loom "twelve feet tall." Stalin, in reporting to his Central Committee on January 7, 1933, was consequently able to draw on a range of telling "before and after" views from the West.[3]

In subsequent years it became apparent that performance under the first Five-Year Plan had been less solid than had first appeared: Stalin himself one declared that "the picture [of plan fulfillment] is a motley one."[4] Moreover, the rate of growth tended to fall off sharply as the second Five-Year Plan was pushed in the mid-1930's. Meanwhile, the West was emerging from its depression, with Nazi Germany making especially rapid progress. These circumstances combined to produce a downward spiral in estimates regarding the USSR. By the time of the Nazi invasion in June 1941, the image of the Soviet Union had shrunk to that of an industrial pygmy, so lacking in the sinews necessary for modern war that it could have little hope of holding out more than a few weeks against German might. Thus it came as an unending surprise that the USSR was able to absorb the huge territorial and material losses and still ultimately match the Germans gun for gun, tank for tank, and plane for plane.

At the end of the war, the outside world recognized that the USSR commanded a formidable war machine, but at the same time assumed the machine was doomed to increasing obsolescence over at least a decade. War devastation and the demands for reconstruction, in combination with the paucity of industrial resources and skilled manpower, were thought to preclude successful efforts to mechanize land forces, develop a nuclear capability, shift to a jet-propelled air force, or build a modern submarine fleet. The error once again was too little allowance for what the Soviets actually had in hand, and too little regard for what could be accomplished by a ruthless dictatorship bent upon massively extending its power base irrespective of either difficulties or costs.

These were the days of great military complacency in the United States, and this despite mounting political tensions and ominous crises around the world: days of the demobilization of the armed forces, an out-of-the-hat ceiling on the U.S. defense budget, smug conviction that our nuclear arsenal with its handful of weapons was adequate to our needs, confident assertions from many sides that we had little reason to go forward and develop a hydrogen bomb. Then came another of the shock waves. It was started by the Soviet explosion of an A-bomb in August 1949[5]—five to ten years ahead of the "schedule" set in the West—and fed by evidence of the swift transition of the Soviet air force to jet basis, the unveiling in 1949–50 of a new arsenal of Soviet weapons ranging from automatic small arms to massive tanks and self-propelled rocket artillery, and indications that Moscow was concentrating major effort on the rapid development of a long-range rocket capability.

One of the consequences of this shock wave was to galvanize the United States into decisions it had hitherto been unwilling to take, paving the way for the atom bomb on a mass production basis; the green light to develop the hydrogen bomb; serious research and development on rocket missilery; and a start on new air and ground weapons systems. Other consequences, however, were of the overreaction category: Intelligence estimates began to speak of 300 Soviet divisions in place and battle-ready with the most modern arms and equipment, 30,000 combat planes, and a full fleet of snorkel submarines capable of operating off the very shores of the United States. In some circles, the USSR was conceded the capability of *simultaneously* overrunning Western Europe, the Near and Middle East, noncommunist Asia, and even the Japanese islands. An absurdly high rate of Soviet economic growth was not only accepted but projected into the indefinite future, with charts showing the gross national product of the United States equaled in the 1960's, surpassed on a per capita basis in the 1970's, and far outdistanced from the 1980's on.

Only with the death of Stalin and the beginning of startling exposures of deep flaws in the Soviet structure did alarms quiet and developments in the Soviet Union come into reasonable perspective. However, the revision process, which once again generated its own dynamics, soon brought the by then standard overcorrection. The new Soviet leadership talked freely about the plight of agriculture, the neglect of light industry and housing, and even of imbalance in the heavy industry sector. Investments had not yielded the returns they were supposed to have yielded. Labor productivity, the all-important key to progress, had mounted at rates far below the levels planned. Education had been neglected, and scientific research warped by arbitrary political decisions. *To American ears, all of this bespoke not only a Soviet system in disarray, but a Soviet system with no choice but to effect a change in direction. No longer could Soviet resources and energies be concentrated on expanding the power base. Agriculture, consumer goods, housing, satisfying the aspirations of the Russian masses—these would have to be the priority targets of the future.*

We thus admirably conditioned ourselves to be ill-prepared for Sputnik, making virtually inevitable a traumatic reaction to what should have been a predictable event. We need only have given due weight to what the Soviet Union could do and was signaling in many ways it was doing in a wide range of developmental areas.

IV

A circumstance that has influenced Americans as we first recover from the shock of Soviet accomplishments and then steadily downgrade the lasting implications of those accomplishments, is that we find it difficult to reconcile deeply entrenched notions about the Soviets with first-class competence in science and technology. We can accept the USSR as a big and formidable country, with a population capable of fortitude and great sacrifices in both war and peace, and a ruling regime given to ruthless effectiveness in manipulation of its people, unscrupulous use of political power on the international scene, and constant efforts to make propaganda and sway or intimidate the weak and unwary to its ends. *But it runs again our grain to see the USSR as a modernized great power capable of moving effectively and purposefully on the frontiers of new science and new technology.*

The A-bomb story is instructive in this connection. While some few Americans allowed the possibility that the Soviet Union might, with benefit of U.S. experiences,[6] be able to produce an A-bomb in relatively short order, the consensus of informed opinion was far more conservative. General Leslie Groves, organizer of the U.S. atomic effort, told the Senate Special Committee on Atomic Energy on November 29, 1945 that he believed another nation like the USSR could, "with complete secrecy," produce a bomb in from fifteen to twenty years, "more likely the latter. . . . It may be that instead of this being 20 years it should be 40 or 50. A good many people who know and have been in some of these countries [i.e., the Soviet Union] tell me they don't think they could ever build it. . . ." When Molotov asserted on November 6, 1947, that "the secret of the atom bomb . . . has long ago ceased to exist," he was almost universally discounted. And even when President Truman announced, on September 23, 1949, detection of a Soviet explosion, a surprisingly large number of observers refused to believe that Soviet capabilities had been greater than generally supposed: Soviet espionage and captured German experts, not Soviet science and technology, were alleged to have been the factors responsible for success.

In making such appraisals, no one seemed to give any appreciable weight to long-term, intensive Soviet interest and activity in the nuclear field. As early as the 1920's, Soviet physicists began serious research on the nucleus of the atom. By the mid 1930's research was progressing on a range of nuclear problems. Both fundamental and experimental work was under way at a number of institutes and was already producing important results as well as an increasing number of brilliant nuclear scientists, several of whom were soon to earn international reputations.

Among other things, the Soviets assumed a leading role in the development of cyclotron technology, and in the use of cyclotrons in nuclear research. The discovery of nuclear fission by the Germans Otto Hahn and F. Strassmann, in January 1939, aroused the same keen interest in the Soviet Union as in the West. Soon thereafter the USSR Academy of Sciences established a "Commission for Isotopes," and later a "Special Committee for the Problem of Uranium." After a brief interruption, the war brought a steady build-up of Soviet interest and activity. Evidently knowledgeable of what the United States was doing, the Soviets had a broad-gauged program under way by 1943, and efforts were increased to large-scale proportions by 1947.

How can disregard of this prolonged and extensive Soviet activity in the atomic field be explained, except in terms of arbitrary disparagement of basic Soviet capabilities in science and technology? Even as we stood awed by the first Sputniks, many refused to believe that anything more than a fluke was involved: the Soviets had lacked the technological capability to develop a sophisticated H-bomb and had to go for an outsized model requiring an outsized booster, which yielded the first earth satellite as a by-product. Later, the reaction was that the Soviets were engaged in easy "spectaculars," involving little more than capitalizing over and over again on their initial booster advantage to get large weights off the ground, while the United States was building highly complex machines, carrying out intricate and sophisticated experiments, and rapidly bringing space to the service of man in communications, weather observations, and the like. One can also detect strong notes of condescension in much of the current discussions of the technological gap. The tendency, it seems, is to concede that the Soviet have accomplished much, but after all "in the United States. . . ."

V

An even more serious danger is that we still have not brought ourselves to recognize the great importance the Soviet regime attaches to maximum development and full utilization of science and technology, or the overriding purposefulness with which it is concentrating human and material resources to these ends. This was one of the main reasons for our failure to foresee the speed with which the USSR would come up with a nuclear capability. Many of the estimates of Soviet prospects allowed the possibility of a bomb within a few years (usually five to seven), provided an all-out effort were made. But few saw an all-out effort as a strong likelihood, much less as the virtual certainty it was, given the known characteristics of the

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Soviet regime. In more recent years, the Soviet will to stay the course in space competition has repeatedly been discounted. Many have convinced themselves that the Kremlin is uninterested in further weapons development unless prodded into it by the United States. Currently skepticism prevails that the USSR will of its own volition leave no stone unturned in its search for an effective anti-ballistic missile capability.

What we need to keep in mind, however, is something more far-reaching than the Soviet willingness and ability to go "all out" to achieve selected goals involving advanced science and advanced technology. Soviet purposefulness extends to general preeminence—to world predominance—in the field. One of the most fundamental attributes of the Soviet regime is the ideological and practical conviction that through the forced development of science and technology the USSR can achieve world leadership. For the Soviets it is an article of faith that their system—with its total power to set priorities, allocate resources and push forward in accord with a fixed purpose and without regard to costs, profitability or other such considerations—gives them an immense advantage over other countries in the maximum utilization of science and technology. Their attitudes and policies have religiously reflected exhortations of Lenin:

The war is inexorable; it puts the alternative with ruthless severity: either perish, or overtake and outstrip the advanced countries economically . . . perish or drive full steam ahead. That is the alternative with which history confronts us. . . . Only when the country has been electrified, when industry, agriculture, and transport have been placed on the technical basis of modern large-scale industry, only then will we be fully victorious.[7]

The very fact that the Soviets have become obsessed, as The Economist put it, with "the technological gap between themselves and the United States, and the way to close it," is indicative of the overriding priority their leadership attaches to maximizing progress. For almost a decade, they have engaged in self-criticism and searches for improvements for science and technology that are reminiscent in their intensity, frankness and sobriety of the campaign to improve agriculture in the 1950's. In the context of continued U.S.-Soviet competition on the world scene, we can properly draw reassurance from weaknesses on the science-technology front that the Soviets themselves have revealed. At the same time, however, we need to read their exposures and their thrashing about to overcome shortcomings as alarm signals, since they underscore the unrelenting purposefulness of the regime to achieve the preeminence it so badly wants and on which it is staking so much. It is important to note that, unlike the situation for agriculture, science and technology have been moved to a top place on the leadership's agenda not in response to a crisis but during a period of relatively great advancement.

VI

Bothering the Soviets most, and receiving their main attention, has been their inability to apply the scientific knowledge and technological capabilities that produced their space and other successes to the general requirements of Soviet economic development, that is, to spark a general advance on a broad national front. Leonid Brezhnev, Soviet party boss, pinpointed the matter at the Twenty-third Soviet Party Congress held in March-April 1966:

Soviet science has won great prestige and has indisputably great accomplishments to its credit. However, mention should be made of the deficiencies that hold up its development. The gravest is its slow introduction of the results of scientific research into production. There is an unjustifiable gap between theoretical research and its technological and design development. Often, years pass before a discovery is applied in production—a fact damaging the national economy and science itself. Poor use of electronic computer techniques is one example of this.[8]

This problem is not peculiar to the USSR. Traditionally, the practical application of new knowledge lags behind its discovery. But it is particularly galling to the Soviet regime, since basic to its reason for being is the concept that "the socialist mode of production" makes possible a rationality in the adoption of new ways which is unattainable for "capitalist systems." As the Party Program formulated by the Twenty-second Party Congress held in October 1961 saw the future:

In the current decade (1961–1970) the Soviet Union . . . will surpass the strongest and richest capitalist country, the U.S.A., in production per head of population. . . . All in all, capitalism is increasingly impeding the development of the contemporary productive forces. Mankind is entering a period of scientific and technical revolution, bound up with the conquest of nuclear energy, space exploration, the development of chemistry, automation and other major achievements of science and engineering. But the relations of production under capitalism are much too narrow for a scientific and technical revolution. Socialism alone is capable of effecting and applying its fruits in the interest of society. . . . The USSR will possess productive forces of unparalleled might; it will pass the technical level of the most developed countries and occupy first place in the world in per capita production.[9]

The Soviet leadership has had to eat crow with respect to these boastful expectations. In the use of space-generated science and technology to effect a general advance it has found itself blocked by one of the most basic features of the Soviet system: compartmentalization. All sorts of obstacles stand in the way of transferring gains in one area to other areas, and in the past this has been responsible for uneven development: While tremendous strides were being made in heavy industry, light industry moved with glacial slowness and agriculture stagnated. Development of a sophisticated capability in electronics had little evident impact on the reliability of such things as telephone systems and elevators. The genius of Soviet design engineers has been anything but paralleled by the skill of mechanics who serve automobiles, trucks and tractors. Computers guiding intercontinental ballistic missiles have had no impact on the marketplace, where abacuses hold sway.

Soviet political leaders as well as responsible scientists and technologists have seen their compartmented situation in sharp contrast to American flexibility. The U.S. space program—indeed, the gamut of the United States' major developmental programs, including those related to military needs—is being conducted not in isolation but as an integral activity within the mainstream of the American economy and all elements of the society. In carrying forward its programs, the U.S. government has worked with industry, the universities and other organizations to buy lead time by underwriting the risk of long-term development and to encourage the formation of capital, the formation of research teams, the flow of information within the constraint of secrecy requirements, and innovation in materials, processes, components, products, and analytical techniques. Taken together, these policies and arrangements constitute an institutional framework within which technology [in the United States] has burgeoned. . . . In nuclear energy, electronics, computers, aircraft, and many other fields . . . accumulation of the results of these "spin-offs" [has] effected a technological revolution for the whole world and helped to give the United States an industrial complex so great that an international conference has been called to study "the technological gap."[10]

A small but illuminating illustration of the "transfer" problem in the USSR is to be found in the experience of an American university professor who visited principal Soviet physics institutes. Although the institutes in question were concerned with research in areas of major emphasis in the USSR (controlled thermonuclear fusion and solid state materials and devices), the American noted no evidence of the use of microelectronics or integrated circuits in any of the electronic equipment in use. Some of the Russian scientists indicated to him that they "believed it was being used in the space program," but they had never seen integrated circuits incorporated in any of the electronic test equipment available to them. Such blunt evidence of the separation of the space program—the most important single area of scientific and technological research and development in the Soviet Union—from the mainstream of Soviet scientific activity took the American observer, who as a professor was intimately acquainted with every phase of the U.S. space program, by startled surprise.

Kirill Mazurov, member of the Politburo and First Deputy Chairman of the Council of Ministers of the USSR, in commemorating the Bolshevik Revolution last November, reflected Soviet concern over the greater returns the United States was realizing from its investments in research and development.

In our days, the scientific-technological revolution is becoming the most important springboard in the struggle between the two social systems in the world arena. Everything shows that the capitalists are paying much attention to this situation. The U.S. monopolies, spending ever larger sums for scientific research, for perfecting technology, among others through enticing scientists from other capitalist countries, are trying to perpetuate the so-called "technological gap" between the economies of the socialist countries and that of the United States.[11]

Others among Soviet leaders have spoken with even greater frankness and explicitness. Peter L. Kapitsa, Director of the prestigious Institute of Physical Problems of the Soviet Academy of Sciences and long one of the most influential of academicians in the science-technology area, gave a graphic account of the harsh realities that were so disturbing to the Soviets in his report to the USSR Academy of Sciences on December 13, 1965. Kapitsa's appraisal echoed views that were being widely voiced in scientific and industrial circles throughout the Soviet Union. We believe his report worthy of close examination:

The basic indicator of the progress of a national economy is the productivity of labor, and the increase in the productivity of labor is achieved in the main by the assimilation of new technology and the attainments of science. When the growth of the productivity of labor slackens, the reasons for this must be sought in the deficiencies of assimilating by industry the achievements of science and technology. . . .

The assimilation of the achievements of science and technology by industry takes place slowly and with difficulty by us [i.e., in the Soviet Union].

They [the Americans] now produce about one-third of world science. We produce one-sixth of world science, that is twice less than they. Each of the remaining countries produces less than we. Therefore in scientific production we are the second country in the world. However, if one takes into account . . . [that the numbers of American and Soviet scientists are approximately equal] then it appears that with approximately the same number of scientific workers we produce half of the scientific work which the

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Americans produce. . . . The productivity of our scientists is approximately two times lower than the productivity of the scientists of the USA.

We must quickly find a way for overcoming the lag [of Soviet science behind American science]. If in the near future we will not increase the labor productivity of our scientists, will not improve the conditions for assimilating by industry the achievements of science and technology, then the problem of catching up with America, of course, cannot be solved. If we decisively and capably utilize the great advantages our socialist system provides in organizing our science and industry, then this lag in growth will only be a temporary hitch.[12]

VII

To the need for greater effectiveness in organizing science and technology, which Kapista so heavily stressed, the Soviet leadership has been diligently addressing itself over the past decade. Back in June 1959 a Plenary Sessions of the Communist Party Central Committee took up the problem of "the poor coordination of research" and the "dispersal of forces which lowers the level of research . . . and delays its practical application," and criticized the USSR Academy of Sciences for overextending itself. The Committee approved a new Statute for the Academy which, while leaving the organizational structure largely intact, extensively redefined the scope of its responsibilities. Two years later another step was taken. Authorities had become convinced that the Academy was functioning inadequately in the industrial research area and at the same time was so dissipating its resources as to interfere with its efforts for basic problems, especially in key fields like cybernetics and biology. The Central Committee and the Council of Ministers on April 12, 1961, adopted a new decree, entitled "Measures for Improving the Coordination of Scientific Research in the Country and Activities of the USSR Academy of Sciences." The Academy's role in applied research was greatly reduced, and the industrial-oriented and specialized institutions of the Academy were transferred to industrial ministries.

Following this, steps were taken to bring under a single umbrella all scientific and research activities not associated with industrial ministers. On April 11, 1963, a government-party decree "On Measures To Improve the Activity of the USSR Academy of Sciences and the Academies of Sciences of the Union Republics" placed on the USSR Academy responsibility for "scientific leadership of research on the most important problems in the natural and social sciences carried out by the Academies of Sciences of the Union Republics, the higher educational institutions, and other scientific research institutions of the country, and coordination of work in these areas of sciences."[13] The USSR Academy's coordinating duties were extended to embrace all non-Academy institutes, and to facilitate this operation some ninety science councils and commissions were attached to it. At the same time, however, the USSR Academy was relieved of responsibility for applied research and development, and technically-oriented research institutions that still remained under its jurisdiction, as well as those of its academies at the republic level, were shifted to ministries.[14]

These several measures evidently made the administration of the rapidly expanding range of scientific activities more orderly. Nevertheless, they did not get at, and may well have accentuated, the key organizational problem: how to end "the isolation of theoretical science from life on the one hand and on the other an insufficiently high quality of experimental work," something "that is opposite to what takes place in the United States."[15] Further and more far-reaching innovations were necessary. As Council of Ministers Chairman Kosygin told the Twenty-third Party Congress in 1966: "A well-ordered system of balanced organization and stimulation of the speediest and most economical application of the results of research in production must be set up as soon as possible. The development of direct cost-accounting links between research institutes and factories will undoubtedly promote a more rapid application of results of research to production."[16]

VIII

Despite Kosygin's appeal for urgency, two years of head-knocking among vested-interest groups ensued before the Kremlin was ready to act decisively. Its action took the form of a decree—published on October 23, 1968—entitled "On Measures for Raising the Effectiveness of the Work of Scientific Organizations and Accelerating the Utilization in the National Economy of the Findings of Science and Technology."[17] Although this edict represents the most comprehensive and innovative program of reforms the Soviets have attempted in the scientific-technological sphere, it has received little attention in the West. The decree attests both to the depth of the leadership's dissatisfaction with the existing situation and to the extent of its willingness to break with precedent to dispel the sources of that dissatisfaction, including an attempted application of some American practices. The stated rationale is that—

It is necessary to improve significantly the activities of scientific organizations, to eliminate the obstacles which restrain the utilization of the achievements of science and technology in the national economy.

The general shortcoming in the work of scientific research, design, design-construction, technological organizations, and the scientific subdivisions of higher educational institutions consists of the fact that their activity is not concentrated to the necessary extent on the solution of the most important scientific-technical problems and especially questions connected with the acceleration of the tempo of growth of labor productivity.

Measures encompassed by the decree include (1) new planning procedures, (2) organizational changes, (3) financial changes, (4) incentives and sanctions for organizations and individuals, and (5) the development of "competition in the scientific-technological field and the prevention of monopolies in solving the most important scientific and technical problems." It specifically notes that the "newest achievements" of both foreign and domestic science and technology are to be drawn upon.

The new planning procedures involve the preparation of scientific-technological forecasts for a long period—ten to fifteen and more years—with regard to principal problems in the development of the national economy. These forecasts are to guide "ministries and departments, and the union republic Councils of Ministers" in developing designs for plants and production, machines and equipment. V. A. Kirillin, Deputy Premier and Chairman of the State Committee on Science and Technology, had stressed the need for such long-term forecasting in an article in the May 1968 *Economic Gazette:*

Until recently, insufficient attention was given to planning the development of science and technology in perspective, for 10–20 years ahead and in individual cases for a longer period. There is no need to speak . . . of the imperative need for the perspective working out of the development of science and technology for a long period, at least for the most important trends. This will provide the possibility for determining more correctly the general direction of the development of technology, for utilizing resources more rationally, for avoiding many costly mistakes.

Responsibility for preparation of the forecasts is allotted to the Soviet State Committee on Science and Technology, along with the State Planning Agency (Gosplan), the USSR Academy of Sciences, the State Construction Agency (Gosstroi) and interested ministries and agencies, including union-republic Councils of Ministers. In addition, the decree accords to the State Committtee for Science and Technology responsibility for preparing with the USSR Academy of Sciences and interested government agencies the list of basic trends in the development of science and technology and principal scientific-technical problems to be used in establishing the scientific-technical goals for the Five-Year Plan. These new functions for the State Committee represent a reduction in the planning responsibilities which had been accorded to the USSR Academy in 1963.

Among the organizational changes the decree introduces is the "recommendation" that the USSR economic ministries and other government agencies establish, where necessary, "composite scientific institutions fulfilling scientific-research, design-construction and technological tasks" and attach scientific-research institutes to large industrial enterprises. These provisions are similar to Kirillin's recommendations in the *Economic Gazette.*[18]

The decree's principal financial changes include an attempt to provide flexibility in allocating funds for scientific research. It permits USSR ministries and departments and the union-republic Councils of Ministers to retain "an undistributed reserve of two per cent of the total budgetary allocations" for scientific research to be used "for strengthening the most important trends in scientific-research work." The State Committee on Science and Technology is granted "the right to redistribute with the agreement of the ministries and departments the total expenditures for scientific-research work, including the wages fund." The decree also establishes a special fund at scientific-research, design-construction and technological institutes for additional capital investments and the purchase of scientific equipment and materials. The source of this fund is to be the income from contract work and intraministerial orders fulfilled by the institutes and the sale or licenses for their inventions.

In introducing a new series of incentives and sanctions for scientific-technical organizations and personnel, the decree instructs USSR and union-republic ministries and departments, and the USSR, union-republic and specialized Academies of Sciences to evaluate at least once every three years the activities of their subordinate scientific-research, design-construction and technological organizations, including the scientific subdivisions of higher educational institutions. Both the quantity and quality of the work performed by the subordinates institutions and its "general economic effect" are to be judged. In accordance with the evaluation, decisions will be taken for the further development of the institutions and "the additional material encouragement of the personnel through the centralized premium funds of the ministries and departments" Institutions and organizations that fail to fulfill their assignments will either be closed or reorganized.

Starting in 1969, the work of individual scientists, with some exceptions, will be evaluated not less than once every three years by a commission consisting of "highly qualified scientists, and representatives of Party and trade-union organizations." A *Pravda* editorial of October 24, 1968 indicated that this provision involves a check of not only the professional performance but also the "business-like and political qualities" of the scientists.

To develop competition the decree calls upon governmental agencies, the USSR and other Academies of Sciences "in necessary

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instances to commission several organizations following different channels with the fulfillment of research investigations and also design-construction and technical projects." For especially important problems the competing research investigations will be permitted to continue until experimental samples are built before final choices are made between them.

The increased responsibilities for scientific research accorded to the Soviet State Committee with the implied reduction in powers of the USSR Academy, plus the incorporation into the decree of proposals identified with officials of the State Committee, suggests the possibility that Soviet bureaucrats will now dominate the scientists and have the opportunity to introduce an approach to scientific matters alien to the latter. However, the top leaders of the State Committee—Kirillin and V. A. Trapeznikov, respectively chairman and first deputy chairman—are not only administrators but are themselves scientists and academicians.

Comment on the decree leaves little doubt of the Soviet leadership's high hopes that it will, at long last, enable the USSR to make, as Breshnev said at the Twenty-third Party Congress, "increasingly effective use of the socialist mode of production." Whether these hopes will be fulfilled, or whether the Russians will again find, as *The Economist* pointed out in the February 1969 article cited above, "that innovation requires first of all an attitude of mind that is not fostered by a normal Marxist economy," remains to be seen. The critical issue is whether long-established institutional rigidities, which have ruled in the area of science and technology as in other areas in the Soviet Union, can be broken down. That they never have been before may be all important. On the other hand, the Soviet leadership displays a new awareness of the problem and a new determination to act decisively. It may also be, as some Soviet scientists are suggesting,[19] that the sheer magnitude and complexity of the requirements being generated by the rapidly accumulating new knowledge and technology in the USSR will give a weight to this reform effort that has hitherto been lacking.

IX

Meanwhile, there appears no likelihood of a let-up in the Soviet practice of pouring ever larger resources into the further development of science and technology. Soviet leaders have never stinted in the supply of money to attain preeminence in this area, even during trying times. They have not debated the matter from year to year, or even on occasions of political change. They have simply gone ahead as a matter of course. Moreover, the rate of increase of expenditures for science and technology has generally been greater than for any other area. For many years the annual growth has been as high as 14 per cent and seldom under 8 per cent. In 1965 two and one-half times as much was spent on science and technology as in 1958, and in 1967 three times as much. Allotments in 1968 totaled some nine billion rubles as against some three billion ten years earlier. Several times as much is spent on science each years as higher education.

As for the future, the leaders, despite dissatisfaction and complaint over the current productivity of their scientists, profess to remain convinced that investments in science yield greater dividends than other types of investment and evidence an intent to double the present rate of support. Writing in the *Economic Gazette* of July 1968, Trapeznikov asserted:

A ruble invested in science and the assimilation of its results gives 1.45 rubles of growth in the national income. On the other hand, the growth of national income from the usual capital investments comprises 39 kopeks for the invested ruble. Consequently, expenditures on science and the assimilation of its results are approximately 3.5 times more effective than the usual capital investments. Since investments in science are particularly effective, it is advisable to reduce somewhat the [usual] capital investments and to give the released resources to science and the assimilation of its results. . . . In accordance with our calculations we should increase expenditures on science two times. . . .

X

However inefficient the Soviets may be in comparison with the United States in particular lines of endeavor, investments in science and technology on the scale projected by Trapeznikov can hardly fail to produce significant results, particularly since they are being coupled with new and somewhat imaginative approaches by the authorities to get the most out of the monies expended.

What of the United States on its side? What of our own prospects? U.S. investments in science and technology have, over the past decade, more than kept pace with those of the USSR. As a percentage of gross national product they have averaged about the same—somewhat above 3 per cent according to the best available estimates. This means that in terms of dollar amounts the U.S. outlay has almost doubled the Soviet. Should this situation continue, lasting U.S. preeminence would be assured, not only because of the larger base on which the United States is building, but also because of the greater productivity of American scientists and engineers.

Is it likely that the United States will be willing to maintain the current level of support on a sustained basis? Unlike the USSR, it has not accepted public responsibility for promoting research and development as a matter of deliberate policy. It has, because of peculiar circumstances, made an exception in a few selected fields—notably agriculture, waterway engineering, Bureau of Standards work, and more recently aviation, public health and nuclear energy. Otherwise, federal involvement in research and development has been in response to externally generated crises of one sort or another, and then only to take care of the crisis situation. In contrast to most other modern great powers, the United States traditionally has not even carried forward as a matter of course substantial research and development in fields related to military security. Between the two world wars, for example, U.S. expenditures for military R & D were but a fraction of those of Germany, the USSR, Britain, France and Japan.

Truly large-scale government efforts in science and technology were undertaken for the first time in World War II (during World War I we had largely depended on French and British efforts), and once the conflict was over, these dropped off precipitously. Only the sense of peril arising from developments in the Cold War, and particularly the Soviet explosion of an A-bomb, the Korean War, and indications of extensive Soviet activity in the field of rocket missilery, reversed the downward trend. It remained for Sputnik, however, to plunge the federal government into the science and technology field on a large-scale, across-the-board basis.

What has happened since Sputnik, and not our long-term stance, is the measure by which we and others appraise the future prospects of U.S. science and technology, both absolutely and in comparison with the Soviet Union. Are we safe in this? Given trends of recent years, the answer would seem to be no. As our anxieties with regard to the Soviets have calmed, resistance has built up to government programs requiring costly R & D. The McNamara years in the Pentagon evoked the concept that we have gone as far as we need to go in weaponology, that further developmental work would in fact be counterproductive because it would incite the Soviets to efforts they otherwise would forgo.

Research and development in the defense area has for some time been drying up. Beginning as early as mid-1963—and strongly stimulated by allegations that the Soviets were having no part of a "moon race"—need for a space program of the nature and scale we had adopted in 1961 has been increasingly questioned, and budgets have since been substantially under the level required to achieve the broadly-based "preeminence" we had set as our objective in space. Decisions have not been made and monies have not been provided for preparatory work necessary for a large-scale space effort after the Apollo moon-landing project is brought to a conclusion. Unless a new tack is taken, the space program—the greatest single stimulus to research and development activity in recent years—will dwindle to small proportions. Currently there is strong resistance to the varied efforts and activities that almost surely will lead somewhere, sometime to an effective defense against ballistic missiles. Most important, perhaps, the government seems increasingly unwilling to continue, at any substantial level, with one of the most revolutionary of the innovations introduced after Sputnik: direct federal support of the training of persons capable of working on and extending the frontiers of new science and new technology.

The growing inclination of the United States to turn its attention and energies inward to meet urgent social problems, together with a burgeoning neo-isolationism, seems to make unlikely a reversal of these trends, at least for the near term. The prospect, consequently, is for a sharp decline in U.S. inputs into science and technology at the precise time that the USSR will be increasing and accelerating its own.

How serious will the effect be for the United States? Some argue that technological progress in this country is little affected by federal programs, no matter how big. Yet the United States has attained a leading role in advanced science and advanced technology only as the government during and after World War II has adopted and carried forward large-scale programs. We have, of course, long led the world in ability to make use of new knowledge and technology. But except for agriculture, the new knowledge and new technology used have largely been the product of others. It is instructive to recall that during the first forty years of the Nobel prizes—that is, from 1901 through 1940—U.S. nationals, including those trained abroad, received only ten in the sciences as against thirty for Germans, nineteen for Britishers and thirteen for Frenchmen. Since 1940—during the years of major governmental programs—the U.S. total has exceeded the combined total of all of Europe, including the Soviet Union. Similarly, most of the great discoveries and developments responsible for launching the ongoing technological revolution were of European rather than U.S. origin. The United States has gained the leading role in carrying the revolution forward, but again this has been only after the inauguration of large-scale federal programs.

Federal programs have been the direct or indirect source of more than 80 per cent of total funds devoted to scientific and technological research and development in this country over the past ten years. Federal funds, direct and indirect, account for some three-fourths of the costs of graduate training and research in American universities. Is it conceivable that these funds can be substantially reduced without crippling the capabilities of the nation in science and technology?

The simple fact is that the requirements incident to marshaling, organizing and managing the resources necessary for a continuing advance in science and technology have become so vast and so complex that they can

Footnotes at end of article.

be met only by an effort involving the whole of our society. If the United States is to remain at the forefront of an increasingly technologically-oriented world, this is one of the most basic of the many hard realities it must face. We cannot as a nation rely upon an existing level of superiority—not in view of what is going on in the Soviet Union. It is true that, by their own admissions and objective outside observations, the Soviets are behind the United States in most areas of science and technology. But it seems to us that we have not learned from experiences of the past how to make a sound and dispassionate analysis of the meaning of this for the Soviets' enduring capabilities and purposes in comparison with our own. As we ourselves achieve spectacular successes, as for example in the space program, we become inclined by the ensuing euphoria to let our efforts slip, rather than to look objectively at either long-term Soviet trends or our own long-term interests.

From this comparative study of the scientific and technological efforts of the two superpowers we have reached two fundamental conclusions: The United States still needs to learn to make and rely upon a truly objective analysis of the Soviet effort, not going from one extreme to the other; and, similarly, we must objectively establish our own national capabilities, purposes and needs. The immediate question, therefore, is whether we can today fashion a rational program in science and technology for ourselves for the future, or whether we are again to wait until some new spectacular Soviet breakthrough forces us into a crash program not of our own choosing. This leads to an even more sobering question: Can we continue indefinitely to count on being able in such situations to catch up in time?

FOOTNOTES

[1] The authors have become acquainted with the reactions of a large proportion of American scientists who have visited the Soviet Union over the past ten years. We have found that while points of emphasis vary according to individual interests and experiences, there is a striking coincidence of views among an overwhelming majority as to the overall situation. We believe Professor John Turkevich reflected a general consensus among American visitors when he wrote in *Foreign Affairs* for April 1966: "Soviet scientific accomplishments have been spotty: outstanding expliots in space; solid engineering and application of nuclear science; brilliant work in mathematics, theoretical physics and astronomy; elegant experiments in certain branches of experimental physics. But in many important areas, Soviet work is either weak or pedestrian . . . . The research base of the Soviet Union is very narrow, confined as it is to academy institutes and four or five major universities. This may be contrasted to the diversity of research institutions in the United States . . . Physical facilities for carrying out scientific investigations in the Soviet Union are barely adequate except in a small number of prestige laboratories. . . . Scientific equipment is either copied from American models or imported. The Soviet economy has not developed an instrument industry sufficiently alert to scientific discoveries, nor adequate to give logistic support to Russian scientists."

[2] *The Economist*, February 8–14, 1969, p. 64.

[3] See Joseph Stalin, *Problems of Leninism* (Moscow: Foreign Languages Publishing House, 1940), pp. 403–405.

[4] *Ibid.*, p. 363.

[5] The explosion was in August. It was detected only some time later and was first announced to the world by President Truman on September 23, 1949.

[6] Henry D. Smyth's *General Account of the Development of Methods of Using Atomic Energy for Military Purposes* (Washington: GPO, 1945) sets forth these experiences in amazingly lucid detail.

[7] From J. Stalin's *Problems of Leninism* (Moscow: Foreign Languages Publishing House, 1940), p. 232.

[8] *23rd Congress of the Communist Party of the Soviet Union* (Moscow: Novosti Press Agency Publishing House, 1966), p. 109.

[9] Herbert Ritvo, *The New Soviet Society: Final Test of the Program of the Communist Party of the Soviet Union* (New York: The New Leader, 1962), pp. 58, 114, 117.

[10] Richard B. Foster and Francis P. Hoeber, "The Technological Feedback from Defense R&D," a paper prepared for the Conference on Atlantic Technological Imbalance and Collaboration, Deauville, France, May 25–28, 1967, pp. 1 and 4.

[11] *Pravda*, November 7, 1968.

[12] Peter L. Kapitsa, *Teoriya aksperiment, Praktika* (Moscow: Znaniye, 1966), pp. 7, 13, 14. This 47-page pamphlet containing some of Kapitsa's speeches and articles extending back to 1941 shows that he had repeatedly emphasized similar points.

[13] *Pravda*, May 17, 1963.

[14] *Ibid.*

[15] Kapitsa, *op cit.*, pp. 15–16.

[16] *23rd Congress of the Communist Party of the Soviet Union, op. cit.*, p. 182.

[17] The text of the decree can be found in *Pravda*, October 23, 1968. Quotations in the analysis that follows are from this text.

[18] In that article Kirillin said "if the necessary conditions are present, it may be advisable to transfer design-construction and scientific-research organizations to the direct jurisdiction of [industrial] enterprises."

[19] See, for example, Andrei D. Sakharov, *Progress, Coexistence and Intellectual Freedom* (New York: W. W. Norton, 1968), *passim*. Views in keeping with Sakharov's have been widely noted by the authors among Soviet scientists.

OPPOSITION TO EUREKA SPRINGS, ARK., ROAD PROJECT

(Mr. BARRETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BARRETT. Mr. Speaker, the Philadelphia congressional delegation has today sent a letter to Secretary Volpe strongly objecting to the use of Federal funds for a road project at Eureka Springs, Ark.

The true purpose of the road project is to serve a religious tourist attraction operated by a front organization of Gerald L. K. Smith, in spite of contentions to the contrary.

Copies of the letter were sent to the President and Secretary Stans, whose Department is also involved in this project, requesting their assistance in denying the use of Federal funds for this project.

We believe that this is a matter of grave concern to our colleagues and include the letter and accompanying documents be inserted at this point in the RECORD:

APRIL 14, 1970.

Hon. JOHN A. VOLPE,
Secretary, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: We are informed that you are reviewing the decision of the Bureau of Public Roads to provide funds for the secondary road project S-1261(1) at Eureka Springs, Arkansas.

We want to make it absolutely clear that we are unalterably opposed to the use of federal funds for this project and most strongly urge that you reverse that decision.

Use of federal funds for this project will make the federal government a partner in the promotion of hate-mongering and anti-Semitism. Federal aid programs were not designed for purposes such as these.

In urging a reversal, two significant points of law must be raised.

1. Serious Constitutional questions are raised by the nature of the tourist attraction which the road will serve.

2. The funding formula appears to violate the mandate of the Federal Aid Secondary Road Program, in that it clearly ignores the 50 percent federal, 50 percent local matching fund requirement.

We submit this additional information for your consideration. Our inquiry discloses that the Bureau of Public Roads relies almost exclusively on state and county findings for the use of federal funds under the Federal Aid Secondary Road Program, making no real determination of its own. Certainly independent considerations and findings are not only needed but imperative when the admitted basis for the project is to promote tourism in an area where the only tourist attraction is that provided by a private enterprise.

This fact is clearly set forth in the statement of January 6, 1970 by the Ozarks Regional Commission, Economic Development Administration, Department of Commerce (ORC 70–1), which contains the following:

(4) The need for repaving is occasioned by the fact that the road is heavily traveled by visitors desiring to see the statue (Christ of the Ozarks) and play operated by the Elna M. Smith Foundation.

We presume you have a copy of that statement. While the Ozarks Regional Commission concedes the purposes of the road, it does not make any determination of the nature of the privately operated tourist attraction the road will benefit.

The fact that public funds are being used solely to benefit the operators of a religious shrine, ostensibly non-profit although some participants are obviously involved for substantial private gain suggests a serious Constitutional violation. (See enclosure No. 1, Fact Sheet on Eureka Springs, Arkansas Road Project of American Civil Liberties Union of Arkansas.) Equally alarming is an independent report that the "play" is a virulent anti-Semitic tract, the whole theme of which is that Jews are guilty of deicide. (See enclosure No. 2, letter to Secretary of Commerce Maurice H. Stans from Jordan C. Band, Chairman of the National Jewish Community Relations Council.) Centuries of prejudice, hate and bloodletting have flowed from that loathsome cant and it is hardly the appropriate business of the United States government to assist its continued propagation.

The announcement of the Ozarks Regional Commission of January 6, 1970 contains the following passage:

"The Commission stressed that none of the federal funds for the project will go to the Elna M. Smith Foundation nor be used to improve Foundation property."

We do not believe that to be the issue. In fact, it avoids the issue. The Ozarks Regional Commission in its January 6 statement clearly indicates that the principle beneficiary, if not the sole beneficiary, will be the Elna M. Smith Foundation. If a reverse test is applied, the road would not be under consideration and this argument would be purely academic. If "Christ of the Ozarks" did not stand at Eureka Springs and if the Foundation was not producing a "Passion Play" in the shadow of the statute, there would be no need for the road and no request for assistance funds from the federal government. This is plainly evident.

The second serious question raised regards the funding of this project. Your Department statement of December 3, 1969 asserts that the Bureau of Public Roads will provide 50 percent of the funds ($113,750); the Ozarks Commission, 30 percent of the funds ($68,250), and Carroll County, 20 percent ($45,000). Since the Commission's funds are

federal monies, the total federal contribution is actually 80 percent. The funding arrangement violates the mandated requirement that 50 percent of the funds for all projects approved under the Federal Aid Secondary Road Program come in the form of matching local grants or appropriations. We seriously question the legality of this method of funding.

Further, your Department statement of December 3, 1969 states that the project "is for the improvement of an existing 2.5 mile public county road." The Ozarks Commission document contains a similar statement of fact. Other sources of information indicate that a portion of Route 1226 will be *rerouted* and a *new road constructed*. This is supported by observations of the American Civil Liberties Union of Arkansas (see enclosure No. 1) after an on-site inspection. This document also refutes several other so-called findings in the Ozarks Commission document.

In addition, the ACLU document indicates that the application by the Administrator of Carroll County, Arkansas to the Ozarks Regional Commission was misleading and inaccurate in several material statements.

Finally, while the Foundation carries the name of Elna M. Smith, it is apparent to all involved that her husband, Gerald L. K. Smith is the driving force behind these "sacred projects." His career as a merchant of venom need not be elaborated on by us.

We urge, in the strongest terms, that federal grant monies for the project be denied.

Respectfully yours,

WILLIAM A. BARRETT,
Member of Congress.
ROBERT N. C. NIX,
Member of Congress.
JAMES A. BYRNE,
Member of Congress.
JOSHUA EILBERG,
Member of Congress.
WILLIAM J. GREEN,
Member of Congress.

AMERICAN CIVIL LIBERTIES UNION OF ARKANSAS,
Fayetteville, Ark., January 29, 1970.

FACT SHEET ON EUREKA SPRINGS, ARK., ROAD PROJECT

When the Ozarks Regional Commission announced approval of a grant to Carroll County, Arkansas to rebuild a road servicing the so-called "sacred projects" of the Elna M. Smith Foundation near Eureka Springs, many objections were voiced to using public money for the benefit of enterprises attributable to Gerald L. K. Smith, notorious anti-semite and hate-monger. The Ozarks Regional Commission and the Bureau of Public Roads reviewed their earlier decision, reaffirmed it, and announced release of the money early in January, 1970. On January 28, 1970, a team of three investigators for ACLU went to Eureka Springs for an on-site inspection of the proposed project and to ascertain the validity of statements previously made by officials involved in the project. Following are the conclusions of the ACLU team:

1. The statements by the Ozarks Regional Commission emphasize that the project is to rebuild and repave an existing public road. This is untrue. About half of the existing road is to be rebuilt; the remainder is to be a new road, the reason for which appears to be twofold: 1. to improve access to the statue, "Christ of the Ozarks", and, 2. to reroute traffic so that the noise of cars or trucks does not interfere with performance of the Passion Play (the present road runs right alongside and in back of the stage). Local residents stated to the investigators that last summer local policemen closed the road to through traffic during the performance of the play.

2. The road has been described as a schoolbus and mail route. In the original and supplemental grant applications made by the county judge, Arthur Carter, no reference was made to schoolbuses or mail delivery; the application is based solely on the need for improved access to the tourist facility. In fact, schoolbuses do enter the road from highway U.S. 62 and travel about ¾ of a mile to pick up children, but the buses then turn around and exit to highway 62 rather than use the road as a through route. As to mail delivery, there are approximately seven houses on the road; two of them seem abandoned; more importantly, if new road is constructed as the county judge proposes, mail delivery to three of the houses would be more difficult!

3. In the application made by county judge Carter, question number 12—"Will the facility assisted by this supplemental grant provide a direct and substantial benefit to one or more commercial or industrial establishments?" was answered NO, and question 17, "Is the proposed project designed primarily to benefit one business enterprise?" was also answered NO. The Passion Play charges admission ($2, $3, and $4), the Christ Only Art Gallery charges $1, and the statue is free, although visitors are requested to register and are solicited for donations.

Perhaps the county judge believed that the project was to benefit the entire area economically; however, the tenor of the questions is clearly to the effect of inquiring into a direct geographical benefit to an enterprise. Perhaps the county judge believed that because the Elna M. Smith Foundation is nonprofit, the proposed road could not be said to be benefitting a business enterprise; however, from the public viewpoint the Passion Play and Art Gallery are commercial enterprises. Also, the play is produced and directed by a Mr. Hyde who receives 20 percent (some say 25 percent) of the gate receipts and certainly he cannot be said to be a non-profit operation.

NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL,
New York, N.Y., February 10, 1970.

Hon. MAURICE H. STANS,
Department of Commerce,
Commerce Building,
Washington, D.C.

MY DEAR SECRETARY STANS: It is my privilege to transmit the following statement, which has the approval and endorsement of all nine national Jewish organizations that, together with 82 Jewish councils in cities throughout the United States, comprise the constituency of the National Jewish Community Relations Advisory Council and cooperate through its processes in concerting their policies and coordinating their programs in the field of Jewish community relations.

The nine national organizations are the American Jewish Committee, American Jewish Congress, B'nai B'rith—Anti-Defamation League, Jewish Labor Committee, Jewish War Veterans of the U.S.A., National Council of Jewish Women, Union of American Hebrew Congregations, Union of Orthodox Jewish Congregations of America and United Synagogue of America.

These organizations join in urgently requesting you to reverse the decision of the Department of Commerce to authorize the expenditure of Federal funds to improve a road giving access to the "Passion Play" and other operations of the Elna M. Smith Foundation in Eureka Springs, Arkansas. We do this out of a deep sense of outrage that that decision would permit funds raised by the Federal Government through the taxation of its citizens to be used to foster attendance at a manifestation of anti-Semitic bigotry.

We have read and carefully considered the various statements on behalf of the Department of Commerce on this subject, as well as the detailed fact sheet prepared by the Ozarks Regional Commission, dated January 6, 1970. We believe that they do not address themselves to the real issues.

What is particularly disturbing is the fact that these documents treat the Passion Play as an ordinary "tourist attraction." Thus, the Ozarks Commission document describes at some length the economically depressed condition of the Eureka Springs area (which we do not question) and then argues that facilitating this project will correct that condition. However, no recognition is given to the fact that the Passion Play itself—which would unquestionably benefit—is a virulently anti-Semitic tract. No justification is given for the use of Federal funds to facilitate spreading of the virus of anti-Semitism.

The nature of the Passion Play put on by the Smith Foundation should be clearly understood. It is not a simple rendition of the narrative contained in the Christian Bible. Those who have seen the Play report that both the text and the action stress the perfidiy, evil, hypocrisy and cunning of the *Sanhedrin*. Herod and Pilate are portrayed as innocents and dupes, as unwilling accomplices in satisfying the blood lust of Jews. The theme of the culpability and damnation of the whole Jewish people premeates the Play. The terms "Hebrews" or "Israelites" are never used—the anti-Christs are always "the Jews." That Jews as a whole are held responsible for diecide, both then and now, is made clear and unmistakable.

A substantial part of the Ozarks Commission document is devoted to arguing that Gerald L. K. Smith will not benefit from the Foundation operation. That is obviously irrelevant. What matters is that an operation bearing Smith's unmistakable stamp of bigotry (as well as his financial support) will benefit.

The Commission document and the various letters that have been written on the subject also urge that use of Federal funds for this project is standard operating procedure, applicable wherever a road is subject to heavy use. This argument is disingenuous, to say the least. Indeed, if it were valid, there would have been no need to refer to the objective of stimulating tourism.

Some of the points made in support of this argument appear to distort the facts. For example, the Commission statement says that the road, Route 1226, "links U.S. Highway 62 with Arkansas Highway 23 (North)." The fact is that these two roads are already "linked" where they join at a point quite close to the road in question, so that the proposed paving project would at best shorten an existing route by about a mile. In other words, there is no purpose for this project other than to provide access to the Smith Foundation operations.

It is further stated by the Commission that "the project in question involves the repaving and regrading of an existing county road, Route 1226, which already serves as a school bus and mail route." In fact, only about half of the existing road is to be rebuilt and the remainder is to be a new road. The apparent purpose for the shift is to improve access to the statue, "Christ of the Ozarks," and to reroute traffic so that its noise will not interfere with performance of the "Passion Play." Furthermore, the shift in the location will make mail delivery to three of the houses on the existing road more rather than less difficult. As to school buses, the fact is that they use only about one-third of the route.

Finally, the Commission document talks in terms of "millions" of past and prospective users of this road. Our information indicates that these figures are grossly inflated.

We come back to the main point. As things now stand, the Federal Government is taking the position that a project which is intended to and in fact does foster hostility to Jews may be treated like, and given the same benefits as, ordinary tourist attractions. We believe that, on reconsideration, you will find that this is an untenable position.

Yours sincerely,

JORDAN C. BAND, *Chairman.*

"THE REPUBLICANS ARE COMMIN"

(Mr. OLSEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OLSEN. Mr. Speaker, my good friend, Neil Linstead, of Marion, Mont., has no associations and acquaintances in high financial circles. Mr. Linstead typifies the average American as much as any man. He is a hard-working man who believes in a day's work for a day's pay. However, due to circumstances beyond his control, he now finds himself unable to put that philosophy into effect. Mr. Linstead is a logger by profession. He has worked at that trade for many years. Now, however, he finds himself out of work. This state of unemployment has not come about because of any deficiencies on his part but rather by attrition caused by the present administration's tight money, high interest rate policy that has brought the housing industry to a standstill and has affected related industries.

Where are Mr. Linstead and those in his same predicament to turn? The administration adheres to a philosophy that in times of inflation a little unemployment is helpful. It is not very helpful to Neil Linstead.

Nonetheless, Mr. Linstead is not the type to despair. He is hopeful that despite the Nixon administration and its devotion to the interests of high finance he will be able to get his job back in due time. He has no illusions about this administration though. He has put his lament in lyrical form with an abundance of wit and commonsense. I insert his composition in the RECORD at this time.

THE REPUBLICANS ARE COMMIN

There's some gaspin' air pollution
Some ragin revolution
Depressin' depression
And a whole lotta trouble brewin' here

There's some phoney politicians
Some loco legislations
Dizzy delegations
And a whole lotta trouble brewin' here

There's some silly war's aplenty
Starvin' people many
Hope there just aint any
And a whole lotta trouble brewin' here

There's some ridiculous regulations
Some silly complications
Cheap imitations
And a whole lotta trouble brewin' here

There's some boy's dyin' steady
Kids that aint ready
Hearts that are heavy
And a whole lotta trouble brewin' here

There's some dark and wasted waters
Some contaminated rivers
Surface sewers
And a whole lotta trouble brewin' here

There's some wilderness asighin'
Rich men are buyin'
Forrests dyin'
And a whole lotta trouble brewin' here

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LANGEN (at the request of Mr. GERALD R. FORD), for April 15 and 16, 1970, on account of illness in the family.

Mr. CHARLES H. WILSON (at the request of Mr. ALBERT), for today, on account of official business.

Mr. HANNA (at the request of Mr. ALBERT), for today, on account of official business.

Mr. PATMAN (at the request of Mr. ALBERT), for today, on account of official business.

Mr. STUCKEY (at the request of Mr. ALBERT), for today, on account of official business.

Mr. BURLISON of Missouri, after 2 p.m. on April 14, 1970, on account of official business.

Mr. PEPPER (at the request of Mr. ZABLOCKI), for Tuesday, April 14, on account of official business.)

Mr. BURTON of Utah (at the request of Mr. GERALD R. FORD), for April 13 and 14, on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LUJAN) and to revise and extend their remarks and include extraneous matter:)

Mr. FREY, for 1 hour, on Tuesday, April 21.

Mr. WEICKER, for 1 hour, on Tuesday, April 21.

Mr. MILLER of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. DANIEL of Virginia) to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. FARBSTEIN, for 20 minutes, today.

Mr. MINISH, for 10 minutes, today.

Mr. MILLER of California, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL to include tables and extraneous matter with his remarks made today in the Committee of the Whole on H.R. 16916.

Mr. GRAY and to include extraneous matter in three instances.

Mrs. REID of Illinois, immediately following the remarks of Mr. SHRIVER today in the Committee of the Whole.

Mr. MICHEL to extend his remarks prior to the vote on the Cohelan amendment.

Mr. RYAN to extend his remarks prior to the vote on the Cohelan amendment.

(The following Members (at the request of Mr. LUJAN) and to include extraneous matter:)

Mr. ROUDEBUSH.
Mr. COWGER.
Mr. GOODLING.
Mr. GROVER.
Mr. MATHIAS.
Mr. SCHERLE.
Mr. ASHBROOK.
Mr. STEIGER of Arizona.
Mr. HANSEN of Idaho.
Mr. MCCLORY.
Mr. DUNCAN.
Mr. WOLD in two instances.
Mr. BOW.
Mr. HORTON in four instances.
Mr. MORSE.
Mr. KLEPPE.
Mr. ESCH.
Mr. CUNNINGHAM in three instances.
Mr. RAILSBACK.
Mr. MICHEL.
Mr. HOGAN.

(The following Members (at the request of Mr. DANIEL of Virginia) and to include extraneous matter:)

Mr. CORMAN.
Mr. GIAIMO in 10 instances.
Mr. CULVER in five instances.
Mrs. SULLIVAN in three instances.
Mr. CLARK in seven instances.
Mr. BRADEMAS in eight instances.
Mr. CASEY.
Mr. RODINO in five instances.
Mr. OTTINGER.
Mr. RARICK in three instances.
Mr. MCDONALD of Michigan in two instances.
Mr. DULSKI in six instances.
Mr. POAGE in two instances.
Mr. KOCH.
Mr. PICKLE.
Mr. ANDERSON of California.
Mr. MINISH in four instances.
Mr. EDWARDS of California.
Mr. RIVERS.
Mr. BROWN of California in 10 instances.
Mr. GONZALEZ in two instances.
Mrs. HANSEN of Washington.
Mr. PHILBIN in three instances.
Mr. HATHAWAY.
Mr. OBEY in six instances.
Mr. ECKHARDT in two instances.
Mr. ALEXANDER in two instances.
Mr. HAGAN in two instances.
Mr. MANN in two instances.

BILLS PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that the committee did on April 13, 1970 present to the President, for his approval, bills of the House of the following titles:

H.R. 8654. To provide that, for purposes of the Internal Revenue Code of 1954, individuals who were illegally detained during 1968 by the Democratic People's Republic of Korea shall be treated as serving in a combat zone; and

H.R. 15349. To amend the Railway Labor Act in order to change the number of carrier representatives and labor organization representatives on the National Railroad Adjustment Board, and for other purposes.

ADJOURNMENT

Mr. DANIEL of Virginia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 15, 1970 at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1919. A letter from the Secretary of the Interior transmitting a report on the progress and results obtained by the United States from participating in the desalting and electric power generating project, pursuant to section 4 of Public Law 90–18; to the Committee on Interior and Insular Affairs.

1920. A letter from the Assistant Secretary of the Interior, transmitting a copy of an application for a loan under the Small Reclamation Projects Act, pursuant to section 4(c) of the act; to the Committee on Interior and Insular Affairs.

1921. A letter from the Chairman, Water Resources Council, transmitting a draft of proposed legislation to include the Secretary of Commerce and the Secretary of Housing and Urban Development as members of the Water Resources Council; to the Committee on Interior and Insular Affairs.

1922. A letter from the Acting Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend title 18, United States Code, to provide for the protection of U.S. probation officers; to the Committee on the Judiciary.

1923. A letter from the Acting Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend section 35 of the Bankruptcy Act (11 U.S.C. 63) and sections 631 and 634 of title 28, United States Code, to permit full-time referees in bankruptcy to serve as part-time U.S. magistrates and for other purposes; to the Committee on the Judiciary.

1924. A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a report on operation of the limitation on budget outlays for the fiscal year 1970, pursuant to the Second Supplemental Appropriations Act of 1969 (Public Law 91–47) (H. Doc. No. 91–307); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMPSON of New Jersey: Committee on House Administration. H.R. 11628. A bill to transfer from the Architect of the Capitol to the Librarian of Congress the authority to purchase office equipment and furniture for the Library of Congress; with an amendment (Rept. No. 91–1003). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. Report on phosphates in detergents and the entrophication of America's waters; (Rept. No. 91–1004). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDMONDSON: Committee on Interior and Insular Affairs. S. 1193. An act to authorize the Secretary of the Interior to prevent terminations of oil and gas leases in cases where there is a nominal deficiency in the rental payment, and to authorize him to reinstate under some conditions oil and gas leases terminated by operation of law for failure to pay rental timely; with amendments (Rept. No. 91–1005). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules: H. Res. 916. Resolution for consideration of H.R. 16311, a bill to authorize a family assistance plan providing basic benefits to low-income families with children, to provide incentives for employment and training to improve the capacity for employment of members of such families, to achieve greater uniformity of treatment of recipients under the Federal-State public assistance programs and to otherwise improve such programs, and for other purposes; (Rept. No. 91–1006). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABERNETHY:

H.R. 16966. A bill to provide for orderly trade in textile articles and articles of leather footwear and for other purposes; to the Committee on Ways and Means.

By Mr. BUSH:

H.R. 16967. A bill to authorize the Secretary of Commerce to transfer surplus Liberty ships to States for use in marine life conservation and fishery programs; to the Committee on Merchant Marine and Fisheries.

By Mr. DANIELS of New Jersey (for himself, Mr. HENDERSON, Mr. OLSEN, Mr. UDALL, Mr. NIX, Mr. HANLEY, Mr. CHARLES H. WILSON, Mr. WALDIE, Mr. WILLIAM D. FORD, Mr. HAMILTON, Mr. TIERNAN, Mr. BRASCO, Mr. PURCELL, Mr. CORBETT, Mr. CUNNINGHAM, Mr. BUTTON, Mr. SCOTT, Mr. MESKILL, Mr. LUKENS, and Mr. HOGAN):

H.R. 16968. A bill to provide for the adjustment of the Government contribution with respect to the health benefits coverage of Federal employees and annuitants, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WILLIAM D. FORD (for himself, Mr. O'HARA, Mr. NEDZI, Mr. DINGELL, Mr. DIGGS, Mrs. GRIFFITHS, and Mr. CONYERS):

H.R. 16969. A bill to amend title 39, United States Code, to provide rates of pay for postal field service employees in certain areas and locations in accordance with private enterprise pay rates in these areas to assist in recruitment and retention of postal field service employees and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GOLDWATER (for himself, Mr. DON H. CLAUSEN, Mr. CRANE, and Mr. MATHIAS):

H.R. 16970. A bill to amend section 837 of title 18, United States Code, to strengthen the laws concening illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes; to the Committee on the Judiciary.

By Mr. GUBSER:

H.R. 16971. A bill to amend the Internal Revenue Code of 1954 with respect to the use of tax-free alcohol by pathological laboratories; to the Committee on Ways and Means.

By Mr. McFALL:

H.R. 16972. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MATSUNAGA:

H.R. 16973. A bill to amend section 27 of the Merchant Marine Act, 1920, to exempt, under certain conditions, from the effect of such section the transportation of merchandise between points in the State of Alaska and points in the State of Hawaii; to the Committee on Merchant Marine and Fisheries.

By Mr. SCHNEEBELI:

H.R. 16974. A bill to amend the Internal Revenue Code of 1954 to provide for a liberalized child-care deduction as a trade or business expense; to the Committee on Ways and Means.

By Mr. STAFFORD:

H.R. 16975. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance for the aged; to the Committee on Ways and Means.

By Mr. STRATTON:

H.R. 16976. A bill to provide for orderly trade in textile articles and articles of leather footwear and for other purposes; to the Committee on Ways and Means.

By Mr. BARING (for himself and Mr. JOHNSON of California):

H.R. 16977. A bill to authorize the Secretary of the Interior to study the feasibility and desirability of a national lakeshore on Lake Tahoe in the State of Nevada, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BIAGGI:

H.R. 16978. A bill to establish a Federal Commission to investigate abuses, inequities, and misuses of funds occurring in the administration of the various Federal-State medicaid programs; to the Committee on Ways and Means.

By Mr. CHAMBERLAIN:

H.R. 16979. A bill to amend the Internal Revenue Code of 1954 to provide for a liberalized child-care deduction as a trade or business expense; to the Committee on Ways and Means.

By Mr. CÓRDOVA:

H.R. 16980. A bill to amend the Internal Revenue Code of 1954 to extend percentage depletion at a 15-percent rate to certain metal ores from deposits in Puerto Rico; to the Committee on Ways and Means.

By Mr. DULSKI:

H.R. 16981. A bill to amend title 38 of the United States Code to require pay differentials for nurses in Veterans' Administration hospitals who perform evening, night, weekend, holiday, or overtime duty and to authorize payment for standby or on-call time, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FISHER:

H.R. 16982. A bill to amend title 10 of the United States Code to provide a more adequate survivors' annuity plan for the uniformed services; to the Committee on Armed Services.

By Mr. GUDE:

H.R. 16983. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16984. A bill to authorize and direct the Corps of Engineers to engage in public works for waste water purification and reuse; to the Committee on Public Works.

By Mr. HELSTOSKI:

H.R. 16985. A bill to provide for annual adjustments in monthly monetary benefits administered by the Veterans' Administration, according to changes in the Consumer Price Index; to the Committee on Veterans' Affairs.

By Mr. KLEPPE:

H.R. 16986. A bill to amend the Internal Revenue Code of 1954 to provide for the continuation of the investment tax credit for small businesses, and for other purposes; to the Committee on Ways and Means.

By Mr. KLEPPE (for himself and Mr. ANDREWS of North Dakota):

H.R. 16987. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Minot extension of the Garrison diversion unit of the Missouri River Basin

project in North Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McMILLAN (for himself, Mr. DOWDY, Mr. HAGAN, Mr. FUQUA, Mr. JACOBS, Mr. HUNGATE, Mr. CABELL, Mr. BLANTON, Mr. NELSEN, Mr. HARSHA, Mr. BROYHILL of Virginia, Mr. WINN, Mr. HOGAN, Mr. THOMSON of Wisconsin, and Mr. LANDGREBE):

H.R. 16988. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 and the District of Columbia Teachers' Salary Act of 1955 to increase salaries, and for other purposes; to the Committee on the District of Columbia.

By Mr. MEEDS:

H.R. 16989. A bill to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning; to the Committee on Interior and Insular Affairs.

By Mr. MIKVA (for himself, Mr. BURTON of California, Mr. BINGHAM, Mr. BOLLING, Mrs. CHISHOLM, Mr. CONYERS, Mr. DADDARIO, Mr. FARBSTEIN, Mr. KOCH, Mr. MORSE, Mr. PUCINSKI, Mr. REES, Mr. REID of New York, and Mr. SCHEUER):

H.R. 16990. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importer, manufacturers, dealers, and pistol clubs; to the Committee on the Judiciary.

By Mr. MINISH:

H.R. 16991. A bill to establish an independent agency to coordinate the management of programs established to protect and enhance the quality of the environment through the control and abatement of air and water pollution, solid waste contamination, and through other related activities; to the Committee on Government Operations.

By Mr. ROGERS of Florida:

H.R. 16992. A bill to amend the Internal Revenue Code of 1954 to provide that the spouse of an individual who derives unreported income from criminal activities, if such spouse had no knowledge of such activities or such income, shall not be liable for tax with respect to such income even though a joint return is filed; to the Committee on Ways and Means.

By Mr. WATTS (for himself, Mr. BURLESON of Texas, Mr. SKUBITZ, and Mr. HAGAN):

H.R. 16993. A bill to provide for orderly trade in textile articles and articles of leather footwear and for other purposes; to the Committee on Ways and Means.

By Mr. WINN:

H.R. 16994. A bill to amend the Internal Revenue Code of 1954 to provide for the continuation of the investment tax credit for small businesses, and for other purposes; to the Committee on Ways and Means.

By Mr. VANIK:

H.R. 16995. A bill to amend the Federal Water Pollution Control Act to ban polyphosphates in detergents and to establish standards and programs to abate and control water pollution by synthetic detergents; to the Committee on Public Works.

By Mr. CLAY:

H.J. Res. 1169. Joint resolution authorizing the President to proclaim the period of July 13 through July 19, 1970, as "National Electronics Week"; to the Committee on the Judiciary.

By Mr. CONABLE:

H.J. Res. 1170. Joint resolution authorizing the President to proclaim National Volunteer Firemen's Week from September 19, 1970, to September 26, 1970; to the Committee on the Judiciary.

By Mr. DENNEY:

H.J. Res. 1171. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. MEEDS:

H. Con. Res. 571. Concurrent resolution urging the President to determine and undertake appropriate actions with respect to stopping armed attacks on aircraft and passengers engaged in international travel; to the Committee on Foreign Affairs.

By Mr. WOLFF (for himself, Mr. DELANEY, Mr. EILBERG, Mr. KOCH, Mr. McCARTHY, and Mr. OTTINGER):

H. Con. Res. 572. Concurrent resolution expressing the sense of Congress that the United States should sell Israel aircraft necessary for Israel's defense; to the Committee on Foreign Affairs.

By Mr. McCULLOCH:

H. Con. Res. 573. Concurrent resolution commemorating the 100th anniversary of the Ohio State University; to the Committee on the Judiciary.

By Mr. BROYHILL of Virginia:

H. Res. 913. Resolution paying tribute to the valiant effort being waged by the crew of Apollo 13 to bring their spacecraft back to earth; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

H. Res. 914. Resolution providing for agreeing to the Senate amendments to the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices; to the Committee on Rules.

By Mr. YOUNG:

H. Res. 915. Resolution amending Rule XV of the Rules of the House of Representatives to eliminate the requirement that in all calls of the House the doors shall be closed; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. GALLAGHER:

H.R. 16996. A bill for the relief of Michael David Kurtz and the Public Health Service, Department of Health, Education, and Welfare; to the Committee on the Judiciary.

By Mr. MANN:

H.R. 16997. A bill for the relief of Colie Lance Johnson, Jr., to the Committee on the Judiciary.

By Mr. TEAGUE of Texas:

H.R. 16998. A bill for the relief of Rosa Margarita Pina Gutierrez; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

353. By the SPEAKER: A memorial of the Legislature of the State of Hawaii, relative to requesting Federal assistance to care for pets of military personnel during the entry quarantine period; to the Committee on Armed Services.

354. Also, a memorial of the Legislature of the State of California, relative to proclaiming the week of April 26th through May 2d, 1970, as "National Raisin Week"; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

447. By the SPEAKER: Petition of the 22d Alabama Y.M.C.A. Youth Legislature, Enterprise, Ala., relative to forced busing of students to achieve racial balance; to the Committee on Education and Labor.

448. Also, petition of the president of the Minnesota Patent Law Association, St. Paul, Minn., relative to unpatented intellectual property rights; to the Committee on the Judiciary.

449. Also, petition of the Board of County Commissioners, St. Johns County, St. Augustine, Fla., relative to designating Cape Kennedy as the operational base for the space shuttle system; to the Committee on Science and Astronautics.

EXTENSIONS OF REMARKS

THE 19TH AHEPA CONGRESSIONAL DINNER

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 13, 1970

Mr. BROYHILL of Virginia. Mr. Speaker, I was privileged to be among 175 Members of the U.S. Congress to be honored by the Order of AHEPA at its 19th biennial congressional dinner on Monday, March 9. An enthusiastic crowd of more than 1,400 persons was on hand to witness the presentation of the 1970 AHEPA Socratic Award to Vice President SPIRO T. AGNEW that evening.

The fraternity's most successful congressional dinner was held at the Sheraton Park Hotel in Washington, D.C.

The principal speaker of the evening was Vice President AGNEW. Other speakers were: AHEPA Supreme President Louis G. Manesiotis of Pittsburgh, Pa.; U.S. Senator PHILIP A. HART, of Michigan; U.S. Representative GERALD R. FORD, of Michigan; the Most Reverend Archbishop Iakovos of the Greek Orthodox Church of North and South America; Daughters of Penelope Grand President Joanna Panagopoulos of Peabody, Mass.; Maids of Athena Grand President Kathryn Venturatos of New Orleans, La.; Sons of Pericles Supreme President Nicholas P. Bobis, of Chicago, Ill.; Counsellor of the Greek Embassy John Gregoriades. Chairman of the banquet was George J. Papuchis of Silver Spring, Md., and Joseph S. Bambacus, of Richmond, Va., was the toastmaster.

As I believe most Americans will be interested in the Vice President's message, I insert it in full at this point in the RECORD, as well as the remarks of AHEPA Supreme President Manesiotis in presenting the Socratic Award to him: